

2008

## 2007-2008 Legislative Summary

Assembly Committee on Labor and Employment

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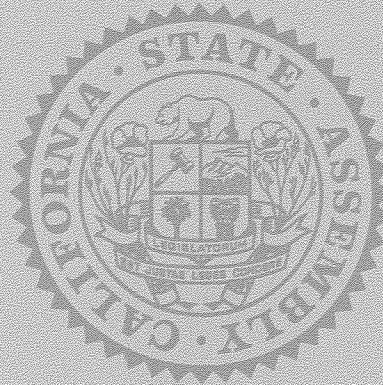
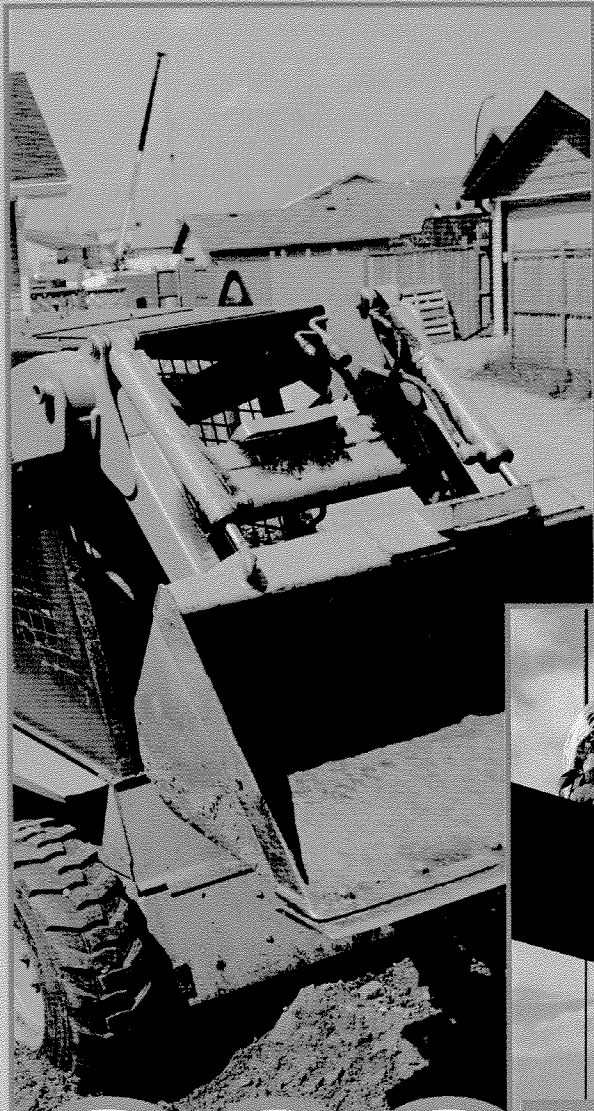
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# ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT



*Sandr  R. Swanson, Chair*



# 2007-2008

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# LEGISLATIVE SUMMARY

# Assembly California Legislature



BEN EBBINK  
CHIEF CONSULTANT  
LORIE ERICKSON  
ASSOCIATE CONSULTANT  
ADAM JONES  
ASSOCIATE CONSULTANT

## ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT SANDRÉ R. SWANSON, CHAIR ASSEMBLYMEMBER, SIXTEENTH DISTRICT

November 7, 2008

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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 2007-2008 legislative session. This represents my first full term serving as Chair, and I am extremely appreciative of the work the Committee conducted this session to advance the interests of employees, working families, and businesses.

We are all very aware that these are tough economic times, both at the state and federal level. These economic conditions are having a tremendous impact on working families, with the unemployment rate in California reaching the highest level in more than a decade. It is in this environment that the Committee considered several pieces of legislation designed to improve the lives of California's working families.

One of the landmark pieces of legislation heard by the Committee this session would have enacted the first state legislation to require employers to provide paid sick leave to allow employees to take paid time off work to care for sick family members. The measure, Assembly Bill 2716 (Ma), was modeled after a recent successful local ordinance enacted in San Francisco.

The issue of meal and rest periods continued to be an important point of focus for the Committee this session, as employers and labor groups continued to struggle over the requirements of current law and whether or not increased flexibility is needed. A recent court of appeal decision concerning the interpretation of the current meal and rest period requirements has been appealed to the California Supreme Court. This issue is sure to be an important one in the coming legislative session as well.

The Committee also heard several measures designed to improve workplace health and safety for California's workers. Assembly Bill 514 (Lieber) would have banned diacetyl, a food-flavoring agent that has been linked to recent worker illnesses. Assembly Bill 515 (Lieber) would have revised the process whereby toxic substances in the workplace are regulated. And my Assembly Bill 1988 would have re-vamped the Cal-OSHA Appeals Board process, which by many accounts has become dysfunctional in recent years.

The collective bargaining rights of agricultural employees was also a topic of tremendous discussion by the Committee during the legislative session. In 2007, two measures were

introduced to allow farmworkers to select collective bargaining representatives through a majority sign-up process. The measures were SB 180 (Migden) and SB 650 (Migden and Padilla). In 2008, Speaker Emeritus Fabian Núñez introduced Assembly Bill 2386, which would have established a new mediated election process that would have allowed employees to vote in a manner akin to absentee ballots. These issues were made more urgent by the tragic fact that farmworkers continue to die in the fields from heat illness, despite laws and regulations on the books designed to protect them. Governor Schwarzenegger vetoed all three measures, but this issue is likely to be debated in the coming years as well.

The Committee also spent a significant amount of time considering an issue involving the timely payment of wages in the temporary staffing industry. Following unsuccessful legislation in 2007, a compromise was successfully negotiated between industry representatives and labor that resulted in Senate Bill 940 (Yee). Governor Schwarzenegger signed the legislation earlier this year.

The Committee heard many other significant labor and employment measures this session, including bills to combat gender pay inequity, improve enforcement of the state's prevailing wage laws, reaffirm the rights of registered nurses to collectively organize and to allow family child care providers to collectively organize. The Committee also heard bills to protect nurses from debilitating back injuries through the use of "lift teams" and to improve labor compliance and oversight of apprenticeship programs.

Finally, the Committee conducted several important informational hearings during the course of the session. In March 2007, the Committee held a hearing on the food-flavoring additive diacetyl, which has raised concerns among workplace safety advocates and officials. The Committee also conducted two hearings to investigate the working conditions facing California's port truck drivers and related impacts on surrounding communities. At these hearings, the Committee took testimony from drivers, industry representatives, academics, port officials, community activists and others. Testimony focused on plans currently under discussion by the Ports of Long Beach, Los Angeles and Oakland that would address clean air and working condition issues. One hearing was held in Long Beach in September 2007, while the second hearing was convened in Oakland in October 2007.

This report briefly describes the bills heard by the Committee in 2007-2008. I 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](http://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,



Sandré R. Swanson, Chair  
Assembly Committee on Labor and Employment

## **Assembly Committee on Labor and Employment 2007/2008 Legislative Summary**

### **Assembly Bills**

#### **AB 124      Price      Meal and Rest Periods**

This bill, sponsored by AFSCME, extends current law governing meal and rest periods to pool lifeguards and stage assistants employed by cities, counties, and special districts.

*Status: Vetoed by the Governor*

#### **AB 306      Eng      Public Works: Labor Compliance Programs**

This bill establishes specific duties for approved private third-party labor compliance programs, including maintenance and provision of information on contractors and subcontractors, regular jobsite visitations, and annual reporting. This bill also establishes duties for the labor compliance program in the event that a complaint is submitted alleging labor law violations.

This bill is sponsored by the State Building and Construction Trades Council.

*Status: In the Senate; held in the Committee on Rules, pursuant to Senate Rule 29.10 (c)*

#### **AB 354      Hernandez      Lead-related Construction Registration Program**

This bill establishes a program to register employers and contractors who perform lead-related construction work through the Department of Occupational Safety and Health prior to the commencement of such work. This bill also establishes criteria for the application process as well as an avenue for appeals by employers to the director of the Department of Industrial Relations.

*Status: Vetoed by the Governor*

#### **AB 371      Huffman      Health Facilities**

This bill requires general acute care hospitals applying for financing from the issuance of tax-exempt bonds, to specify how they have implemented or plan to implement a worker injury prevention program including a "zero lift/safe patient handling" policy. This bill is sponsored by the California Nurses Association.

*Status: Vetoed by the Governor*

**AB 377      Arambula      Labor Contractors**

This bill requires an employer who is a farm labor contractor (FLC) to disclose in the itemized statement furnished to employees the name and address of the legal entity that secured the employer's services. This bill is similar to AB 2327 (Arambula) from 2006.

*Status: Vetoed by the Governor*

**AB 392      Lieu      Military Service: Benefits**

This bill requires employers to allow an employee who is the spouse of a member of the United States (U.S.) Armed Forces, National Guard, or Reserves to take up to 10 days of unpaid leave while the member of the Armed Forces, National Guard, or Reserves is home on leave. This bill would allow an employee to take unpaid leave given reasonable advance notice and would apply only to a "qualified employer" that employs 25 or more employees.

*Status: Chapter # 361, Statutes of 2007*

**AB 396      Hernandez      Prevailing Wages: Health and Welfare Benefits**

This bill establishes the "Public Works Employee Health and Welfare Fund" in the State Treasury and requires certain employers on public works projects to pay into a statewide fund if they do not provide health and welfare benefits to their employees.

*Status: Vetoed by the Governor*

**AB 408      Levine      Public Utility Contracts: Prevailing Wages**

This bill requires a public utility that contracts out for security services to specify in the contract for those services that the contractor and subcontractor must pay prevailing wages.

*Status: In the Senate; held in Committee on Rules*

**AB 435      Brownley      Wage Discrimination**

This bill extends the statute of limitations for an employee to file a civil action against an employer for sex-based wage discrimination from two years to five years where there is no willful misconduct and from three years to six years where there is willful misconduct. This bill also extends the time period that an employer is required to maintain wage and job classification records from two years to ten years.

*Status: Vetoed by the Governor*

**AB 448      Arambula      Compensation Recovery Actions: Liquidated Damages**

This bill allows employees to recover liquidated damages in complaints brought before the Labor Commissioner alleging payment of less than the state minimum wage. This bill would ensure employees receive the same relief for minimum wage violations regardless of whether they pursue their claim through the Labor Commissioner or a civil action.

*Status: Vetoed by the Governor*



**AB 504 Swanson Lockouts**

This bill requires restitution for employees whose employer is convicted of fraud, misrepresentation, or misconduct during and in furtherance of a lockout. The employee would be entitled to any wages and benefits they would have received had there been no lockout. This bill is sponsored by the United Food and Commercial Workers Union.

*Status: Vetoed by the Governor*

**AB 510 Benoit Employment: Working Hours**

This bill, sponsored by the California Chamber of Commerce, 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. The employer shall pay overtime for all hours worked over 40 in the workweek or over 10 hours in a workday, whichever are greater. This bill is similar to AB 640 (Tran) from 2005 and AB 2217 (Villines) from 2006.

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

**AB 514 Lieber Workplace Safety and Health: Diacetyl**

This bill creates prohibitions for the manufacturing, mixing, packaging, or blending of the chemical diacetyl or products that contain diacetyl in any amount or any concentration, in the workplace on and after January 1, 2009. This bill excludes the naturally occurring diacetyl in food or beverages or processes that result in the natural production of diacetyl.

*Status: In the Senate; re-referred to Committee on Appropriations*

**AB 515 Lieber Occupational Safety and Health**

This bill requires the Occupational Safety and Health Standards Board to adopt standards specifying the permissible exposure limits for workplace hazardous substances. This bill also specifies any advisory committee established by the Department of Safety and Health as well as findings required to be made by DOSH and the Standards Board relating to the adoption of permissible exposure limits. This bill is similar to AB 815 (Lieber) from 2005.

*Status: In the Senate; held in Committee on Rules without recommendation*

**AB 537 Swanson Family and Medical Leave**

This bill amends the California Family Rights Act (CFRA) to expand the definition of a family member and expand the scope of permissible unpaid family and medical leave to include leave to care for an adult child, sibling, grandparent, grandchild, parent-in-law, or domestic partner with a serious health condition.

*Status: Vetoed by the Governor*

**AB 549      Adams      Prevailing Wages: Exemption: Hospital Seismic Retrofitting**

This bill excludes any hospital seismic retrofitting project from the prevailing wage requirements of current law.

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

**AB 613      Tran      Workplace Postings**

This bill, sponsored by the California Chamber of Commerce, requires all labor regulations and notices posted in the workplace to be written in plain language that is easily understood by employers and employees and states that the Division of Labor Standards Enforcement shall convene a working group to review all employment-related postings required in California. This bill is similar to AB 1709 (Wyland) from 2005 and AB 2277 (Villines) from 2006.

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

**AB 628      Price      Meal and rest periods: pool lifeguards**

This bill extends current law governing meal and rest periods to pool lifeguards employed in the local public sector. Prohibits employers from requiring lifeguards to work during any meal or rest period and requires public sector employers to pay one additional hour or regular pay to employees when the employer fails to provide a meal or rest period.

*Status: Vetoed by the Governor*

**AB 734      Evans      Apprenticeship Oversight**

This bill changes the approval and auditing procedures for the state's apprenticeship program. It would eliminate the "needs-based" conditions for approving an apprenticeship program in the building and construction trades, and would instead require that qualifying information be submitted to the Chief of the Division of Apprenticeship Standards when applying to create a new program or expand an existing program. This bill would also require that every building and trades apprenticeship program provide additional information to apprentices and the Division of Apprenticeship Standards.

*Status: Vetoed by the Governor*

**AB 947      Niello Apprenticeships**

This bill eliminates the "needs-based" conditions for approving an apprenticeship program in the building and construction trades.

*Status: The Committee heard testimony but the author made the bill a two-year bill without a Committee vote*



**AB 948      Niello      Employment: Compensation**

This bill requires the Division of Labor Standards Enforcement to conduct a study on the applicability of overtime exemptions to highly compensated employees under California law.  
*Status: Assembly Appropriations Committee; held under submission*

**AB 1034      Keene      Employment: Meal Periods**

This bill amends current law to require that meal periods must begin no later than the conclusion of an employee's sixth hour of work. It also repeals the ability of the Industrial Welfare Commission to adopt a working condition order permitting meal periods beyond the sixth hour, and empowers the Department of Industrial Relations to adopt further regulations to specify circumstances that an employee can make an on-duty meal period agreement.  
*Status: In the Senate; held in Committee on Rules pursuant to Senate Rule 29.10*

**AB 1043      Swanson      Employment Contracts**

This bill prohibits a choice of law clause, a venue-selection clause, or a forum-selection clause in binding employment materials that are imposed on an employee as a condition of employment. This bill is sponsored by the California Employment Lawyers Association.  
*Status: Vetoed by the Governor*

**AB 1045      Richardson      Occupational Safety and Health: Working Conditions**

This bill requires the Occupational Safety and Health Board to adopt a standard for indoor heat illness prevention and prescribes certain requirements for that standard, including hazard prevention, workplace monitoring, rest and relief periods, access to drinking water, medical services, and communication availability.  
*Status: Vetoed by the Governor*

**AB 1076      Houston      Prevailing Wage Rates: Wage and Penalty Assessments**

This bill revises the administrative procedure concerning the assessment of liquidated damages in cases arising from wage claims on public works projects.  
*Status: Assembly Appropriations Committee; held under submission*

**AB 1112      Torrico      Prevailing Wages: Residential Projects**

This bill requires the Department of Industrial Relations to regularly post on its website the prevailing wages for residential construction projects that are a public work.  
*Status: Vetoed by the Governor*

**AB 1164      De Leon      Child Care Provider Organization: Representation**

This bill authorizes family child care providers to form, join and participate in "provider organizations" for the purposes of negotiating with state agencies on terms of the provision of child care services under a publicly funded subsidy program. This bill is co-sponsored by AFSCME and SEIU. It is similar to SB 697 (Kuehl) from 2006

*Status: Vetoed by the Governor*

**AB 1201      Leno      Collective Bargaining: Direct Care Registered Nurses**

This bill authorizes "direct care registered nurses" to organize for the purposes of collective bargaining based on a showing that a majority of registered nurses employed in a direct care registered nurse bargaining unit desire the representation. This bill is sponsored by the California Nurses Association and is brought in response to a recent line of cases decided by the National Labor Relations Board.

*Status: Assembly Appropriations Committee; held under submission*

**AB 1247      Adams      Employment: Commission-Based Employees**

This bill requires the Division of Labor Standards Enforcement (DLSE) to study the applicability of overtime exemptions pursuant to statute, regulation, or wage order to employees whose compensation includes commissions.

*Status: Assembly Appropriations Committee; held under submission*

**AB 1467      DeSaulnier      Worker Safety**

This bill removes the exemptions in current law related to smoking in places of employment that permit smoking in specified bars, warehouses, hotel lobbies, employee break rooms, and meeting and banquet rooms, while retaining exemptions for other types of businesses. Additionally, this bill also prohibits smoking in specified owner-operated businesses regardless of whether or not they have employees.

*Status: Vetoed by the Governor*

**AB 1501      Niello      Fair Employment: Sexual Harassment Education**

This bill revises provisions of existing law relating to sexual harassment training for supervisors. It eliminates the requirement that mandated sexual harassment training must constitute at least two hours of training and education, and it also eliminates the requirement that these trainings must be presented by trainers with expertise in harassment and discrimination prevention.

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

**AB 1666      Price            Meal and rest periods: stage assistants**

This bill extends current law governing meal and rest periods to stage assistants employed in the local public sector. Prohibits employers from requiring stage assistants to work during any meal or rest period and requires public sector employers to pay one additional hour or regular pay to employees when the employer fails to provide a meal or rest period.

*Status: Vetoed by the Governor*

**AB 1707      Labor Committee    Private Employment**

This bill revises the requirements of existing law concerning an employee's right to inspect personnel records. This bill allows a current or former employee and their representative to inspect their personnel records and establishes a 21 calendar day period for an employer to comply with a request to do so. This bill is sponsored by the California Rural Legal Assistance Foundation.

*Status: Vetoed by the Governor*

**AB 1708      Labor Committee    Employment: Age Discrimination**

This bill establishes a targeted enforcement and education program to address issues of age discrimination in employment.

*Status: The labor-related contents of this bill were subsequently removed and replaced*

**AB 1709      Labor Committee    Economic and Employment Enforcement Coalition**

This bill requires the Labor and Workforce Development Agency to submit a report to the Legislature by March 1 of each year concerning the effectiveness of the Economic and Employment Enforcement Coalition.

*Status: The labor-related contents of this bill were subsequently removed and replaced*

**AB 1710      Swanson            Temporary Services Employees: Wages**

This bill makes revisions related to the payment of wages in the temporary services industry in response to a recent decision of the California Supreme Court in the case of *Smith v. L'Oreal*. This bill requires temporary services employers to pay their employees weekly, regardless of when an assignment ends, with certain exceptions. It also provides that where neither the client nor the employer has secured workers' compensation coverage, both the client and the temporary services employer shall be jointly and severally liable for damages and the employee may bring an action at law against both parties.

*Status: Vetoed by the Governor*

**AB 1711      Levine      Meal and Rest Periods**

This bill makes amendments to existing law with regard to when an on-duty meal period may commence as well as when a meal period must be completed by in a workday. This bill also allows employees to be exempted from meal period laws and regulations if they are covered by a collective bargaining agreement that expressly stipulates wages, working hours and conditions, and meal periods.

*Status: In the Senate; held in Committee on Labor and Industrial Relations*

**AB 1982      Solorio      California YouthBuild Program: funding and designation**

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

*Status: Vetoed by the Governor*

**AB 1988      Swanson      Employee Safety**

This bill makes a number of changes to existing law governing the Occupational Safety and Health Appeals (OSHA) Board, the appellate process which it governs, and workplace safety generally. This bill clarifies conditions which constitute an imminent hazard to employees and makes changes to the practices and procedures relating to appeals.

*Status: Senate Committee on Appropriations; held under submission*

**AB 1989      Swanson      Employment**

This bill increases the notification requirements for a mass layoff, relocation, or termination of the employment of large numbers of people from 60 days to 90 days and adds international relocation to the notification requirements.

*Status: Senate Committee on Appropriations; held under submission*

**AB 2002      De León      Public works: payments**

This bill increases the penalties and defines the interest accrual rate as provided and determined by the Labor Commissioner (LC) when a contractor or subcontractor violates the public works and prevailing wage laws and subjects a contractor to a penalty assessment only when a contractor had knowledge or should have had knowledge of its subcontractor's noncompliance.

*Status: Vetoed by the Governor*

**AB 2037      Portantino      California State University: prevailing wage law study**

This bill requires the Office of the Legislative Analyst to complete a study on or before July 1, 2009, of the compliance by California State University's compliance with current prevailing wage laws.

*Status: Assembly Appropriations Committee, not heard*

**AB 2075      Fuentes      Wages: execution of release of claim or right**

This bill defines execution of a release to include requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false and would make additional technical, non-substantive changes.

*Status: Chapter # 224, Statutes of 2008*

**AB 2076      Fuentes      Employment: hiring practices: electronic employment verification**

This bill prohibits any state, city, county or special district from requiring any employer to use E-Verify Program of the United States Department of Homeland Security.

*Status: SenateFloor inactive file*

**AB 2084      Ma      Theatrical and technical services: state property**

This bill requires the preparation of a report related to for-profit shows and theatrical events on state property, as specified.

*Status: The labor-related contents of this bill were subsequently removed*

**AB 2127      Benoit      Employment: alternative workweek schedules: small business options**

This bill authorizes an individual employee employed by an employer with 25 or fewer employees to request a work schedule of up to ten hours per day within a 40-hour workweek, and would authorize an employer to implement this schedule without any obligation to pay overtime compensation for hours worked as part of the schedule. The employee would be required to request the specific schedule desired in writing and if the employer agrees to that schedule, the employer and the employee would be required to execute a written agreement memorializing that schedule.

The employee or employer would be authorized to terminate the agreement with written notice at least seven days in advance of the desired termination date. The employer would be required to maintain the agreement as a record for three years after the termination of the agreement

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

**AB 2134      Swanson      Employment discrimination; family and medical leave**

This bill conforms the types of family leave available under state law to the revised federal law and would expand the eligibility for the military service related leave provisions to include an employer who is the grandparent, grandchild, or sibling of the service member.

*Status: Senate Appropriations Committee; held under submission*

**AB 2147      Swanson      Worker training programs**

This bill establishes the Green Jobs Corps Act of 2008 to fund grants for energy efficiency and renewable worker training programs for individuals, including at-risk youth and formerly incarcerated individuals, seeking employment pathways out of poverty and into economic self-sufficiency. This bill would establish the Green Jobs Corps Grant Program, which would be administered by the Labor and Workforce Development Agency for purposes of awarding grants to community-based organizations, local agencies, and service providers, or partnerships of those entities, to establish and operate energy efficiency and renewable energy worker training programs for those individuals, as provided.

*Status: Assembly Appropriations Committee; held under submission*

**AB 2177      Bass              Public works: prevailing wages: Compliance Group  
Representatives**

This bill requires the Department of Industrial Relations to train qualified "Compliance Group Representatives" and authorize those representatives to access state public works projects for the purpose of interviewing workers on those projects to ensure the proper payment of prevailing wages.

*Status: Senate Appropriations Committee; held under submission*

**AB 2184      De León      Firefighters: protective clothing and equipment**

This bill requires the Division of Occupational Safety & Health to review and adopt revised state regulations that are at minimum in conformance with the nationally recognized firefighting personal protective equipment (PPE) consensus standards of the National Fire Protection Association (NFPA) on or before December 31, 2009.

*Status: Assembly Appropriations Committee; held under submission*

**AB 2224      De La Torre      California Clean Energy Curriculum and Training Initiative  
of 2008**

This bill establishes the California Clean Energy Curriculum and Training Initiative and would require the Labor and Workforce Development Agency (Agency) to develop a standardized training curriculum for use at schools and provide outreach, assistance, and guidance on creating clean energy training programs. The bill would create the California Clean Energy Curriculum and Training Initiative Subaccount within the Labor and Workforce Development Fund. The Public Utilities Commission (PUC) would be required to fund the initiative using moneys from the Research, Development and Demonstration budget of the California Solar Initiative (CSI).

*Status: Senate Appropriations Committee; held under submission*



**AB 2232 De La Torre Telephone corporation: state video franchiseholders: video providers: employee background checks**

This bill requires all video providers, including satellite television service providers, to obtain background checks on all employees and employees of contractors if they have direct contact with, or access to, the provider's network or a customer's premise.

*Status: Chapter # 195, Statutes of 2008*

**AB 2279 Leno Medical marijuana: qualified patients and primary caregivers: employment discrimination**

The bill prohibits employment discrimination on the basis of a person's status as a qualified patient (medical marijuana user), or on the basis of the person's positive drug test for marijuana, provided the person is a qualified patient and the medical use of marijuana does not occur at the place of employment or during hours of employment. The bill contains an exception clause that states nothing in the section shall prohibit the employer from terminating the employment, or taking other corrective action against a person who is impaired on the property or premises of the place of employment or during hours of employment because of the medical use of marijuana.

*Status: Vetoed by the Governor*

**AB 2364 Walters Public works: volunteers**

This bill eliminates the sunset date on a public works exemption for specified "volunteers" and other related individuals. The bill would have also made technical, non-substantive changes to the provision of the Labor Code that defines the term "volunteer".

*Status: Assembly Committee on Labor and Employment; failed passage; reconsideration granted*

**AB 2369 Fuentes Apprenticeship programs: prevailing wage enforcement**

This bill authorizes an awarding body to assist the Director of the Department of Industrial Relations in the enforcement of prevailing wage laws that apply to apprenticeships, through the operation of the awarding body's approved labor compliance program.

*Status: Vetoed by the Governor*

**AB 2375 Hernandez Health professions workforce: master plan**

This bill requires the Office of Statewide Health Planning and Development to establish the Health Professions Workforce Task Force, as specified, to assist in the development of a health professions workforce master plan.

*Status: Senate Rules Committee*

**AB 2386      Núñez      Employment: Agricultural labor**

This bill requires the Agricultural Labor Relations Board to include information about the status of the Agricultural Employee Relief Fund in its annual report to the Legislature and the Governor. The bill also provides for a new and detailed process for representational elections for agricultural workers, including a ballot booth election and mediated election, as defined.

*Status: Vetoed by the Governor*

**AB 2530      Duvall      Private employment: meal periods: transportation workers**

This bill provides that the meal period requirements of current law do not apply to employees whose hours are regulated by either federal or state law regulating the hours of service of drivers.

*Status: Assembly Committee on Labor and Employment; failed passage, reconsideration granted*

**AB 2537      Furutani      Public works: volunteers**

This bill extends, until January 1, 2012, the exclusion from the application of the law governing "public works," any work performed by a volunteer, a volunteer coordinator, or by members of the California Conservation Corps or of certified Community Conservation Corps, as defined. This bill also requires the Director of Industrial Relations to submit a written report containing information regarding volunteers on public works projects, as specified, to the Legislature by January 1, 2011.

*Status: Chapter # 678, Statutes of 2008*

**AB 2570      Silva      Unemployment insurance: Employment Training Panel**

This bill makes several changes to statutes of the Employment Training Panel to address the funding requirements, restrictions, and authority of the panel.

*Status: Chapter # 497, Statutes of 2008*

**AB 2622      Hayashi      Unemployment insurance: Employment Training Panel: clean technology industry**

This bill requires the Employment Training Panel, as part of its three-year strategic funding plan, to include the identification of specific industries, with consideration of new and emerging industries such as clean technology.

*Status: Vetoed by the Governor*

**AB 2629      Evans      Conveyances: exclusions**

This bill makes changes to existing law relating to the construction, maintenance, and inspection of conveyances.

*Status: Vetoed by the Governor*

**AB 2672      Walters      Employment: overtime exemptions**

This bill revises an existing exemption for "outside salespersons" in the broadcasting industry. Specifically, this bill specifies that, for purposes of the broadcasting industry, the exemption for "outside salespersons", as specified.

*Status: Assembly Committee on Labor and Employment; failed passage, reconsideration granted*

**AB 2689      Tran      Vietnamese Nail Worker Information and Training Act**

This bill establishes the Vietnamese Nail Worker Information Act which would require manufacturers and certain other persons that sell or use professional use-only nail care products to prepare, translate and provide material safety data sheets in the Vietnamese language to purchasers of the products as well as licensed professional nail care employees upon request.

*Status: Assembly Appropriations Committee; held under submission*

**AB 2710      Adams      Apprenticeship**

This bill deletes existing conditions for the establishment of new apprentice programs.

*Status: Assembly Committee on Labor and Employment, not heard*

**AB 2716      Ma      Employment: paid sick days**

This bill entitles employees to sick days that were accrued at a rate of no less than one hour for every 30 hours worked; except those employees covered by specified collective bargaining agreements. The bill also requires the Labor Commissioner to administer and enforce the requirements specified in this bill.

*Status: Senate Appropriations Committee; held under submission*

**AB 2719      Jeffries      Employees: meal periods**

Under existing law an employer must grant meal breaks to his or her employees at specified intervals and regulates the time and manner of employee meal breaks. This bill would exempt employees performing surveillance operations as part of a workers' compensation fraud investigation from the requirements of these provisions.

*Status: Assembly Committee on Labor and Employment, not heard*

**AB 2879      Leno      Employee wages and working hours: violators**

This bill requires the Labor Commissioner or his or her designee from the Labor and Workforce Development Agency (Agency), in consultation with the Franchise Tax Board and the Economic and Employment Enforcement Coalition (EEEC) to develop and implement standards that, if met by an employer, would trigger a recommendation for an audit or investigation by appropriate tax authorities of employers in violation of statutes relating to employee wages, hours and working conditions. After July 1, 2009, the bill would require the Labor Commissioner or the EEEC to take actions to facilitate audits and investigations of employers who meet the standards.

*Status: Senate Appropriations Committee; held under submission*

**AB 2975      Keene              Unemployment insurance: temporary employers**

This bill states the intent of the Legislature that professional employer organizations be regulated with respect to unemployment insurance obligations, as specified.

*Status: Assembly Appropriations Committee; off by author*

**AB 3018      Núñez              California Green Collar Jobs Act of 2008: green jobs**

This bill sets forth legislative findings and declarations relating to the state's green economy and the increasing demand for a highly skilled and well-trained green collar workforce, and would enact the Californian Green Collar Jobs Act of 2008 requiring the California Workforce Investment Board to establish the Green Collar Jobs Council that shall, in consultation with representatives from various public and private groups, develop a comprehensive array of programs, strategies, and resources to address the workforce needs that accompany California's growing green economy and to establish, among other programs, green job training programs for eligible individuals, as provided.

*Status: Chapter #312, Statutes of 2008*

**AB 3059      Committee on Labor and Employment      Labor law enforcement: EEEEC**

This bill requires the Labor and Workforce Development Agency to annually submit a report to the Legislature describing the overall effectiveness of the Economic and Employment Enforcement Coalition (EEEC).

*Status: Vetoed by the Governor*

**AB 3060      Committee on Labor and Employment      Contractors: license enforcement**

This bill deletes the reference to the obsolete provision section 226.2 of the Labor Code which will restrict the use of the moneys in the Industrial Relations Construction Industry Enforcement Fund for the enforcement of the labor laws relating to prohibited employment by unlicensed contractors.

*Status: Chapter # 55, Statutes of 2008*

**AB 3061      Committee on Labor and Employment      Employees: indemnification**

This bill clarifies that an employer is required, as part of the existing indemnification requirement, to reimburse employees for the necessary expenditures and losses incurred in the course of employment. The bill would also establish the federal Internal Revenue Service standard mileage rate as a reasonable per mile reimbursement rate for the usage of a personally provided vehicle for work purposes.

*Status: Senate Labor and Industrial Relations Committee, not heard*

**AB 3062      Committee on Labor and Employment      Employment: termination:  
garnishment of wages**

This bill amends the prohibition for employer termination of an employee due to wage garnishment to include when an employees wages have been subjected to garnishment for the payment of one or more judgments.

*Status: Vetoed by the Governor*

**AB 3063      Committee on Labor and Employment      Employment: criminal history**

This bill prohibits employers from asking or seeking to utilize specified information on convictions that have been judicially sealed, expunged, or statutorily eradicated, as specified.

*Status: Vetoed by the Governor*

**AB 3066      Committee on Veterans Affairs      Unemployment insurance: Employment  
Training Panel: veterans**

This bill expands the number of those specified projects that qualify for priority funding from the Employment Training Panel to include projects that support veterans and members of the California National Guard, especially those individuals who have become disabled as a result of military service.

*Status: Vetoed by the Governor*

**AJR 27      Solorio      United States Postal Service**

This resolution urges the United States Postal Service to discontinue the practice of contracting out mail delivery services.

*Status: Chapter 150, Statutes of 2007*

**AJR 28      Leno      Union Representation**

This resolution calls upon the President and Congress of the United States to enact the Re-Empowerment of Skilled and Professional Employees and Construction Tradesworkers (RESPECT) Act to reverse a series of recent decisions by the National Labor Relations Board.

*Status: Chapter 151, Statutes of 2007*

**HR 17      Eng      Labor Relations**

This resolution encourages labor and management representatives engaged in negotiations in the grocery industry in Southern California to bargain in good faith and reach a fair and equitable settlement.

*Status: Approved by the Assembly on July 9, 2007*

## Senate Bills

### **SB 18            Perata            Public Works: Labor Compliance Programs**

This bill requires an awarding body that chooses to use funds derived from the Kindergarten-University Public Education Facilities Bond Act of 2006 to initiate and enforce (or contract with a third-party to enforce) a labor compliance program.

*Status: Vetoed by the Governor*

### **SB 171           Perata            Hospitals: Lift Teams**

This bill requires general acute care hospitals to establish a patient protection and health care worker back injury prevention plan that includes a "zero lift/safe patient handling policy" that identifies patients needing lift teams and lift, repositioning, or transfer devices. This bill is sponsored by the California Nurses Association and is similar to SB 363 (Perata) from 2005 and SB 1204 (Perata) from 2006.

*Status: Vetoed by the Governor*

### **SB 180           Migden            Agricultural Labor Representatives: Elections**

This bill authorizes agricultural employees to select collective bargaining representation through a specified "majority signup election" process, in addition to the existing representation election process provided for under current law. This bill is sponsored by the United Farm Workers of America.

*Status: Vetoed by the Governor*

### **SB 191           Padilla            Labor Compliance Programs: Approved Private Entity: Remedies**

This bill establishes a complaint procedure for complaints against private third-party labor compliance programs and specifies the rights of an awarding body, aggrieved employee or contractor in the event of a complaint. This bill is sponsored by the State Building and Construction Trades Council.

*Status: Vetoed by the Governor*

### **SB 302           Ducheny           Employment Development Department: training expenditures: unemployment insurance**

This bill provides further guidance to the California Workforce Investment Board (CWIB) regarding the development of a strategic workforce plan.

*Status: Chapter #376, Statutes of 2008*



**SB 319      Wiggins      Employment of Minors: Agricultural Packing Plants**

This bill extends the ability of the Labor Commissioner to grant exemptions for the employment of minors 16 or 17 year of age who reside in Lake County during peak harvest season only upon written approval of the Lake County Office of Education.

*Status: Chapter # 296, Statutes of 2007*

**SB 529      Cedillo      Private employment: meal periods**

This bill exempts from the meal period requirements, specified employees of electrical and gas corporations, local publicly owned electric utility, and employees of the construction, and transportation industry, who are commercial drivers if the employees are covered by a valid collective bargaining agreement that contains agreements that contain specified terms. The bill also authorizes compensated, on-duty meal periods for a registered security officer who either is covered by a valid collective bargaining agreement that contains specified terms or enters into a written on-duty meal period agreement with his or her employer that satisfies specified conditions.

*Status: Assembly Floor; inactive file*

**SB 549      Corbett      Employee's Right to Bereavement Leave**

This bill gives employees in California the right to take four days of unpaid time off in the event of the death of a spouse, child, parent, sibling, grandparent, grandchild, or domestic partner.

*Status: Vetoed by the Governor*

**SB 569      Steinberg      Public works: prevailing wage payments: payroll records**

This bill makes a number of changes and additions to current law to address public works transparency and enforcement of the states prevailing wage law.

*Status: Assembly Appropriations Committee; held under submission*

**SB 622      Padilla      Employment: Misclassification of Employees as Independent Contractors**

This bill prohibits the willful misclassification of employees as independent contractors. This bill also authorizes the Labor and Workforce Development Agency to assess civil penalties should they find a person or employer in violation of willful misclassification.

*Status: Vetoed by the Governor*

**SB 650      Migden      Agricultural Labor Representatives: Elections**

Similar to SB 180, this bill authorizes agricultural employees to select collective bargaining representation through a specified "majority signup election" process, in addition to the existing representation election process provided for under current law. It also provides that provisions in this bill are in effect only until January 1, 2013 or in the event of a legal challenge, until five years after a final court ruling on the validity. *Status: Vetoed by the Governor*

**SB 783      Torlakson      Amusement Rides Safety Law**

This bill extends to temporary amusement rides provisions of the permanent amusement ride requirements in current law.

*Status: Chapter # 478, Statutes of 2007*

**SB 812      Correa      Alternative Workweek Schedules: Pharmacists**

This bill specifies that pharmacists employed in the mercantile industry are authorized to adopt alternative workweek schedules that include workdays of not more than 12 hours within a 40 hour workweek without the payment of overtime compensation, similar to a provision of existing law that applies to pharmacists in the health care industry.

*Status: Chapter # 480, Statutes of 2007*

**SB 836      Kuehl      Fair Employment: Familial Status**

This bill adds "familial status" to the list of characteristics (i.e. race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including gender), age, or sexual orientation) that are prohibited bases of discrimination under the employment provisions of the Fair Employment and Housing Act.

*Status: Vetoed by the Governor*

**SB 929      Cogdill      Overtime Compensation: Prevailing Wage Determinations**

This bill makes two related changes to existing law governing the payment of prevailing wages and allocation between wages and benefits, and amends existing law related to an overtime exemption for employees in the computer software field.

*Status: Chapter # 482, Statutes of 2007*

**SB 940      Yee      Temporary services employees: wages**

This bill requires that temporary services employers, with certain exceptions, pay their employees weekly, regardless of when the assignment ends, unless the employee is discharged, quits, is assigned to work for a client on a day-to-day basis, or if the employee is assigned to work for a client engaged in a labor dispute.

*Status: Chapter #169, Statutes of 2008*

**SB 1151      Perata      Hospitals: lift teams**

This bill requires general acute care hospitals to establish a patient protection and health care worker back injury prevention plan that includes identifying patients needing lift teams, and lift, repositioning, or transfer devices.

*Status: Vetoed by the Governor*

**SB 1352      Wyland      Public works: prevailing wage rates: wage and penalty assessments**

This bill allows a contractor, subcontractor, or surety to deposit the full amount of the assessment for the Department of Industrial Relations to hold in escrow pending review, as specified, and to be distributed, as specified. If so deposited, there would be no liability for liquidated damages. This bill would authorize the Director of Industrial Relations to waive payment of liquidated damages, or a portion thereof, if the contractor or subcontractor demonstrates that there were substantial grounds for its appeal, as specified.

*Status: Chapter #402, Statutes of 2008*

**SB 1362      Margett      Electrician certification**

This bill authorizes specified disciplinary action for failure to comply with existing law related to the certification of electricians.

*Status: Chapter #716, Statutes of 2008*

**SCR 108      Kehoe      Justice for Janitors day**

This resolution declares June 15, 2008 as Justice for Janitors Day in California, supports janitors in their fight for family health care coverage and improved wages and benefits, and makes several findings and declarations about janitors.

*Statute: Chapter #59, Statutes of 2008*

## **Governor's Vetoes**

### **AB 124 (Price)**

I am returning Assembly Bill 124 without my signature.

This bill would extend the meal and rest period provisions of the California Labor Code to lifeguards and stage assistants employed by local governments.

This bill is unwarranted for two reasons. First, existing law has created confusion relative to when and how employers must provide meal periods to their employees. This confusion has resulted in countless lawsuits against employers filed under the so-called "Sue Your Boss" law, and has denied employees flexibility in determining when they will take their lunch break. Unfortunately, this bill does nothing to solve this problem but instead exacerbates it by establishing penalties for yet another group of employers.

Second, the group of employees covered by this bill are employed by public entities and covered by collective bargaining agreements. Any changes to meal period requirements for these employees should be negotiated through those agreements.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

### **AB 377 (Arambula)**

I am returning Assembly Bill 377 without my signature.

Last year, I vetoed similar legislation intended to help provide farmworkers with better information about the companies with which farm labor contractors are contracting. While I maintain my support for the concept of helping farmworkers secure all wages owed to them, I am still concerned that this bill does nothing to bring unlicensed farm labor contractors and others who flaunt the law into compliance. Those who have not bothered to obtain the necessary licensure required by the state or otherwise comply with labor laws are highly unlikely to comply with this new requirement. As such, the only practical effect of this bill is to impose a new liability on farmers and growers who have lawfully contracted with licensed contractors. I cannot support such a measure.

Sincerely,

Arnold Schwarzenegger

**AB 435 (Brownley)**

I am returning Assembly Bill 435 without my signature.

This bill would extend the statute of limitations on specified civil actions against an employer to recover wages. This bill is intended, like others I have vetoed before, to eradicate the historical trend of women earning less than men for doing the same work. While I support this intent, I still do not believe the provisions of this bill or previous years' legislation are necessary in order to achieve this goal. I maintain my concern that measures like this bill will encourage frivolous litigation against employers and have little impact on the fight against gender pay inequity.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 448 (Arambula)**

I am returning Assembly Bill 448 without my signature.

This measure would allow employees to recover liquidated damages in minimum wage complaints brought before the Labor Commissioner. I am concerned that allowing liquidated damages on administrative claims will be especially harmful to small business. While workers who make administrative claims have their claims prosecuted at no cost to them by the state, employers must expend time and resources to respond to claims, even though the violation of law may be inadvertent. I see no reason to expose employers to additional liabilities when other legal avenues already exist for employees and attorneys intent on seeking liquidated damages.

Sincerely,

Arnold Schwarzenegger

**AB 504 (Swanson)**

I am returning Assembly Bill 504 without my signature.

This measure would add additional penalties against an employer found to have engaged in fraud, misrepresentation, or misconduct during a lockout. As I noted in my veto of a similar measure last year, I am concerned that the failure to define fraud, misrepresentation, and misconduct in this bill creates potential ambiguity over the bill's application.

Furthermore, I maintain my position that employees presently have sufficient remedies against employers that engage in fraud or misconduct during a labor dispute. The proponents of this measure have failed to justify a need to expand upon these remedies.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 537 (Swanson)**

I am returning Assembly Bill 537 without my signature.

This bill, along with two others I am returning without my signature, would significantly expand California's workplace leave laws. While some expansion of existing law may have merit, these laws in combination are too expansive and also fail to recognize the need for reforms to current law.

California has the strongest employment leave and workplace protection laws in the country. While these laws have been enacted with the best of intentions, they have also caused much confusion for employers and employees. Unfortunately, many California-only standards in areas such as family leave, overtime, and meal and rest periods have been developed haphazardly and have resulted in needless litigation that has created a perception that California is not friendly to business.

Instead of expanding the confusing network of laws that presently exist, employers and employees should be working together to eliminate confusion and create a system of workplace laws that protects workers, provides reasonable leave requirements, and offers both employers and employees flexibility to meet their respective needs.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger



**AB 628 (Price)**

I am returning Assembly Bill 628 without my signature.

This bill is similar to a measure I vetoed last year because it failed to correct the broader inadequacies of California's meal period law and because it interfered with local governments' collective bargaining authority.

As the concerns raised in my prior veto message have not been addressed, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 1043 (Swanson)**

I am returning Assembly Bill 1043 without my signature.

This bill appears to create a solution in search of a problem. California law currently ensures that employees can not be subjected to unconscionable contract provisions that would force them to forego the protections of California law or litigate their claims in an inappropriate out-of-state forum. Moreover, this bill creates unnecessary and unhelpful uncertainties for the employers and employees concerning issues of federal preemption. Lastly, I strongly support the right of parties to freely contract for the terms of their employment relationship. This bill fundamentally conflicts with that policy.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 1045 (Richardson)**

I am returning Assembly Bill 1045 without my signature.

Two years ago, my Administration worked with the Occupational Safety and Health Standards Board (Board) to adopt the nation's first outdoor heat regulations. Those regulations require employers to provide anyone working outdoors with appropriate training, provide sufficient quantities of water, and ensure access to shade. When the Board adopted those regulations it also said it would commence a review of indoor worksites.

The Board has conducted its review and is now considering the appropriate means of protecting indoor workers from excessive heat. This legislation, which proscribes specific requirements upon any regulation adopted by the Board, unnecessarily circumvents the Board's established

rulemaking process. Just as the outdoor heat standards were adopted via the regulatory process and free of legislative interference, so too should any indoor heat standard be adopted.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 1164 (De Leon)**

I am returning Assembly Bill 1164 without my signature.

While I support efforts to improve the quality of child care services and have provided increased state funding to expand access to subsidized child care, I can not support this bill as it has the potential to add significant fiscal pressures to the State's structural budget deficit. Family child care homes currently receive prevailing market rates for their services. They are reimbursed for the state-subsidized families they serve at the same rate as that paid by the non-subsidized families they serve.

Changes in the current reimbursement structure, increases in family child care provider reimbursement rates, expanded provider training efforts, or other program enhancements could come at the expense of the number of available child care slots. In light of the current structural budget deficit, it is imperative that we balance our fiscal reality and the need to provide services to working families.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger

**AB 1467 (DeSaulnier)**

I am returning Assembly Bill 1467 without my signature.

This bill would remove a limited number of exemptions found in current law that permit smoking in specified bars, warehouses, hotel lobbies, meeting and banquet rooms, and businesses without employees.

California has led the nation in effective smoking control activities, achieving the second lowest rate of smoking among adults in the nation. The cessation of smoking is a component of my plan to encourage Californian's to lead a healthy lifestyle and thereby reduce health care costs.

While more needs to be done to reduce smoking rates, I do not agree that placing further restrictions on business owners is the correct approach. Instead, California can further reduce smoking rates in other ways, such as increasing access to cessation services offered through the highly effective California Smokers' Helpline.

Sincerely,

Arnold Schwarzenegger

**AB 1666 (Price)**

I am returning Assembly Bill 1666 without my signature.

This bill is similar to a measure I vetoed last year because it failed to correct the broader inadequacies of California's meal period law and because it interfered with local governments' collective bargaining authority.

As the concerns raised in my prior veto message have not been addressed, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 1707 (Committee on Labor and Employment)**

I am returning Assembly Bill 1707 without my signature.

This bill attempts to clarify existing law relative to employees' access to personnel records kept by their employer. While I support the intent of this measure, especially as it relates to non-English speakers and others that may need help in understanding the contents of their personnel records, this bill is too broad and exposes employers to unfair and unnecessary liabilities. I encourage the proponents of this bill to work with the Labor Commissioner to adopt regulations that help ensure that all employees can appropriately avail themselves of their rights under current law.

Sincerely,

Arnold Schwarzenegger

**AB 1710 (Swanson)**

I am returning Assembly Bill 1710 without my signature.

Although I support the intent of this bill to clarify the manner in which temporary service employers must pay wages, I cannot support the provision of this bill which expands liability regarding workers' compensation coverage.

As written, this bill imposes joint and severe liability relative for workers' compensation coverage on employers that contract with staffing agencies. This would be a significant departure from the exclusive remedy of current law, which provides that an injured worker cannot sue their employer in civil court. Exclusive remedy is one of the most fundamental principles of the California workers' compensation system. I cannot support a measure that deviates from this principle.

Sincerely,

Arnold Schwarzenegger

**AB 1982 (Solorio)**

I am returning Assembly Bill 1982 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger

**AB 2279 (Leno)**

I am returning Assembly Bill 2279 without my signature.

This bill attempts to shield qualified medical marijuana patients employed in non safety-sensitive positions from employment discrimination. However, I am concerned with interference in employment decisions as they relate to marijuana use. Employment protection was not a goal of the initiative as passed by voters in 1996.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 2369 (Fuentes)**

I am returning Assembly Bill 2369 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger

**AB 2386 (Núñez)**

I am returning Assembly Bill 2386 without my signature.

In 1975, the historical Agricultural Labor Relations Act (ALRA) was passed by the California Legislature in order "to ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations."?? The ALRA allowed for a secret ballot election and provided protections so that an agricultural worker could decide privately without fear of retaliation or intimidation whether or not to be represented by a union?

AB 2386 creates a new and unique process for how agricultural workers choose or decline union representation? I am concerned that aspects of AB 2386's novel process weaken workers' existing privacy rights and protections under the ALRA? Specifically, I am concerned that authorizing the union seeking to represent workers to receive and distribute election ballots from the Agricultural Labor Relations Board (Board), complete information on the ballot envelopes, and return the workers' ballots to the Board unnecessarily compromises the workers' right to privacy protected by the existing secret ballot process.

However, as I indicated last year in my veto of SB 180, I remain committed to ensuring that agricultural workers receive all the workplace protections that our labor laws afford? To that end, I am calling for the creation of a dedicated funding source to facilitate enhanced oversight and education in the agricultural industry? I am directing my Labor and Workforce Development Agency to work with the proponents of this bill and all stakeholders to develop a proposal which will create such a program in a fiscally responsible way, for the ultimate benefit of both agricultural employees and employers.

Sincerely,

Arnold Schwarzenegger

**AB 2622 (Hayashi)**

I am returning Assembly Bill 2622 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger

**AB 2629 (Evans)**

I am returning Assembly Bill 2629 without my signature.

While the bill's proposal to allow a competent person to service agricultural manlifts in lieu of an entity certified by the Division of Occupational Safety and Health (Division) has merit, other provisions in the bill are flawed and cannot be accepted unless supporting information is brought forward to justify the changes proposed. For example, the bill proposes to expand the Division's jurisdiction to include private residences, while removing the Division's jurisdiction over elevators in hydroelectric facilities. Both changes significantly alter long standing practices and were added to the bill with little explanation. Other provisions of this measure dealing with two-unit residential buildings are ambiguous and create more questions than answers. I suggest the proponents of this measure work with the Division to justify the proposed changes and draft unambiguous language that addresses the alleged shortcomings in existing law.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger

**AB 3059 (Committee on Labor and Employment)**

I am returning Assembly Bill 3059 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger



**AB 3062 (Committee on Labor and Employment)**

I am returning Assembly Bill 3062 without my signature.

This bill would prohibit an employer in California from terminating an employee because that employee's wages have been subjected to garnishment for the payment of more than one judgment.

This bill would require California employers to coordinate the burdensome administrative processes and costs of processing checks to pay multiple wage garnishments for a single employee. The bill would also cause confusion for employers by creating a state requirement different than that of federal law. The Legislature should be looking to lessen the confusion surrounding California labor law, not create more.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 3063 (Committee on Labor and Employment)**

I am returning Assembly Bill 3063 without my signature.

AB 3063 would codify in statute the prohibition for an employer to ask an applicant to disclose information concerning a criminal conviction that was judicially ordered sealed, expunged, or statutorily eradicated, or information concerning a misdemeanor conviction for which probation has been successfully completed or otherwise discharged.

Existing regulations prohibit the practices this bill seeks to address. However, by codifying into the Labor Code an existing regulatory prohibition on employment inquiries concerning "expunged" convictions, the bill may unintentionally promote legal confusion as "expungement" is a somewhat ambiguous term which has been inconsistently interpreted by the courts.

Codifying this regulatory prohibition into the Labor Code will also very likely result in new private litigation under the Private Attorneys General Act of 2004, with no demonstrated problem to actually establish a need for this new law.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 3066 (Committee on Veterans Affairs)**

I am returning Assembly Bill 3066 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger

**SB 18 (Perata)**

I am returning Senate Bill 18 without my signature.

This bill would require the expenditure of funds from the 2006 education bond in order to fund labor compliance programs run by either the awarding body or a third party.

A recent report by the Legislative Analyst Office detailed the problems with using labor compliance programs to enforce prevailing wage law. These programs are expensive and have generated a paltry number of complaints and violations. This measure fails to address any of the problems raised in the report but instead proposes to simply continue to fund these underachieving programs.

With the passage of the historic Strategic Growth Plan in 2006, some forty billion dollars worth of public works projects will be commenced in the coming years. It is imperative that we ensure this money is used in accordance with all applicable labor and prevailing wage laws. As such, we cannot rely on the failed enforcement schemes of the past. Rather, we must look at new ways to ensure every worker on every project is receiving the wages and benefits to which he or she is entitled. Although I cannot sign this measure, I am directing my Secretary of Labor and Workforce Development to work with all interested parties to achieve this goal.

Sincerely,

Arnold Schwarzenegger

**SB 171 (Perata)**

I am returning Senate Bill 171 without my signature.

This bill, which imposes a one-size fits all mandate on hospitals to establish a "zero lift" patient handling policy, is similar to measures I have vetoed the last three years. While I continue to support the goal of reducing workplace injuries, I remain convinced that this inflexible mandate

is a poor alternative to giving hospitals the flexibility needed to achieve this goal in the manner that most efficiently addresses each hospital's needs and resources.

For this reason, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**SB 180 (Migden)**

I am returning Senate Bill 180 without my signature.

Since I became Governor, I have made strengthening workplace protections for agricultural workers one of my top priorities. I have added labor law enforcement positions, reformed farmworker housing laws, and worked to adopt the first regulations in the nation that ensure agricultural workers have appropriate access to shade. These added protections are being implemented under existing law without the changes proposed by this bill to the historic Agricultural Labor Relations Act (ALRA). The changes this bill would make to the ALRA are unnecessary to continue our forward progress in ensuring a better working environment for agricultural workers.

By setting in place a "card-check" organizing process, SB 180 significantly changes the protections afforded to all of California's agricultural workers under the ALRA. This "card-check" process fundamentally alters an employee's right to a secret ballot election that currently affords them the opportunity to cast a ballot privately without fear of coercion or manipulation by any interested parties. This bill also limits the opportunity for employees to hear and consider other viewpoints on unionization.

For these reasons, I am returning SB 180 without my signature. However, I am directing my Labor and Workforce Development Agency to work with the proponents of this bill to ensure that all labor laws and regulations are being vigorously enforced, and to make it absolutely clear to all concerned that my veto is premised on an expectation that agricultural workers receive the full protections of the law.

Sincerely,

Arnold Schwarzenegger

**SB 191 (Padilla)**

I am returning Senate Bill 191 without my signature.

SB 191 establishes an alternative mechanism to fund enforcement of prevailing wage and apprenticeship requirements on specified public works projects to support enforcement of prevailing wage law in California.

This bill would provide funding to permit an alternative to the failed enforcement scheme of labor compliance programs (LCPs), and in this way represents a favorable step in the right direction. However, the bill, which was amended late in the session, would not exact the meaningful change needed to address the broader problems with oversight of California's prevailing wage laws. I am requesting that the Department of Industrial Relations (DIR) work with the stakeholders on a comprehensive reform of DIR's enforcement of public works laws this fall and return with an improved legislative proposal next year.

For these reasons, I am returning SB 191 without my signature.

Sincerely,

Arnold Schwarzenegger

**SB 549 (Corbett)**

I am returning Senate Bill 549 without my signature.

This bill, along with two others I am returning without my signature, would significantly expand California's workplace leave laws. While some expansion of existing law may have merit, these laws in combination are too expansive and also fail to recognize the need for reforms to current law.

California has the strongest employment leave and workplace protection laws in the country. While these laws have been enacted with the best of intentions, they have also caused much confusion for employers and employees. Unfortunately, many California-only standards in areas such as family leave, overtime, and meal and rest periods have been developed haphazardly and have resulted in needless litigation that has created a perception that California is not friendly to business.

Instead of expanding the confusing network of laws that presently exist, employers and employees should be working together to eliminate confusion and create a system of workplace laws that protects workers, provides reasonable leave requirements, and offers both employers and employees flexibility to meet their respective needs.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**SB 622 (Padilla)**

I am returning Senate Bill 622 without my signature.

Although this bill is intended to promote the worthy goal of ensuring employees are not intentionally misclassified as independent contractors, thus deterring employers from conduct which may give them unfair economic advantages against their competitors, this bill also creates new mechanisms and incentives for litigation where sufficient remedies already exist. In creating new and redundant exposure to litigation and sanctions, this bill may cause businesses to avoid use of the independent contractor model even where it may be appropriately utilized. This will ultimately contribute to a negative perception of California as an inhospitable business climate.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**SB 650 (Migden)**

I am returning Senate Bill 650 without my signature.

This bill is essentially identical to SB 180, which I also vetoed. The concerns I expressed in vetoing that bill apply to SB 650 as well, regardless of the insertion of a sunset clause in this measure.

For the reasons stated in my veto of SB 180, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**SB 836 (Kuehl)**

I am returning Senate Bill 836 without my signature.

California has the strongest workplace laws against discrimination and harassment in the country. These laws provide workers necessary protections from unfair retaliation, discipline, and termination for matters unrelated to job performance.

Although I support these laws, expanding workplace protections to include something as ambiguous as "familial status" is not appropriate. This bill will not only result in endless litigation to try and define what discrimination on the basis of "familial status" means, it will also unnecessarily restrict employers' ability to make personnel decisions.

For these reasons, I am returning SB 836 without my signature.

Sincerely,

Arnold Schwarzenegger

**SB 1151 (Perata)**

I am returning Senate Bill 1151 without my signature.

This bill would require all general acute care hospitals to adopt, as part of their Injury and Illness Prevention Programs, a patient protection and health care worker back injury prevention plan that includes a "safe patient handling policy."

SB 1151 is similar to measures that I have vetoed over the last four years. This bill is unnecessary as current laws and regulations are in place to address the workplace health and safety needs of health care workers. Existing statutes are flexible and allow employers to exercise discretion in determining what combination of lift teams and equipment is necessary to have an effective Injury and Illness Prevention Program.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger