

2005

2005 Legislative Session

Assembly Committee on Labor and Employment

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ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

PAUL KORETZ, CHAIR



2005 LEGISLATIVE SUMMARY

Members:

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Assemblymember Wilma Chan
Assemblymember Judy Chu
Assemblymember Guy S. Houston
Assemblymember Johan Klehs
Assemblymember John Laird
Assemblymember Mark Leno

Staff:

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Assembly
California Legislature



ASSEMBLY COMMITTEE
ON LABOR AND EMPLOYMENT
PAUL KORETZ, CHAIR
ASSEMBLYMEMBER, FORTY-SECOND DISTRICT

BEN EBBINK
CHIEF CONSULTANT

LORIE ERICKSON
ASSOCIATE CONSULTANT

October 17, 2005

Dear Friends:

As Chair of the Assembly Committee on Labor and Employment, I am proud to submit this annual report summarizing legislation the Committee heard and voted on during the 2005 legislative year. The Committee heard many significant labor and employment measures this year, including bills to increase penalties for violations of the Labor Code, strengthen compliance with prevailing wage laws, protect workers from hazardous conditions and toxic substances on the job, and provide needed information to workers who are offered severance packages from their employers. The Committee also heard bills to protect nurses from debilitating back injuries through the use of "lift teams," to expand family and medical leave protections and to allow our port truck drivers to organize collectively to better their economic conditions.

One of the most important issues heard by the Committee this year concerned heat illness, following the deaths last year of several agricultural workers. In February, Assemblywoman Judy Chu introduced Assembly Bill 805, a bill that requires the Occupational Safety and Health Standards Board to adopt a heat illness standard to protect California workers. Unfortunately, more tragedy followed this summer while the legislation was pending as at least four workers died of heat-related illness within a matter of days. This spike in incidents forced the Schwarzenegger Administration to issue an emergency regulation to address this issue. While the regulation represents a good first step, we will need to use next year to make sure that workers are protected as much as possible so that the tragedies of this year are not repeated.

The Committee also passed important legislation to increase the minimum wage, which still languishes below the cost of living in California and fails to even meet the federal poverty line for full-time employment. Assembly Bill 48 by Assemblywoman Sally Lieber would have increased the minimum wage eventually to \$7.75 per hour by July 1, 2007. Most importantly, the bill would have annually indexed the minimum wage to inflation, ensuring that the wage maintains its current purchasing power as the cost-of-living increases in future years. Unfortunately, the Governor vetoed the bill for the second time in as many years.

Additional important legislation passed by the Committee attempted to combat the underground economy, which continues to flourish in California – to the detriment of workers, legitimate employers and the state treasury. My Assembly Bill 875 would have established a formal nexus between our labor law and tax law enforcement by requiring the establishment of a set of

standards of labor law violations that will "trigger" a recommendation for an audit by the appropriate state tax authorities. This bill was vetoed by the Governor.

Finally, the Committee devoted a significant amount of time to the issue of meal and rest periods for California workers. In December of last year, the Division of Labor Standards Enforcement (DLSE) issued a proposed regulation that generated much concern among worker advocates who felt the proposal would weaken existing law guaranteeing meal periods for California workers. In January, the Committee conducted an oversight hearing on the specific issue of whether DLSE had the authority to promulgate the proposed regulation in the first place. Moreover, the Committee heard and passed ACR 43 (J. Horton), which made a legislative declaration that DLSE does not have such authority and that the proposed regulation is inconsistent with existing law. The regulation is still pending in the administrative process.

While great legislative strides were made in 2005, this year represents only the first year of the 2005-2006 legislative session. Next year is sure to bring even more important issues and measures before the Committee as new bills will be introduced and pursued. I strongly encourage all interested persons to participate in the Committee's hearing process. Such involvement is vital to our work in developing sound labor and employment relations policy for the people of California.

The report briefly describes the bills heard by the Committee in 2005. We have also included for your information the Governor's veto messages. For the full text of all versions of any bill, committee analyses, and history including votes, please go to the Assembly's web page at www.assembly.ca.gov and click on "legislation." If you need additional information, please contact me or the Committee staff at (916) 319-2091.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Koretz", written in a cursive style.

Paul Koretz, Chair
Assembly Committee on Labor and Employment

Assembly Committee on Labor and Employment 2005 Legislative Summary

Assembly Bills

AB 48 Lieber Minimum Wage

This bill increases the minimum wage to \$7.25 per hour effective July 1, 2006, and to \$7.75 per hour effective July 1, 2007. Thereafter, the bill provides for the automatic adjustment of the minimum wage to the rate of inflation on an annual basis.

Status: Vetoed by the Governor.

AB 51 Koretz Apprenticeship Programs

Limits eligibility for reimbursement to construction industry apprenticeship programs that meet specified reporting and graduation requirements. Most notably, reimbursement is limited to programs that have graduated at least one apprentice within two years prior to the request for reimbursement, except for programs that have been approved for fewer than five years or have less than ten apprentices. This bill is a reintroduction of AB 2837 (Firebaugh) of 2004, which was vetoed by the Governor.

Status: Vetoed by the Governor.

AB 57 Levine Public Works: Prevailing Wages

This bill provides that an employer may take a credit for employer payments even if contributions are not made or costs are not paid, as specified, if payments are made on not less than a quarterly basis. This bill is a reintroduction of AB 807 (Leno) of 2003, which was inadvertently chaptered out by other legislation.

Status: Vetoed by the Governor.

AB 169 Oropeza Gender Pay Equity

This bill increases the amount of liquidated damages due to employees who are paid unfairly in violation of existing law relating to gender-based pay discrimination. The bill provides an amount equal to the balance of wages as liquidated damages, and an amount equal to double the balance of wages as a civil penalty. The bill also provides the balance of wages, including interest, an equal amount as liquidated damages, and an amount equal to four times the balance of wages as a civil penalty, if it is determined that an employer willfully violated the law. This bill is similar to AB 2317 (Oropeza) of 2004, which was vetoed by the Governor.

Status: Vetoed by the Governor.

AB 186 Bogh Occupational Safety and Health: Fines

This bill establishes a refund mechanism for workplace safety penalties imposed against public police departments, fire departments, and the California Department of Forestry and Fire Protection, similar to an existing refund mechanism for educational entities.

Status: Chapter # 141, Statutes of 2005.

AB 222 Bogh Public Works: Labor Compliance Programs

This bill eliminates various provisions of existing law that authorize and require the initiation and enforcement of labor compliance programs. Instead, this bill requires an awarding body to post a specified notice advising workers that were not paid prevailing wages on public works projects to contact the Division of Labor Standards Enforcement.

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

AB 364 Cogdill Public Works: Prevailing Wages

This bill makes various changes to existing law governing the payment of prevailing wages on public works projects. This bill repeals many of the provisions of SB 975 (Alarcon) of 2001, including a statutory definition of the term "paid for in whole or in part out of public funds."

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 414 Klehs Labor Compliance Programs: Construction Managers

This bill specifies that a third-party that contracts with an awarding body to initiate and enforce a labor compliance program may not review the payroll records of its own employees or the employees of its subcontractors, and the awarding body or an independent third-party must review these payroll records for purposes of the labor compliance programs.

Status: Chapter # 606, Statutes of 2005.

AB 474 Cogdill Prevailing Wages

This bill requires the Director of the Department of Industrial Relations, in determining prevailing wage rates, to factor in studies done by rural counties and rural economic development agencies regarding actual wages paid in rural areas of the state.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 510 Richman Workers' Compensation

This bill requires the Labor Commissioner to establish and maintain a proof-of-coverage program designed to detect unlawfully insured employers. This bill also establishes a task force, consisting of the Labor Commissioner, the Insurance Commissioner, the Workers' Compensation Insurance Ratings Bureau (WCIRB), the Commission on Health and Safety and Workers' Compensation (CHSWC), and other stakeholders, to identify additional mechanisms to enhance enforcement efforts to detect unlawfully insured employers and underinsured employers.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 537 Maze Apprenticeship: Electrical Contractors

This bill makes changes to existing law governing the certification of electricians, including a provision that electrical contractors with fewer than six employees shall not be required to employ more than two certified electricians.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 551 Bermudez Employment Agencies

This bill revises provisions of existing law that regulate employment agencies, including domestic agencies. Most notably, this bill expands the existing oral disclosure to persons seeking domestic services to clarify that potential employer responsibilities may include employment taxes and workers' compensation. This bill also provides that if payment is made directly to the employment agency utilizing an authorized "trust account" methodology, additional specified language concerning the operation of the trust account shall be included in the written disclosure to the client or at the time of initial authorization of payment or on a written payment invoice.

Status: Vetoed by the Governor.

AB 553 La Suer Public Works: Overtime Compensation

This bill amends existing law governing the payment of overtime compensation to employees on public works projects to authorize the adoption of specified alternative workweek schedules.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 581 Klehs Public Works: Wages

This bill provides that a joint labor-management committee may bring an action within four years of a violation and also provides that if a court finds a violation, the violation shall be enjoined, restitution shall be awarded for distribution of employee wages, and the committee shall be awarded attorneys' fees, costs and expenses. This bill also eliminates the requirement for the preparation of a certified copy of a finding and instead provides for the initiation of formal disciplinary action by the Contractors State Licensing Board upon the Labor Commissioner's finding of a Labor Code violation.

Status: Held under submission by the Senate Committee on Appropriations.

AB 596 Chavez Building Maintenance Industry: Advisory Committee

Requires the Labor Commissioner to establish an advisory committee on the building maintenance industry to advise the Labor Commissioner of industry problems and to serve as a liaison between the Labor Commissioner and the industry.

Status: Senate Inactive File.

AB 604 Houston California Workforce Investment Board

This bill reassigns the responsibility for the development of an education and job training report card program to assess the accomplishments of California's workforce preparation system.

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

AB 640 Tran Employment: Work Hours

This bill authorizes individual employees, with the approval of their employer, to work up to 10 hours per day within a 40-hour workweek without overtime pay without adopting an alternative workweek schedule as required under current law.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 678 Nakanishi Workforce Investment Act (WIA) of 1998

Continuously appropriates all federal formula moneys from the Consolidated Work Program Fund to the Employment Development Department, for the purpose of providing federal WIA funds to local workforce investment areas.

Status: Held under submission in the Assembly Committee on Appropriations.

AB 710 Houston California Business Investment Services Unit

This bill establishes the California Business Investment Services Unit within the Labor and Workforce Development Agency.

Status: Failed passage in the Senate Committee on Government Modernization, Efficiency & Accountability.

AB 755 De La Torre Piece-Rate Agricultural and Garment Workers

This bill requires piece-rate employers in the agricultural and garment industries to pay piece-rate workers their average piece-rate earnings during state mandated rest periods. This bill also specifies that failure to provide such compensation shall not give rise to "waiting time" penalties under Labor Code Section 203 unless the employer has violated such requirements more than five times in a 12-month period. This bill is a reintroduction of SB 1538 (Alarcon) of 2004, which was vetoed by the Governor.

Status: Vetoed by the Governor.

AB 805 Chu Heat Illness Prevention and Response

This bill requires the Occupational Safety and Health Standards Board to adopt a standard for heat illness prevention and prescribes certain requirements for that standard.

Status: Held under submission by the Senate Committee on Appropriations.

AB 815 Lieber Occupational Safety and Health

This bill requires the Occupational Safety and Health Standards Board to adopt revised or new workplace standards or permissible exposure limits prepared by the Hazard Evaluation System and Information Service (HESIS) as specified.

Status: Held under submission by the Senate Committee on Appropriations.

AB 822 Benoit Employment

This bill permits an employer, if voluntarily authorized by an employee, to deposit wages to a card issued to the employee by a bank, industrial bank, trust company, savings association, or credit union of the employee's choice that can be used to access funds at an automated teller machine in this state, provided that the employee is entitled to at least one pay card transaction without charge per pay period.

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

AB 875 Koretz Employee Wages and Working Hours: Violators

This bill requires the Labor and Workforce Development Agency, in consultation with the Franchise Tax Board and the Joint Enforcement Strike Force on the Underground Economy, to develop a set of standards of wage and hour violations that, if met by an employer, will trigger recommendation for an audit or investigation by the appropriate state tax authorities. Intent language specifies the intent of this legislation to target those employers that operate in the underground economy in flagrant violation of the law, and not employers that commit minor or inadvertent violations of existing law.

Status: Vetoed by the Governor.

AB 879 Torrico Employment Law Violations: Remedies

This bill provides that where an employer fails to file an answer to the administrative complaint, fails to attend the administrative hearing and fails to seek relief for failing to do so, the Superior Court would not hear the employer's appeal of the Labor Commissioner's administrative decision on a de novo basis, but would instead review the decision only for an abuse of discretion.

Status: Vetoed by the Governor.

AB 904 Houston Employment: Work Hours

This bill authorizes specified employees in the manufacturing industry to adopt alternative workweek schedules authorizing work for no longer than 12 hours per day within a 40-hour workweek without receiving overtime compensation.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 985 Torrico Labor: Military Duty

This bill prohibits an employer from discharging or discriminating against an employee for taking time off to perform active military duty as a member of the militia of this state. This bill provides that the prohibition may not apply if the job held by the employee upon return from leave no longer exists, unless the job was "outsourced," as defined. In addition, the bill provides that, in addition to any other penalty provided for by law, an employer shall pay an employee that is not reinstated upon return from active duty an amount equal to six months' salary at a rate that was paid immediately preceding the time off.

Status: Vetoed by the Governor.

AB 1012 Nation Overtime Compensation

This bill requires the Department of Industrial Relations to prepare an annual report on the impact of an existing overtime exemption for computer software employees on the retention and recruitment of computer consulting jobs to California.

Status: Senate Committee on Labor and Industrial Relations, two-year bill.

AB 1093 Matthews Employment

This bill makes various changes to existing law concerning the payment of wages and overtime compensation. First, this bill specifies that an employer may pay an employee's earned and unpaid wages at the time of termination or quitting by authorized direct deposit, as long as the employer complies with the time parameters in existing law for payment of those wages.

Second, this bill amends the existing overtime exemption for employees in the computer software field if, among other requirements, the employer's hourly rate of pay is not less than \$41 per hour or the annualized full-time equivalent of that rate.

Status: Chapter # 149, Statutes of 2005.

AB 1124 Wyland Taxation: Employees

This bill amends existing law concerning the classification of individuals as employees or independent contractors by establishing specified "safe harbors" for purposes of unemployment insurance and withholding taxes on wages.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 1172 Chu Employment: Wages

This bill prohibits a telephone corporation from recovering, receiving, or charging back from an employee any part of a commission advance previously paid to the employee. This bill is in direct response to a recent decision by a California appellate court in Steinhebel v. Los Angeles Times Communications, (Feb. 7, 2005) No. B172415, Second Dist., Div. Eight.

Status: Senate Committee on Labor and Industrial Relations, two-year bill.

AB 1184 Koretz Nurses and Certified Nurse Assistants: Overtime

This bill prohibits mandatory overtime for state nurses and certified nursing assistants, except under certain circumstances. This bill authorizes a nurse to volunteer to work extra hours, but the refusal by a nurse to work such hours shall not be grounds for discrimination, dismissal, discharge or other penalty.

Status: Vetoed by the Governor.

AB 1192 Villines Public Works: Prevailing Wages: Affordable Housing

This bill exempts from the definition of "public works" the construction, expansion or rehabilitation of affordable housing units for low or moderate-income persons, financed in whole or in part either with public or private funds and performed by a nonprofit organization.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 1310 Nuñez Severance Offers: Disclosures

This bill prohibits an employer from offering cash or any other thing of value to secure the voluntary resignation from employment of a group of 25 or more employees unless the employer provides to each employee, at the time of the offer, specified disclosures relating to the financial consequences of the resignation and a 21-day period during which the employee may reconsider any decision to accept the offer. The bill exempts from its provisions public agencies and employers with 500 or fewer employees.

Status: Vetoed by the Governor.

AB 1311 Labor Committee Labor Standards: Enforcement Hearings

This bill authorizes the Labor Commissioner to serve complaints and other documents utilizing substitute service. Current law limits the Labor Commissioner's service of such documents to personal service or service by certified mail.

Status: Chapter # 405, Statutes of 2005.

AB 1339 Labor Committee Movement of Work Outside of California

This bill requires the Labor Market Information Division within the Employment Development Department to provide the Legislature with a quarterly report of mass layoff data on the movement of work outside of California that it currently collects.

Status: Vetoed by the Governor.

AB 1584 Evans California Workforce Investment Board

This bill reassigns the responsibility for the development of an education and job training report card program to assess the accomplishments of California's workforce preparation system.

Status: Senate Committee on Labor and Employment; two-year bill.

AB 1669 Chu Employment: Discrimination

This bill tolls the statute of limitations for filing an administrative complaint in employment discrimination cases until one year from the date that the aggrieved individual attains the age of majority.

Status: Chapter # 642, Statutes of 2005.

AB 1709 Wyland Workplace Postings

Requires that workplace posters and regulations be written in plain language so that employers and employees can easily understand them.

Status: Failed passage in the Assembly Committee on Labor and Employment; reconsideration granted.

AB 1734 Koretz Private Employment: Meal Periods

This bill provides that if an employee in the motion picture industry or the broadcasting industry is covered by a valid collective bargaining agreement that provides for meal periods and includes a monetary remedy if the employee does not receive a meal period, then the terms, conditions and remedies of the agreement apply in lieu of the applicable provisions pertaining to meal periods of specified state law.

Status: Chapter # 414, Statutes of 2005.

ACR 43 J. Horton Division of Labor Standards Enforcement

This resolution makes a legislative declaration that the DLSE does not have the authority to promulgate a specified proposed regulation concerning meal and rest periods, and that the proposal is inconsistent with existing state law.

Status: Resolution Chapter # 81, Statutes of 2005.

AJR 20 Nuñez Agricultural Workers

This resolution states the Legislature's support of the federal immigration reform bill known as the Agricultural Job Opportunity, Benefits and Security Act (AgJOBS).

Status: Assembly Inactive File.

AJR 27 Jones Organized Labor

This resolution urges the Congress of the United States to pass the Employee Free Choice Act. This resolution is similar to AJR 87 (Goldberg) of 2004.

Status: Resolution Chapter # 103, Statutes of 2005.

HR 15 J. Horton Employment

This resolution expresses support for janitors in their effort to obtain health care coverage for themselves and their families in their union contracts. This resolution also encourages businesses in the biotechnology, pharmaceutical, commercial real estate, high-technology and defense industries in Southern California to tell their cleaning contractors that they will support family health care insurance for their contract janitors.

Status: Approved by the Assembly on June 23, 2005.

HR 18 Mullin Airline Industry Employees' Retirement Benefits

This resolution requests the President and Congress of the United States to declare their support for, and to enact, federal legislation that would aid in the protection of hard-earned retirement benefits for all non-executive and non-management employees in the airline industry.

Status: Approved by the Assembly on August 18, 2005.

Senate Bills

SB 101 Battin Employee Compensation

This bill clarifies existing law to require that employers, by January 1, 2008, use no more than the last four digits of an employee's social security number or use an employee identification number other than a social security number when providing employees with an itemized statement of earnings. This bill corrects drafting errors in SB 1618 (Battin) from 2004.

Status: Chapter # 103, Statutes of 2005.

SB 102 Ducheny Nurse Training Fund

This bill authorizes the Employment Training Panel (ETP) to allocate funds for up to five licensed nurse training programs to train individuals who are currently working as nurse assistants or caregivers in a health facility. This bill also allows ETP to waive the minimum wage conditions if certain conditions are met.

Status: Chapter # 593, Statutes of 2005.

SB 174 Dunn Minimum Wage

This bill establishes a new representative cause of action in the Labor Code. Specifically, this bill authorizes an employee who was paid less than twice the minimum wage to recover unpaid minimum wages or overtime compensation in a civil action on behalf of himself or herself and other current and former employees who were also paid less than twice the state minimum wage.

Status: Vetoed by the Governor.

SB 184 Murray Talent Agencies

This bill increases from \$10,000 to \$50,000 the amount of the surety bond required of talent agencies before a license may be issued or renewed.

Status: Chapter # 46, Statutes of 2005.

SB 300 Kuehl Family and Medical Leave

This bill amends numerous provisions of the California Family Rights Act. Notably, this bill amends the definition of "child" to eliminate references to the age and dependency status of the child. This bill also expands the scope of permissible family and medical leave to include leave to care for a sibling or grandparent with a serious health condition, and specifies that permissible leave includes leave to care for a domestic partner with a serious health condition. This bill also imposes various notice, disclosure and other requirements on employers.

Status: Assembly Committee on Appropriations; two-year bill.

SB 314 Romero Job Training

This bill provides that the Employment Training Panel may allocate up to 10 percent of the annually available training funds for the purpose of funding special employment training projects to ensure increased productivity and extended employment retention of workers in the state's major seasonal industries. The bill defines seasonal industries as employers whose workforce (1) is comprised of at least 50 percent of workers whose employment period is necessarily cyclical, (2) who has retained at least 50 percent of the same seasonal employees for at least one season of not less than 500 hours for the preceding 12-month period, and (3) who pays wages and provides benefits that exceed industry averages.

Status: Vetoed by the Governor.

SB 363 Perata Hospitals: Lift Teams

This bill requires specified general acute care hospitals to establish health care worker back injury prevention plans and implement "zero lift policies" as specified. This bill is virtually identical to AB 2532 (Hancock) of 2004, which was vetoed by the Governor.

Status: Vetoed by the Governor.

SB 665 Migden California Career Resource Network

This bill repeals the California Occupational Information Coordination Committee and instead establishes the California Career Resource Network to provide career development information and resources.

Status: Chapter # 208, Statutes of 2005.

SB 759 Maldonado Public Works: Payroll Records

This bill allows certified payroll information on public works projects to be submitted in an electronic data format. Specifically, this bill specifies that certified payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information and are verified in the same manner as currently required for written payroll records.

Status: Chapter # 500, Statutes of 2005.

SB 828 Maldonado Public Contracts

This bill exempts credit card purchases for goods of \$2,500 or less from various certification requirements that apply to vendors and contractors who provide goods to the state under contract. This bill also makes permanent a pilot project concerning paid advertisements in state publications.

Status: Chapter # 381, Statutes of 2005.

SB 848 Dunn Employment: Port Owner-Operator Drivers

This bill authorizes port owner-operator drivers to organize collectively to better their economic conditions through joint negotiations with port motor carriers concerning their compensation, benefits, and terms and conditions of engagement. This bill also specifies that port owner-operator drivers shall have full freedom of association, including the right to form, join and participate in organizations of their own choosing, to withhold their services on a collective basis, and to be free from interference, restraint, or coercion by port motor carriers or their agents. This bill also makes related legislative findings and declarations.

Status: Vetoed by the Governor.

SB 940 Torlakson Public Works

This bill requires the Department of Industrial Relations to regularly post the prevailing wage rates for residential projects on its Internet web site.

Status: Vetoed by the Governor.

SCR 25 Speier Employer Safety

This resolution urges employers to ensure that their injury and illness prevention programs and other systems for identifying and correcting workplace hazards to consider the effects of ultraviolet (UV) radiation and to ensure that skin cancer prevention policies for outdoor workers are put into operation.

Status: Resolution Chapter # 105, Statutes of 2005.

Governor's Vetoes

AB 48 (Lieber)

I am returning Assembly Bill 48 without my signature.

It is essential to those working at or near the minimum wage that the adequacy of the wage is reviewed on a regular basis and raised when appropriate. The minimum wage has not been increased since 2002, and I believe it is now appropriate. This is a position I made very clear to the author. However, I have also made it clear that I do not support automatic increases to the wage that relieve elected officials of their duty to consider all of the impacts each increase to the wage will have on workers and businesses.

This autopilot mechanism fails to account for changes in the economy which could have deleterious effects on the economic health of the state. Despite numerous downward economic cycles over the last fifty years, the inflation rate identified in the bill has never gone down since the state began collecting the information in 1955. Clearly using static economic data does not account for the inevitable downward cycles and would provide increases when the private sector can least afford them.

Furthermore, minimum wage increases must not be put on autopilot or examined in a vacuum but reviewed in conjunction with other wage and hour issues that impact workers and businesses. For example, California has the most inflexible workplace scheduling rules in the country. These inflexible rules discourage the use of alternative schedules that allow workers to work fewer days every week, avoid peak commute times, and spend more time with their families. In addition, California businesses have been unreasonably hampered by the Byzantine labor law defining employer classifications.

For these reasons I cannot support this measure but, as I told the Legislatures leaders last month, I am willing to sign a minimum wage increase bill that addresses my concerns.

Sincerely,

Arnold Schwarzenegger

AB 51 (Koretz)

I am returning Assembly Bill 51 without my signature.

This bill is nearly identical to a bill I vetoed last year because it was unnecessary. I am not aware of any compelling evidence that would warrant the extensive reporting requirements from every apprentice program that are called for in this bill. As I noted in my previous veto message, all apprenticeship programs currently undergo an approval and oversight process through the Division of Apprenticeship Standards to ensure that these programs function effectively.

Furthermore, I recently signed legislation which provided major new investments in the state's vocational education system. Assembly Bill 51 has the potential to limit apprenticeship opportunities for young Californians, which is contrary to the bipartisan efforts to expand the vocational education system.

Sincerely,

Arnold Schwarzenegger

AB 57 (Levine)

I am returning Assembly Bill 57 without my signature.

I firmly agree that workers must be properly compensated for public works through the payment of prevailing wages. In fact, California has some of the strongest prevailing wage protections in the nation. The existing law satisfactorily affords the appropriate balance between ensuring fair compensation for workers and flexibility for employers.

This bill would arbitrarily impose timelines on employers crediting pension and other benefits used in determining prevailing wages. In doing so, the balance afforded in current law would be weakened.

Sincerely,

Arnold Schwarzenegger

AB 169 (Oropeza)

I am returning Assembly Bill 169 without my signature.

I remain supportive of reasonable efforts to eradicate the historical trend of women earning less than men for doing the same work, however I still do not believe the provisions of this bill or last years Assembly Bill 2317 are necessary in order to achieve this goal.

Current state and federal laws forbid paying an individual lower wages on account of gender and provide stiff civil and criminal penalties against employers that do so. The elimination of judicial discretion to modify the penalty coupled with the massive increases in fines will do nothing more than increase frivolous litigation and could lead to the same shakedown lawsuits that the citizens of California voted to curb last year by passing Proposition 64.

Sincerely,

Arnold Schwarzenegger

AB 551 (Bermudez)

I am returning Assembly Bill 551 without my signature.

This bill requires duplicative reporting for agencies which provide referral services for domestic employees. Current law already provides sufficient reporting requirements to ensure that those who hire domestic workers are well aware of their obligations to pay taxes and procure workers' compensation insurance.

Assembly Bill 551 interferes with the marketplace by legislatively altering the requirements of one segment of the employment agency industry in order for another segment to gain competitive advantage without providing additional protections for domestic workers or those who hire them.

This bill is unnecessary and inappropriately adds redundant requirements with no additional consumer protection.

For these reasons, I cannot support this measure.

Sincerely,

Arnold Schwarzenegger

AB 755 (De La Torre)

I am returning Assembly Bill 755 without my signature.

AB 755 is similar to SB 1538, which I vetoed last year. This measure, like last year's, is an attempt to ensure that piece-rate workers in the garment and agricultural industries take advantage of their rest periods by mandating that employers pay workers a specific wage for rest periods. Piece-rate calculations already compensate workers for all time worked and rest periods are already considered time worked. The provisions of AB 755 essentially require employers to compensate piece-rate workers twice for their rest periods. This is unreasonable and overly burdensome to employers and does nothing to ensure workers actually take the rest periods they are authorized to take.

Consistent with my veto message of last year, the Labor and Workforce Development Agency has been working to ensure all workers, including those earning a piece-rate, understand their rights to rest periods and the importance of taking them. The Agency has conducted workshops for low-wage workers throughout the state to educate them on their rights. Recently, the Labor Commissioner has taken steps to create an advisory committee for interested parties in the garment industry to meet and discuss additional ways to ensure workers understand and take advantage of their rights. Finally, my Administration recently enacted emergency heat illness regulations that ensure workers subjected to possible heat stress and heat illness have access to shade and additional recovery periods when needed.

This bill would impose burdensome accounting requirements and increase frivolous litigation with no discernable benefit to workers. The real efforts my Administration has undertaken will go much further in assisting workers.

Sincerely,

Arnold Schwarzenegger

AB 875 (Koretz)

I am returning Assembly Bill No. 875 without my signature.

This bill calls for the development of an unnecessary set of standards. The Labor and Workforce Development Agency already has the authority to coordinate enforcement efforts related to the underground economy. Additionally, this bill is duplicative of efforts currently underway by the Economic and Employment Enforcement Coalition, an inter-agency task force focused on enforcement activities. This year's budget includes \$6.5 million and 62 personnel years for coordinated enforcement of the underground economy by these entities.

The state funds spent developing the standards called for in this bill would be better spent actually enforcing existing laws.

Sincerely,

Arnold Schwarzenegger

AB 879 (Torrico)

I am returning Assembly Bill 879 without my signature.

The right to a de novo appeal of Labor Commissioners administrative hearing decision is a long-standing right of employers. This bill is an unjustified attempt to restrict that due process right.

There is no evidence that significant numbers of employers are intentionally avoiding the administrative adjudication process in order to proceed directly to a de novo appeal. Less than one and a half percent of the approximately 50,000 claims filed with the Labor Commissioner each year are ultimately appealed to the courts. Parties that did, in fact, participate in the administrative adjudication process make many, if not most, of these appeals.

Sincerely,

Arnold Schwarzenegger

AB 985 (Torrico)

I am returning Assembly Bill 985 without my signature.

As brave Californians fight abroad to stop terrorism, spread freedom and protect our country, it is imperative that elected leaders take all steps necessary to ensure these individuals are in no way economically or otherwise disadvantaged because of their service.

This bill, however, is not about protecting the jobs of our servicemen and women. Current state and federal law already protects the jobs of those returning from military service. The proponents have offered no evidence that the jobs in question are being outsourced. Rather, this bill is a not-so-subtle attempt by those fearful of the global marketplace to place a negative definition of outsourcing into California law. Californias continued economic growth is predicated on our active participation in the worldwide economy, not in isolation.

For these reasons, I cannot support this bill.

Sincerely,

Arnold Schwarzenegger

AB 1184 (Koretz)

I am returning Assembly Bill 1184 without my signature.

California is facing a nursing shortage and there are not enough nurses and certified nursing assistants to provide coverage in State hospitals and health care facilities. Because the State has difficulty recruiting a sufficient number of these dedicated professionals for its hospitals and other health care facilities, the State relies on mandatory overtime staff to meet minimum level-of-care staffing requirements. My administration has made the training and recruitment of new nursing professionals a high priority, with the added goal of filling vacant nursing positions and reducing the resulting overtime throughout state service.

Additionally, the Ralph C. Dills Act requires that the state employer and the exclusive representative of rank-and-file state employees meet and confer in good faith over employee wages, hours of work, and terms and conditions of employment. This bill would unilaterally establish provisions governing hours of work for represented health care employees, thereby, circumventing the collective bargaining process and the collective bargaining agreements negotiated between the parties. If the State is to have good faith collective bargaining, then wages, hours and terms and conditions of employment must remain subject to negotiation.

Sincerely,

Arnold Schwarzenegger

AB 1310 (Nunez)

I am returning Assembly Bill 1310 without my signature.

This measure prohibits large employers from offering severance packages unless the employer provides the employee extremely detailed financial disclosure information and a lengthy rescission period.

Assembly Bill 1310 would discourage employers, fearful of litigation and unwilling to absorb additional costs, from offering voluntary severance packages. It would instead encourage employers who might otherwise offer severance packages to discontinue that practice.

This bill does little more than require employees to disclose personal financial information to employers and encourage employers to discontinue offering severance. I can see no reason to enact such a bill.

Sincerely,

Arnold Schwarzenegger

AB 1339 (Labor Committee)

I am returning Assembly Bill 1339 without my signature.

This bill requires the quarterly reporting of information currently available from the Employment Development Department. This information can be accessed easily by contacting the Department directly. Printing and delivering to the Legislature information readily available to the public is a waste of state resources.

Sincerely,

Arnold Schwarzenegger

SB 174 (Dunn)

I am returning Senate Bill 174 without my signature.

This bill creates a new kind of class action lawsuit with no protections contained in the Code of Civil Procedure which governs traditional class action lawsuits. Traditional class action lawsuits are a special category of lawsuit preserved for patterns of alleged wrongdoing and are designed to include increased oversight by the courts to protect both the class and the defendant.

This bill will undoubtedly lead to increased litigation and could result in the same sorts of shakedown lawsuits that the citizens of California voted to curb last year by passing Proposition 64.

For these reasons, I am unable to support this measure.

Sincerely,

Arnold Schwarzenegger

SB 314 (Romero)

I am returning Senate Bill 314 without my signature.

I support additional workforce training funds for seasonal workers. That is why removing barriers for these populations is one of my priorities for the discretionary portion of Californias Workforce Investment Act dollars.

This bill authorizes the Employment Training Panel (ETP) to fund training for workers in the states major seasonal industries. Unfortunately, this bill lowers the ETP criteria for training eligibility in a manner that is not consistent with the goal of the program to fund training programs that meet the needs of employers for skilled and productive workers and the need of workers for good paying, long-term jobs.

I encourage the sponsors of this measure and others representing seasonal workers to continue to pursue Workforce Investment Act funds, including the 85-percent of those funds awarded by Californias local Workforce Investment Boards.

Sincerely,

Arnold Schwarzenegger

SB 363 (Perata)

I am returning Senate Bill 363 without my signature.

This bill is similar to a measure I vetoed last year and imposes a one-size-fits-all mandate on hospitals to establish a zero lift policy requiring teams and the use of equipment to lift patients. While I do not support this bills inflexible mandates and am concerned that by including the provisions in the Labor Code hospitals could be sued under the sue your boss law enacted in 2003, I am supportive of the bills goals. Some hospitals have already implemented aggressive lift team policies and are experiencing success in reducing workplace injuries.

However, I am puzzled by the exemption this bill grants to rural hospitals. Workplace safety laws are intended to protect all workers in an industry equally, regardless of the geographic location. If the author and proponents have exempted rural hospitals out of concern for the fiscal impact of implementing this bill, my response would be simply that financial constraints are not limited to rural hospitals but are also felt by public and private hospitals throughout California. This is precisely why the flexibility given hospitals in existing law is desirable.

It is also important to note that as a result of extensive negotiations with the federal government, my Administration negotiated an additional \$3 billion for Californias safety net hospitals over the next 5 years. I strongly encourage hospitals to use some of these new funds as well the savings from workers compensation reform to pay for education, equipment and additional staff that may be required to comply with the spirit of this measure. If hospitals do not initiate these measures on their own, I will be willing to consider legislation next year that imposes the mandate.

Sincerely,

Arnold Schwarzenegger

SB 848 (Dunn)

I am returning Senate Bill 848 without my signature.

While this bill is meant to improve the economic clout of port owner-operator drivers, its provisions could violate federal antitrust law and result in many unintended consequences. This legally doubtful attempt at an antitrust exemption, or untried expansion of state regulation, is sure to become a legal battleground.

Californias ports face heavy congestion and air quality problems. Motor carriers, drivers, port operators and shippers have worked cooperatively to address these issues in recent months. I recently signed Senate Bill 45, which was cooperatively negotiated between both the trucking companies and drivers, protects drivers from being assessed fees for circumstances that are out of their control, including locked gates, employee lockouts, and traffic congestion.

The litigious firestorm this bill would assuredly ignite is counter-productive to the cooperative work that must be accomplished to capture the economic potential afforded by the growth in international trade.

Sincerely,

Arnold Schwarzenegger

SB 940 (Torlakson)

I am returning Senate Bill 940 without my signature.

Changes in the law made prior to my Administration greatly expanded the type and number of projects that are considered to be public works and thus covered by prevailing wage requirements. Many low-income housing and other residential projects are now subject to prevailing wage requirements, adding additional costs to the groups funding those projects.

Unfortunately, the Department of Industrial Relations has less than two-thirds of the information it needs for residential rate determination. Absent the collective bargaining agreements necessary to establish those missing rates, or some other mechanism by which the department can establish residential rates, a number of residential public works projects are being forced to pay higher commercial rates. This bill does nothing to remedy that deficiency.

Instead, this bill imposes a costly mandate on the department to post a patchwork of available residential rates without addressing the underlying problem. The problem is not the failure to publish existing residential rates, but the lack of residential rates for all relevant crafts. I encourage the Legislature to look at this issue more closely next year and send me legislation that truly addresses the problem.

Sincerely,

Arnold Schwarzenegger