

2012

2011-2012 Legislative Summary

Assembly Committee on Labor and Employment

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ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT
SANDRÉ R. SWANSON, CHAIR



2011-2012
LEGISLATIVE SUMMARY

NON-CIRCULATING

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2011-2012

Assembly
California Legislature



ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

SANDRÉ R. SWANSON, CHAIR
ASSEMBLYMEMBER, SIXTEENTH DISTRICT

October 2012

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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 2011-12 legislative session.

This year represents my final term as Chair of the Committee. I am extremely proud of the work we have accomplished over the last six years to advance the interests of employees, working families, and businesses.

The Committee began the year with an important informational hearing that explored the working conditions facing warehouse workers in the Inland Empire. Many workers testified about adverse conditions in an industry where workers are increasingly employed on a temporary, day-to-day basis.

This hearing led to two important pieces of legislation in 2012. First, Assembly Bill 1855 (Torres) adds the warehouse industry to existing provisions of law that hold companies responsible where they know or should have known that their labor contractors are not paying their workers in accordance with the requirements of the law. Second, Assembly Bill 1744 (Bonnie Lowenthal) requires paystubs for temporary employees to contain important information such as the rate of pay and hours worked on temporary work assignments. This will allow these workers to better ensure that they are being paid properly. Both bills were signed by Governor Brown.

This year, the Committee also heard three important measures to improve the working conditions of agricultural employees:

- Assembly Bill 1313 (Allen) removes the disparity in current law and makes agricultural employees subject to the same overtime and meal period protections as other workers in California.
- Assembly Bill 2346 (Butler) enacts meaningful penalties and imposes liability on "repeat offenders" who violate California's existing heat illness rules designed to protect agricultural employees.

- Assembly Bill 2676 (Charles Calderon) addresses criminal sanctions by creating a new misdemeanor for anyone that fails to provide agricultural employees with sufficient shade or water.

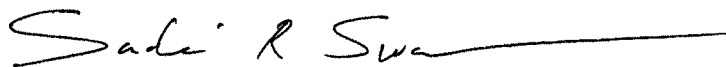
AB 1313 failed passage on the Assembly Floor on Concurrence. AB 2346 and AB 2676 were both vetoed by Governor Brown.

Over the past several years, the Committee has also explored the treatment of domestic work employees, who are generally excluded from many of the labor and employment law protections enjoyed by other employees in California. This work culminated this year with AB 889 (Ammiano), a bill that requires the Department of Industrial Relations to adopt regulations to address the working conditions of domestic work employees, including overtime, meal and rest periods, and uninterrupted sleep. Unfortunately, AB 889 was vetoed by Governor Brown.

Finally, after several years of work, the Committee heard and passed my Assembly Bill 2674, which would strengthen employees' and former employees' meaningful access to their personnel files. I worked hard this year to reach a compromise with prior opponents, and therefore groups like the California Chamber of Commerce were officially neutral on this year's legislation. The measure was signed by Governor Brown.

This report briefly describes the bills heard by the Committee in 2011-12. 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 and click on "legislation." If you need additional information, please contact the Committee staff at (916) 319-2091.

Sincerely,



SANDRÉ R. SWANSON, Chair
Assembly Committee on Labor and Employment

2011-2012 Legislative Report

Assembly Bills

AB 10 Alejo **Minimum Wage: Annual Adjustment**

This bill increases the state's minimum wage from its current rate of \$8.00 per hour to \$8.50 per hour, as of January 1, 2012 and provides for the automatic adjustment of the minimum wage each year by the percentage of inflation as measured by the California Consumer Price Index (CPI), beginning January 1, 2013.

Status: Held under submission, Assembly Appropriations Committee.

AB 15 V. M. Perez **CA Renewable Energy Workforce Readiness Initiative**

This bill would require the California Workforce Investment Board (CWIB), by July 1, 2012, in consultation with the Green Collar Jobs Council (GCJC), to establish the California Renewable Energy Workforce Readiness Initiative to ensure green collar career placement and advancement opportunities within California's renewable energy generation, manufacturing, construction, installation, maintenance, and operation sectors that is targeted toward specified populations. The bill would require that the initiative provide guidance to local workforce investment boards on how to establish comprehensive green collar job assessment, training, and placement programs that reflect the local and regional economies, as prescribed. The bill would require the CWIB, in developing the initiative, to assist the local workforce investment boards in collecting and analyzing specified labor market data, in order to assess accurately the workforce development and training needs of local or regional industry clusters. The CWIB would be required to submit to the Legislature, by January 1, 2014, a report on the implementation of the initiative. The bill would require that the board only implement the initiative established pursuant to provisions of the bill if the Director of Finance determines that there are sufficient funds made available to the state for expenditure for the initiative pursuant to the federal American Recovery and Reinvestment Act of 2009, the federal Workforce Investment Act of 1998, or other federal law, or from other non-General Fund sources, and would require that the initiative terminate at such time that the director determines that there are no longer sufficient funds available for the initiative.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 22 Mendoza **Employment: Credit Reports**

This bill would prohibit an employer or prospective employer, with the exception of certain financial institutions, from obtaining a consumer credit report, as defined, for employment purposes unless the position of the person for whom the report is sought is (1) a position in the state Department of Justice, (2) a managerial position, as defined, (3) that of a sworn peace officer or other law enforcement position, (4) a position for which the information contained in the report is required by law to be disclosed or obtained, (5) a position that involves regular

access to specified personal information for any purpose other than the routine solicitation and processing of credit card applications in a retail establishment, (6) a position in which the person is or would be a named signatory on the employer's bank or credit card account, or authorized to transfer money or enter into financial contracts on the employer's behalf, (7) a position that involves access to confidential or proprietary information, as specified, or (8) a position that involves regular access to \$10,000 or more of cash, as specified. This bill would also require the written notice informing the person for whom a consumer credit report is sought for employment purposes to also inform the person of the specific reason for obtaining the report, as specified.

Status: Chapter # 724, Statutes of 2011.

AB 51 Yamada Payroll Cards

Authorizes employers to pay employee wages by means of payroll cards that meet certain specified conditions.

Status: Held in the Senate Banking and Finance Committee.

AB 59 Swanson Family Medical Leave

This bill amends the California Family Rights Act (CFRA) by expanding permissible family and medical leave to cover care for an independent adult child, sibling, grandparent, grandchild, domestic partner, or parent-in-law with a serious health condition.

Status: Held under submission, Assembly Appropriations Committee.

AB 101 J. Perez/Steinberg Child Care: Right to Representation

This bill (1) authorizes family child care providers, as defined, to choose whether to be represented by a single provider organization, as defined, that would be designated pursuant to a specified petition and election process overseen by the Public Employment Relations Board or a neutral 3rd party designated by the board, (2) requires the State Department of Social Services and the State Department of Education, with assistance of specified state departments and agencies, and their contractors and subcontractors, to make specified information regarding individual family child care providers available to provider organizations and would require the provider organization requesting the information to bear the costs of collecting the information, and (3) authorizes a certified provider organization to perform various functions, including meeting with state regulatory agencies and engaging in various types of negotiation on matters within a specified scope of representation with the Department of Personnel Administration, in consultation with the Superintendent of Public Instruction and other state agencies that administer programs of publicly funded child care. The bill prohibits provider organizations from calling strikes and from interfering with, intimidating, restraining, coercing, or discriminating against a family child care provider because the family child care provider joins or refuses to join a provider organization. The state, as defined, also would be subject to the latter prohibition. *Status: Vetoed by Governor Brown.*

AB 132 Logue**Car Washes: Regulations: Civil Penalties**

Revises the civil penalty provisions for an employer engaged in the business of car washing and polishing that fails to register with the Division of Labor Standards Enforcement (DLSE).

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 196 Carter**Employment Compensation**

Existing law authorizes employers in certain circumstances to deposit an employee's wages or advance on wages in a bank, savings and loan association, or credit union of the employee's choice. This bill would also authorize an employer to deposit an employee's wages or advance on wages in an industrial bank or a trust company. In addition, this bill would permit an employer to transfer an employee's wages or advance on wages to a card issued by a specified financial institution, if the employee voluntarily authorizes the transfer and the card can be used to access funds at an automated teller machine in California, provided the employee is entitled to at least one pay card transaction without charge per pay period. The bill would also refer to a savings association instead of a savings and loan association. Existing law also requires every employer, at the time of each payment of wages, to furnish his or her employees with an accurate itemized statement in writing showing specified information. This bill would authorize the employer to provide the accurate itemized statement electronically, provided that the electronic statement contains all required information and the employer provides the employee with electronic access in a confidential setting during normal business hours to print the statement.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 197 Monning**Recovery of Wages: Liquidated Damages**

As introduced, this bill increased the amount of liquidated damages that may be awarded to an employee when an employer fails to pay minimum wage to two times the wages unlawfully unpaid, plus interest. The bill was subsequently amended to establish successor liability for farm labor contractors. However, the bill was then amended outside the jurisdiction of this Committee.

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

AB 217 Carter**Workplace Smoking: Long-Term Health Facilities**

Restricts smoking in long-term health care facilities by only allowing smoking in a designated patient smoking area that is outdoors, in an area that reasonably prevents smoke from entering the facility or patient rooms, and that is not located in a patient's room

Status: Vetoed by Governor Brown.

AB 240 Bonilla**Compensation Recovery: Liquidated Damages**

This bill authorizes the Labor Commissioner to recover liquidated damages for an employee who brings a complaint alleging payment of less than the minimum wage, and also provides that if an employer demonstrates to the satisfaction of the Labor Commissioner that the failure to pay the minimum wage was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of minimum wage law or regulations, the Labor Commissioner may, in its discretion, refuse to award liquidated damages or award a lesser amount of liquidated damages to the employee.

Status: Chapter # 272, Statutes of 2011.

AB 243 Alejo**Farm Labor Contractors**

This bill requires an employer who is a farm labor contractor (FLC) to disclose on the itemized payroll statement furnished to employees the name and address of the grower or other FLCs that secured the employer's services. This bill provides that the listing by the FLC of the name and address of the legal entity that secured the services of the employer on the itemized payroll statement shall not create any liability on the part of that legal entity.

Status: Chapter # 671, Statutes of 2011.

AB 267 Swanson**Employment Contracts**

This bill makes void and unenforceable as against public policy any provision in an employment contract that requires an employee, as a condition of obtaining or continuing employment, to use a forum other than California, or to agree to a choice of law other than California law, to resolve any dispute with an employer regarding employment-related issues that arise in California, and makes related changes.

Status: Vetoed by Governor Brown.

AB 276 Alejo**Agricultural Labor Relations**

As introduced, this bill extended a provision of current law related to mandatory mediation for agricultural employees to all contract negotiations, not just first contract negotiations. The amendments taken in the Senate delete the previous contents of the bill and instead repeal the provision in current law specifying the conditions necessary for making a demand for mandatory mediation and instead provide that such a declaration may be filed 180 days after any request to bargain. However, the bill was subsequently amended to remove it from the jurisdiction of this Committee.

Status: The labor provisions were subsequently deleted.

AB 302 Garrick**Garment Manufacturing: Alteration of Appearance**

Exempts specified activity from provisions of current law regulating garment manufacturing. Specifically, this bill provides that the law does not apply to a person who, by any means or method, engages solely in the alteration of the appearance of garments previously shipped by a garment manufacturer as ready-to-wear apparel.

Status: Failed, reconsideration granted, Assembly Committee on Labor and Employment.

AB 311 Cook**Employment: Labor Standards: Consultation Unit**

This bill would establish in the division the Labor Standards Consultation Unit for the purpose of providing consulting services to an employer or employee regarding compliance with labor standards. The bill would state the intent of the Legislature that the unit ultimately be self-supporting and, to further that end, would authorize the Unit to charge a requester a fee for consulting services provided, not to exceed the actual cost to the unit, and to further fund its operation from grants obtained from for-profit or not-for-profit nongovernmental and governmental entities. The bill would prohibit the Division from citing an employer for a violation of any labor standard, order, or regulation discovered as a result of an employer requesting or accepting services from the unit pursuant to the bill if the employer remedies the violation within 30 days and the employer is not the subject of an ongoing investigation by the division.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 325 B. Lowenthal**Employees' Right to Bereavement Leave**

This bill prohibits an employer from refusing to grant a request by any employee to take up to three days off for bereavement leave or to interfere with or restrain an employee from doing so. This bill authorizes an employee who has been discharged, disciplined, or discriminated against for exercising his/her right to bereavement leave to bring a civil action against his/her employer for reinstatement, specified damages, and attorney's fees. The provisions of this bill do not apply to an employee who is covered by a valid collective bargaining agreement that provides for bereavement leave and other specified working conditions.

Status: Vetoed by Governor Brown.

AB 350 Solorio**Displaced Janitor Opportunity Act**

This bill renames the Displaced Janitor Opportunity Act as the Displaced Property Service Employee Opportunity Act and make the provisions of the act applicable to property services, which would consist of licensed security, window cleaning, food cafeteria and dietary services, janitorial services and building maintenance services, and excludes from the definitions of contractor and subcontractor specified types of food service providers.

Status: Failed passage, Senate Floor.

AB 391 Pan**EDD: Employment Services**

AB 391 would require the Employment Development Department (EDD), commencing by July 1, 2012, to provide unemployment insurance (UI) benefits assistance in comprehensive one-stop career centers in five workforce investment areas. This bill would require that the unemployment benefit assistance services required to be provided at these comprehensive one-stop career centers be funded with existing money available to the department for the administration of the UI program. The provisions of this bill would sunset on December 31, 2015.

Status: The labor provisions were subsequently deleted.

AB 394 Silva**Employment Regulation: Volunteers**

This bill would exempt an individual who renders services as a volunteer from those provisions. The bill would define the term "volunteer" for those purposes as an individual who, without promise or expectation of compensation, but solely for his or her personal purpose or pleasure, performs work for an organization that is exempt from taxation pursuant to a specified provision of federal law or for a resource conservation district formed pursuant to specified state statutory provisions.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 400 Ma**Employment: Paid Sick Days**

This bill requires employees, who meet certain criteria, to be paid sick days, as specified.

Status: Held under submission, Assembly Appropriations Committee.

AB 436 Solorio**Public Works: Labor Compliance**

This bill makes changes to existing law related to the prevailing wage enforcement mechanism within the Department of Industrial Relations in order to address potential legal questions about the funding method of that process.

Status: Chapter # 378, Statutes of 2011.

AB 469 Swanson**Employees: Wage Theft Prevention Act of 2011**

This bill (1) provides that in addition to being subject to a civil penalty, any employer who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the Labor Commissioner (LC) shall be subject to paying restitution of wages to the employee; (2) makes it a misdemeanor if an employer willfully violates specified wage statutes or orders, or willfully fails to pay a final court judgment or final order of the LC for wages due; (3) extends the period within which the division may commence a collection action, as defined, from one year to three years; (4) extends the time required for a subsequently convicted employer to maintain a bond from six months to two years and requires that a subsequently convicted employer provide an accounting of assets, as specified, to the LC; (5) requires an employer to provide

each employee, at the time of hiring, with a notice that specifies the rate and the basis, whether hourly, salary, commission, or otherwise, of the employee's wages and to notify each employee in writing of any changes to the information set forth in the notice within seven calendar days of the changes unless such changes are reflected on a timely wage statement or another writing, as specified. No notice is required for an employee who is employed by the state or any subdivision thereof, exempt from the payment of overtime, or covered by a collective bargaining agreement containing specified information; (6) in addition to the crime and employer obligations imposed by this bill, the Labor Code provides for other work-related standards and duties that, upon violation, are subject to specified penalties; (7) states that the Labor Code establishes minimum penalties for failure to comply with wage-related statutes and regulations.

Status: Chapter # 655, Statutes of 2011.

AB 508 Swanson Displaced Public Transit, Solid Waste and Recycling

To extend bid preferences and termination protections found in public transit contract bidding to solid waste handling and recycling services contract bidding.

Status: Referred but never heard in the Senate Appropriations Committee

AB 514 R. Hernández Public Works: Prevailing Wage: Refuse Hauling

This bill specifies what materials from the work site are included in the definition of "hauling of refuse," for purposes of clarifying if the employee is required to be paid prevailing wages.

Status: Chapter # 676, Statutes of 2011.

AB 551 Campos Public Contracts: Prevailing Wage Requirements

This bill increases penalties for failing to pay prevailing wages on public works projects and failing to provide payroll records in a timely manner, as well as creates a process for debarment for failing to follow the laws governing public works contracts.

Status: Chapter # 677, Statutes of 2011.

AB 552 Morrell Employment: Minors

This bill would define community entertainment to mean performing arts events, including dance, music, opera, and theater arts, produced by nonprofit organizations in which members of the community are invited to participate as nonprofessional members of the cast, crew, ensemble, troupe, staff, or production.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 553 Monning**Employment Safety: Hazardous Materials**

This bill requires the Occupational Safety and Health Standards Board (Standards Board) to adopt standards specifying permissible exposure limits (PELs) for workplace hazardous substances, using existing quantitative risk assessments determined by state and federal agencies, as specified.

Status: Held under submission, Assembly Appropriations Committee.

AB 554 Atkins**Employment: Workforce Services**

This bill directs the state and local Workforce Investment Boards to ensure that programs and services funded by the Work Investment Act (WIA) are conducted in coordination with apprenticeship programs and would encourage collaboration between community colleges and apprenticeship programs. Specifically, this bill: (1) requires the California Workforce Investment Board (CWIB) and each local board to ensure that programs and services funded by WIA and directed to apprenticeable occupations, including preapprenticeship training, are conducted to the maximum extent feasible, in coordination with apprenticeship programs approved by Division of Apprenticeship Standards for the occupation and geographic area; and (2) requires the CWIB and each local board to develop a policy of fostering collaboration between community colleges and approved apprenticeship programs in their respective geographic areas to provide pre-apprenticeship training, apprenticeship training, and continuing education in apprenticeable occupations through approved apprenticeship programs.

Status: Chapter # 499, Statutes of 2011.

AB 587 Gordon**Public Works: Volunteers**

This bill extends the sunset on the exemption for volunteers on public works project out five years, from January 1, 2012 to January 1, 2017, and also makes findings and declarations on the intent of the Legislature to not undermine the wage base of a community, as well as several non-substantive amendments.

Status: Chapter # 219, Statutes of 2011.

AB 592 Lara**Employment Leave: Interference**

This bill clarifies that it is an unlawful employment practice to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under the California Family Rights Act (CFRA) or due to disability by pregnancy, childbirth, or related medical conditions. This bill also declares that this clarification is declarative of existing law.

Status: Chapter # 678, Statutes of 2011.

AB 735 Mitchell**Intern/Student Assistants: Hiring Preference**

This bill (1) requires state agencies, when hiring for internships and student assistant positions, to give preference to qualified applicants who are, or have been, dependent children in foster care; (2) requires the preference to be granted to applicants up to 26 years of age; (3) requires the county welfare department to provide dependent children with information notifying them that they may be eligible for this preference; and (4) defines "preference" to mean, priority over similarly qualified applicants for placement in the position.

Status: Chapter # 464, Statutes of 2011.

AB 766 Monning**Public Works: Payroll Records**

This bill gives enforcement agencies that are a part of the Joint Enforcement Strike Force on the Underground Economy (JESF), access to nonredacted copies of certified payroll records on public works projects in order to target the underground economy. This bill requires any copies of records or certified payroll made available for inspection and furnished upon request to the public by these agencies to be marked or redacted to prevent disclosure of an individual's name, address, and social security number. The bill also provides that an employer is not liable in a civil action for any reasonable act or omission taken in good faith in compliance with these requirements.

Status: Chapter # 481, Statutes of 2011.

AB 830 Olsen**Employment: Flexible Work Schedules**

Authorizes individual employees to request flexible work schedules, as specified. 1) Permits an employee to work up to ten hours per workday without overtime if the employee requests such a schedule in writing and the employer approves the request. 2) Requires the employer, where such a schedule is adopted, to pay overtime for all hours worked over 40 in a workweek or over ten in a workday. 3) Authorizes an employer to inform its employees that it is willing to consider employee requests to work flexible work schedules, but prohibits an employer from inducing a request by promising an employment benefit or "threatening an employment detriment." 4) Authorizes an employee or employer to discontinue a flexible work schedule at any time by giving written notice to the other party.

Status: Failed passed, Assembly Committee on Labor and Employment.

AB 848 Campos**Apprenticeship Programs**

AB 848 requires programs receiving state apprenticeship funding through the Department of Education (CDE) or the California Community Colleges (CCC) for building and trade programs to report specified outcome data annually.

Status: Held under submission, Senate Appropriations Committee.

AB 889 Ammiano/ V.M. Perez Domestic Workers

As introduced, this bill would have regulated the wages, hours, and working conditions of domestic work employees, provided a private right of action for domestic work employees, including liquidated damages, and would have provided an overtime compensation rate for domestic work employees. However, Senate amendments deleted the contents of the bill and instead require the Department of Industrial Relations to adopt regulations to address the working conditions of domestic work employees, including overtime, meal and rest periods, and uninterrupted sleep.

Status: Vetoed by Governor Brown.

AB 923 Fong Lifelong Learning Accounts Initiative Program

This bill establishes The Lifelong Learning Accounts (LLA) Initiative program within the Employment Development Department (EDD), for the purpose of providing grants to employers and employees to establish individual lifelong learning accounts for the deposit of funds for lifelong education and training.

Status: Held in the Assembly Appropriations Committee.

AB 950 J. Perez/Swanson Employment: Drayage Truck Operators

Deems drayage truck operators to be statutory employees for employment purposes, as specified. Provides that for purposes of state employment law (including workers' compensation, occupational safety and health, and retaliation or discrimination) a drayage truck operator is an employee of the entity or person who arranges for or engages the services of the operator. Defines "drayage truck operator" as the driver of any vehicle with a specified gross vehicle weight rating operating or transgressing through port or intermodal rail yard property for the purpose of loading, unloading, or transporting cargo. Specifies that these provisions shall not be construed to deem a public agency the employer of a drayage truck operator without the consent of the public agency.

Status: Held on the Assembly Floor.

AB 975 Ma Professional Employer Organizations

Establishes specified regulatory requirements for professional employer organizations (PEOs).

Status: Held under submission in the Senate Appropriations Committee.

AB 987 Grove Public Works: Prevailing Wages

This bill would specify that workers must be employed directly at the site of the work to be deemed employed upon public work. The bill would exempt from the prevailing wage requirements public projects of less than \$100,000. The bill would also exempt from the prevailing wage requirements the governing board of a school district with regard to the construction, reconstruction, or rehabilitation of school facilities, any fabrication or

prefabrication work done at a permanent offsite facilities of a contractor, a public work project of a local agency that adopts a resolution or ordinance, as specified, workers employed on a hospital seismic retrofitting project. The bill would also exempt from the definition of “public works,” for purposes of the prevailing wage requirements, work performed during the design and preconstruction phases of construction, including inspection and land surveying work and would delete provisions of existing law specifying that “public works” includes the hauling of refuse from a public works site to an outside disposal location. This bill would delete from existing law exclusions from the requirements of public works and prevailing wage laws for work done on certain private development projects, affordable housing units for low- or moderate-income persons, privately-owned residential projects, qualified residential rental projects, single-family residential projects, and low-income housing projects, among other things.

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

AB 988 Grove Prevailing Wages

This bill would revise the manner in which the director determines the rate of general prevailing wages, including deleting the requirement that he or she consider the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works, and deleting the requirement that the director consider further data from labor organizations and employers or employer associations and concerns where the rates do not constitute the rates actually paid in the locality. The bill would also revise the methodology that the director is required to use in determining the general prevailing rate of per diem wages in the locality in which the public work is to be performed, including deleting certain requirement, and requiring the director to conduct a survey of the wages paid for work performed in each locality in which the public work is to be performed. This bill would require the holiday rates to be paid on all specified holidays, and would delete the authorization that they be paid instead on those dates recognized in a collective bargaining agreement. The bill would delete the provision stating that awarding bodies are not required to specify holidays in the contract for public work. This bill would delete these categories of employer payments from per diem wages for purposes of public works.

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

AB 1106 Achadjian OSHA: Local Public Entities: Penalty Money: Grants

This bill allows any county, city, special district, public authority, public agency, or joint powers authority to apply for a refund of civil penalties assessed for violations of occupational safety and health laws if the conditions have been corrected.

Status: Held under submission, Assembly Appropriations Committee.

AB 1115 Lara**Workforce Development Training**

To establish minimum statewide standards for determining the eligibility of a training provider to receive federal funds and be placed on the states eligible provider list.

Status: Referred but never heard in the Senate Appropriations Committee.

AB 1136 Swanson**Employment Safety: Health Facilities**

This bill requires all general acute care hospitals to maintain a safe patient handling policy and provide trained lift teams or other support staff trained in safe lifting techniques. The bill requires employers to adopt a patient protection and health care worker back and musculoskeletal injury prevention plan as part of the injury and illness prevention programs required by existing state regulations.

Status: Chapter # 554, Statutes of 2011.

AB 1179 Mansoor**Labor Organizations: Union Dues: Political Activities**

Enacts the California Voluntary Contributions Act to place limitations on expenditures for political activities made by labor organizations.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 1224 Veterans Committee**ETP: 3 Year Plan: Veterans Training**

Expands the Employment Training Panel (ETP) 3-year plan to include projects that support veterans and members of the California National Guard.

Status: The labor provisions were subsequently amended out of the bill.

AB 1236 Fong**Employment: E-Verify**

This bill creates the Employment Acceleration Act of 2011 to enact provisions of law related to the use by employers of specified federal electronic employment verification systems. Specifically, this bill: (1) except as required by federal law or as a condition of receiving federal funds, prohibits the state, a city, county, city and county, or special district from requiring an employer to use an electronic employment verification system, including under the following circumstances: (a) as a condition of receiving a government contract; (b) as a condition of applying for or maintaining a business license; and, (c) as a penalty for violating licensing or other similar laws, (2) defines an "electronic employment verification system" as a system that allows employers to electronically verify workers' employment authorization with the federal government, including the Basic Pilot (renamed in 2007 as E-Verify) Program. However, this term does not include the I-9 Employment Eligibility Verification form or any other employment verification systems that are required by federal law, and (3) makes several findings and declarations pertaining to the deficiencies of electronic employment verification programs.

Status: Chapter # 691, Statutes of 2011.

AB 1286 Fuentes**Wage Disputes: Waiver of Claims**

This bill would provide unless approval of a settlement or compromise relating to a claim for earned wages is being sought pursuant to the California Rules of Court, an employee's waiver or release of such a wage claim that is based on a provision of the Labor Code or an order of the Industrial Welfare Commission, or is derivative of such a claim, and is covered by a pending certified or uncertified class action or representative action, shall not be valid or enforceable if that employee is a class member or a putative class member in a pending certified or uncertified class action or is represented or potentially represented in a representative action.
Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 1310 Furutani**Career Technical Education/Workforce Development**

Requires the Secretary of California Labor and Workforce Development Agency (LWDA), in conjunction with the California Workforce Investment Board, the California Community Colleges (CCC) Office of the Chancellor, the State Department of Education, and the California Postsecondary Education Commission, to develop a strategic plan, to include specified elements, for connecting the delivery of education and workforce development in the state.
Status: Vetoed by Governor Brown.

AB 1313 Allen**Overtime Wages: Agricultural Employees**

This bill removes the overtime and other exemptions for agricultural employees in the Labor Code.
Status: Failed passage, non-concurrence on the Assembly Floor.

AB 1346 Atkins**DAS: Certification of Electricians**

This bill requires individuals desiring to be certified as an electrician must submit an application for certification and examination that includes an employment history report from the Social Security Administration. The individual may redact his/her social security number from the employment history report before it is submitted. This bill also makes several non-substantive changes to clarify existing law.
Status: Chapter # 693, Statutes of 2011.

AB 1364 Campos**Employment: Talent Agencies: Representation**

Prohibits any talent agency licensee to refuse to represent any artist because of that artist's sex, race, color, religion, ancestry, national origin, disability, marital status, or sexual orientation.
Status: Referred but never heard in the Senate Committee on Labor and Industrial Relations.

AB 1393 Perea**Employment**

This bill would provide that, notwithstanding any other law, if the Franchise Tax Board determines there is a lack of work for a seasonal clerk employed by the board, the board may (1) pay the clerk a lump-sum payment for accumulated vacation or annual leave credit; (2) by mutual agreement between the board and the clerk, schedule the clerk for vacation or annual leave; (3) allow the clerk to retain his or her vacation or annual leave credit; or (4) effect any combination of the above.

Status: The labor provisions were subsequently deleted.

AB 1396 Labor Committee**Employment Contract Requirements**

This bill requires that all employers provide a written contract to employees who are paid commission. Specifically, (1) declares legislative intent of this bill, in light of the Federal District Court (Northern District) decision of Lett v. Paymentech, to restore the employee protections that had been in effect by making Labor Code Section 2751 apply equally to employers with a fixed place of business in the state and to employers who do not have a fixed place of business in the state; (2) requires all employers, by January 1, 2013, to provide a written contract, with specified details, to employees who are paid commission; (3) adds when a contract expires and where the parties continue to work under the terms of the expired contract, the contract terms are presumed to remain in full force and effect until the contract is superseded or employment is terminated by either party; and (4) repeals the provision of law which states that an employer shall be liable to the employee in a civil action for treble damages when an employer does not provide a written commission contract, as specified.

Status: Chapter # 556, Statutes of 2011.

AB 1397 Swanson**Working Hours**

This bill would allow an employee driver of a charter-party carrier licensed by the California Public Utilities Commission to take an on-duty meal period if specified conditions are met.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 1398 Chesbro**Employment Minors: Ag. Packing Plants**

This bill (1) extends, from January 1, 2012 to January 2017, the authority of the Labor Commissioner to allow minors 16 or 17 years of age who reside in Lake County to work in agricultural packing plants up to 60 hours per week during peak harvest season; (2) changes the written reporting requirements of affected employers to require a written report regarding payroll to be filed annually without a specific reporting date; (3) changes the requirements for the Labor Commissioner to issue instead of annual report, a single written report on the working conditions of minors employed in the agricultural packing industry, which is to be filed by November 1, 2016, and cover the previous five-and one-half year period from March 1, 2011 to October 1, 2016.

Status: Chapter # 489, Statutes of 2011.

AB 1399 Labor Committee**Employment Records: Inspection**

This bill amends provisions of existing law related to an employee's right to inspect or copy personnel records.

Status: Held under submission, Assembly Appropriations Committee.

AB 1401 Arts Committee**Employment: Minors**

This bill establishes an Internet Web site permit process to be administered by the Division of Labor Standards Enforcement for the issuance of temporary work permits for minors working in the entertainment industry. The temporary work permit issued under this bill would enable a parent or guardian of a minor to establish a Coogan Trust Account for the benefit of the minor. This bill requires the Labor Commissioner to place fees received for a temporary minor's entertainment work permit into an Entertainment Work Permit Fund, which funds would pay for the costs of administration of the Internet Web site created under this bill.

Status: Chapter # 557, Statutes of 2011.

AB 1439 Alejo**Minimum Wage: Annual Adjustment**

This bill would amend the Labor Code to provide for the automatic adjustment of minimum wage on January 1st of each year, which will be determined by the percentage of inflation as measured by the California Consumer Price Index (CPI), beginning January 1, 2013.

Status: Held under submission, Assembly Appropriations Committee.

AB 1450 Allen**Employment: Discrimination: Status as Unemployed**

As introduced, this bill would have banned employment discrimination based on an individual's employment status. It prohibited the exclusion of an applicant from the applicant pool or the refusal to offer employment to an individual because of his or her current employment status. However, Senate amendments narrowed the bill to merely restrict employers and employment agencies from publishing job announcements indicating that an individual's current employment is a necessary precondition for employment consideration.

Status: Vetoed by Governor Brown.

AB 1544 V.M. Perez**Undocumented Workers: CA Ag. Jobs and Industry Stabilization Program**

This bill would require the Employment Development Department (EDD) to establish the California Agricultural Jobs and Industry Stabilization Program to ensure that there are sufficient agricultural and service industry employees to enable each industry to thrive. The new program would (1) require EDD to certify that there are not enough legal residents in California to fill all open agricultural and service industry jobs in the State, and (2) authorize the EDD to issue permits for qualified, undocumented persons to reside and work as an employee in California. This bill would also require an undocumented person pay a fee to the EDD, which

will be used to fund the program. To qualify for a permit, an undocumented person must pass a fingerprinted background check. The individual must also have performed agricultural or service industry employment in the U.S. for at least 863 hours or 150 workdays, or earned at least \$7,500 from agricultural or service industry employment. Alternatively, an undocumented person may establish employment status by submitting records maintained by certain government agencies. EDD will also issue permits to qualified, immediate family members who reside with the undocumented worker permitted under the program. They, too, must pay a fee and pass a background check. Beginning the third year after implementation, the bill requires the EDD, in conjunction with the Legislative Analyst's Office, to publish an annual report analyzing whether the program has caused the displacement of employable legal residents of California in the agricultural and service industries.

Status: Moved to inactive on the Assembly Floor.

AB 1546 V.M. Perez California High-Skilled Worker Retention and Family Act of 2012

This bill would create the California High-Skilled Worker Retention and Family Act of 2012, which authorizes the Employment Development Department to establish a program that allows foreign nationals to apply for resident immigrant status. To apply, the foreign national must obtain an affidavit of sponsorship by a person or small business. The affidavit shall stipulate that the sponsor will support the foreign national, and reimburse the appropriate entity for any means-tested public benefit provided to the foreign national. Admittance to the program would authorize a resident immigrant to work, study, and live in California. This bill would require the resident immigrant, or his employer, to pay all income taxes and employment taxes, fees, or charges. It also authorizes the Franchise Tax Board to adopt regulations allowing employers of resident immigrants to withhold from compensation the amount that would be withheld under state law if the immigrant had a social security number. This program will be funded by the participants' application fees.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 1598 Buchanan Public Contracts: Public Works: Installation

This bill would expand the definition of "public works" as it applies to the requirements for the payment of prevailing wages. Existing law defines the meaning of "public works" to include construction, alteration, demolition, installation, or repair work done under contract and paid for by public funds. This bill would modify the term "installation" so that it includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

Status: Chapter # 810, Statutes of 2012.

AB 1660 Campos Representation of Minors: Permits

This bill would require a person to obtain a Child Performer Services Permit in order to represent or provide services to artists under the age of 18. Applicants must submit to a background check and pay a fee that will cover the administrative costs of the application process.

The permit will be issued by the Labor Commissioner. A person who willfully violates this is guilty of a misdemeanor punishable by a fine of up to \$10,000, by imprisonment for up to one year, or by both.

Status: Chapter # 634, Statutes of 2012.

AB 1675 Bonilla Farm Labor Contractors: Licenses: Civil Penalty

This bill would expand the civil penalties for farm labor contractors who violate requirements under which they may operate. Existing law requires that a farm labor contractor must be licensed by the Labor Commissioner and that he or she must adhere to specified employment laws applicable to farm labor contractors. Currently, a person who violates farm labor contractor requirements is found guilty of a misdemeanor, punishable by specified fines, and/or imprisonment in the county jail for up to six months. This bill would expand the potential penalty so that a violator will face citations issued by the Labor Commissioner and civil penalties that increase as the number of citations for violations increase. For any initial citation, the violator must pay \$100 for each farmworker employed by the unlicensed person, plus \$100 for each calendar day that a violation occurs. The penalty for the first violation is not to exceed \$10,000. The subsequent penalties increase with each citation; for a second citation, the violator is subject to a penalty of up to \$20,000, and for each subsequent citation, the violator is subject to a penalty of up to \$50,000.

Status: Chapter # 857, Statutes of 2012.

AB 1740 V.M. Perez Employment Protections: Victims of Domestic Violence, Sexual Assault, or Stalking

This bill would expand the employment protections for victims of domestic violence and sexual assault to include victims of stalking. This bill would prohibit an employer from discharging or discriminating against such victims who take time off work for specified reasons which include, but is not limited to, serving in a trial jury, obtaining a restraining order, or complying with a court order. The employer must also provide reasonable accommodations for a victim who requests an accommodation for his or her safety while at work.

Status: Held under submission, Assembly Appropriations Committee.

AB 1744 Bonnie Lowenthal Employee Compensation: Itemized Statements

This bill would require that temporary services employers, beginning on July 1, 2013, must provide on the accurate itemized wage statement provided to each employee, the rate of pay and total hours worked for each temporary services assignment. The bill also provides that an existing notice provided to employees at the time of hire, where the employer is a temporary services employer, must also include the name, physical address of the main office, mailing address, and telephone number of the entity for whom the employee will perform work, and any other information the Labor Commissioner deems material and necessary. The bill contains an exemption from these requirements for specified security services companies.

Status: Chapter # 844, Statutes of 2012.

AB 1789 Morrell**Wage Orders: Review: Private Rights of Action**

This bill would require the Industrial Welfare Commission to review and, if necessary, revise every wage order in effect beginning January 1, 2013. The commission must ensure that each order is consistent with the current work conditions in the industry covered by that wage order. The commission would be required to indicate on its website that an order has been reviewed and whether revision of the order is necessary. While the Labor Code Private Attorneys General Act of 2004 authorizes an aggrieved employee to recover through a civil action a civil penalty that would be assessed and collected by the Labor and Workforce Development Agency, this bill would prohibit actions under the Act from being brought for a violation of a wage order until the order has been reviewed and, if deemed necessary, revised.

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

AB 1844 Campos**Employer Use of Social Media**

This bill would prohibit an employer from requiring or requesting an employee or potential employee to disclose a user name or password in order to access the individual's personal social media account. This bill would also prohibit an employer from discharging, disciplining, threatening, or otherwise retaliating against an employee or applicant for noncompliance to such request or demand.

Status: Chapter # 618, Statutes of 2012.

AB 1855 Torres**Employment: Contractors: Sufficient Funds**

Existing law prohibits a person from entering into a contract for labor or services with specified types of contractors if the person knows that the contract provides insufficient funds to allow the contractor to comply with local, state, and federal laws and regulations. This bill would make these provisions applicable to warehouse contractors.

Status: Chapter # 813, Statutes of 2012.

AB 1948 Grove**Wage and Hour Laws: Legislature**

Existing law provides wage and hour protections to employees in the state. These protections include laws include regulation of overtime compensation and the requirement that employees to be given meal and rest periods. This bill extends such protections to employers of the state by amending the Labor Code such that the Legislature is included in the definition of employer.

Status: Testimony taken, pulled by the author, Assembly Committee on Labor and Employment.

AB 1958 Grove**Public Contracts: Public Works: Prevailing Wages**

Existing law requires the prevailing rate of per diem wages to be paid to all workers employed on public works projects that exceed \$1,000. This bill would increase the cost threshold to \$2,000 and would require that cost threshold to be adjusted annually for inflation as provided by a specific California Consumer Price Index.

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

AB 1964 Yamada**Discrimination in Employment: Reasonable Accommodations**

This bill would expand the protections granted under the California Fair Employment and Housing Act that safeguard religious practices against discrimination. This bill would prohibit discrimination against religious dress practice or a religious grooming practice. It would also require an employer to reasonably accommodate an employee with such practices.

Status: Chapter # 287, Statutes of 2012.

AB 1999 Brownley**Employment: Family Caregiver Status Protection**

Under the California Fair Employment and Housing Act, employment discrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, and sexual orientation is prohibited. This bill would expand the scope of protection to include those with "family caregiver status" as a basis upon which the right to seek, obtain, and hold employment cannot be denied.

Status: Held under submission, Senate Appropriations Committee.

AB 2039 Swanson**Family and Medical Leave**

This bill would expand the conditions under which an employee may take up to 12 workweeks of unpaid protected leave over the course of a year. Under the Family Rights Act, employees are allowed to take leave for the following reasons: to bond with a child, to care for one's parent, spouse, or child with serious health condition, or because the employee is suffering from a serious health condition rendering him or her unable to perform the functions of the job. This bill would increase protection coverage by: eliminating the age and dependency elements from the definition of child, expanding the definition of parent to include an employee's parent in law, and permitting an employee to also take leave to care for a serious ill grandparent, sibling, grandchild, or domestic partner.

Status: Held under submission, Senate Appropriations Committee.

AB 2077 Davis**Postrelease Community Supervision: Employment Opportunities**

This bill would require the Employment Development Department (EDD) compile a list of specific employers that would be willing to employ people who have been incarcerated in a state prison or county jail. EDD must make this list available to the public. This bill would also

require the department to send the list to the supervising county agency and require the supervising county agency to give the list to a person who has entered into a postrelease community supervision agreement.

Status: Held under submission, Assembly Appropriations Committee.

AB 2099 Cedillo Employment: Wage and Hour Violations

This bill would increase the penalty for wage and hour violations, set forth by the Labor Code. Under current law, the misdemeanor is punishable by a fine of at least \$100 and/or by imprisonment for not less than 30 days. This bill would increase the fine for a violation of this provision from a minimum of \$100 to a minimum of \$250.

Status: Labor provisions were subsequently deleted.

AB 2103 Ammiano Employment: Wages and Hours: Overtime

Existing law that establishes an eight-hour work day and a 40-hour work week requires nonexempt employees working overtime to be compensated, per hour, an additional 1/40th of the employee's weekly salary. This bill would amend existing law so that payment of a fixed salary to a nonexempt employee shall be deemed to provide compensation only for the employee's regular, non-overtime hours.

Status: Chapter # 820, Statutes of 2012.

AB 2107 Valadao Public Works: Prevailing Wages: School Districts

Existing law requires that the general prevailing rate of per diem wages be paid to workers employed on public works projects. This bill would exempt the governing board of a school district from the prevailing wage requirement in projects relating to the construction, reconstruction, or rehabilitation of school facilities for which the state or any political subdivision pays less than 50% of the total payment under the contract directly to the contractor.

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

AB 2176 Logue/Berryhill Employment: Meal Periods

Existing law requires an employer to provide a meal period to an employee who works a certain number of hours in a shift. Specified occupations and employees covered by collective bargaining agreements are exempt from this requirement. This bill would expand the list of exempt employees to include a commercial driver operating a motor vehicle that is required to display placards.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 2217 Pan**Call Centers**

Under existing law, employers ordering a mass layoff, relocation, or termination of an industrial or commercial facility employing 75 or more people must give affected employees 60 days' notice. This bill would make such provisions applicable to a call center employer that employs 50 or more people.

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

AB 2288 Cedillo**Labor-Related Liabilities: Original Contractor**

This bill would require a direct contractor be liable for any debt owed to a wage claimant for labor incurred by a subcontractor or contractor acting under the direct contractor in performing labor, construction, or other work included in the subject of the original contract.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 2346 Butler**Agricultural Employee Safety: Heat-Related Illness**

This bill would enact the Farm Worker Safety Act of 2012, which would provide that every agricultural employer shall comply with the existing heat illness standard regulation and with other existing requirements related to the prevention of heat illness. The bill would provide for specified civil penalties and a private right of action against "repeat offenders," defined as a farm operator or an agricultural employer with violations on two or more days within a three-year period. This bill also provides for joint liability for farm operators, as specified.

Status: Vetoed by Governor Brown.

AB 2373 Norby**Independent Contractor: Definition**

This bill would redefine the term "independent contractor" for purposes of the Labor Code so that an independent contractor is determined by considering various factors such as the extent to which the principal is in control, the extent to which the principal provides training to the person rendering the service, the extent to which the person rendering the service is required to report to the principal, and whether the principal or person rendering the service have a right to terminate their relationship amongst many other considerations.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 2386 Allen**Employment and Housing Discrimination: Sex: Breastfeeding**

This bill would expand the definition of "sex" as used in the California Fair Employment and Housing Act which protects against specified discriminatory practices in employment or housing accommodations on the basis of sex. "Sex" as amended will include pregnancy or medical conditions related to pregnancy, childbirth, breastfeeding, or medical conditions related to the three.

Status: Chapter # 701, Statutes of 2012.

AB 2387 Smyth Occupational Safety and Health: Local Public Entities: Penalty Moneys: Grants

This bill would change the existing law that requires any civil or administrative penalty assessed under the California Occupational Safety and Health Act of 1973 against a school district, county board of education, county superintendent of schools, charter school, community college district, California State University, University of California, or joint powers agency performing education functions to be deposited with the Workplace Health and Safety Revolving Fund. Instead, this bill would require that funds from civil and administrative penalties collected from the specified entities be deposited in the Workers' Compensation Administration Revolving Fund. This bill would also require the moneys in the fund that are not refunded to be used by the Commission on Health and Safety and Workers' Compensation in the Department of Industrial Relations for grants to assist in establishing and maintaining occupational injury and illness prevention programs.

Status: Held under submission, Assembly Appropriations Committee.

AB 2396 Arts Committee Employment of Infants: Entertainment Industry

This bill amends the Labor Code in the section pertaining to the employment of infants in the entertainment industry. Existing law stipulates that a performer under the age of 16 must acquire the written consent of the Labor Commissioner. However, a minor's parent may obtain a temporary permit for the employment of a minor. Existing law prohibits the employment of an infant under the age of one month unless a prescribed certification is made by a physician and surgeon who is board-certified in pediatrics. This bill would require that the minor's parent or guardian must obtain a medical certification before a temporary permit for employment of the infant may be issued.

Status: Chapter # 260, Statutes of 2012.

AB 2399 Allen Mental Health: State Hospitals: Injury and Illness Prevention Plan

This bill would require state hospitals to update their injury and illness prevention plans at least once every year and would require the State Department of Mental Health to submit those plans to the Legislature every two years. It would also require each state hospital to establish an injury and illness prevention committee which would meet at least four times a year, to provide recommendations to the hospital's director on updates to the injury and illness prevention plan, and would require each state hospital to develop an incident reporting system that can be used to report patient assaults on employees and report identified risks of patient assaults on employees.

Status: Chapter # 751, Statutes of 2012.

AB 2517 Eng

Wage Liens: Laborers and Car Washing and Polishing Employees

Existing law gives specified employees who contribute labor, skill, or services to a work of improvement the right to a mechanic's lien upon the property so improved. This bill would allow a car washing and polishing employee to enforce a wage lien upon specified personal property for wages owed to the employee. The bill further specifies that a laborer may not enforce a lien unless he records a claim of lien after he has completed the agreed upon labor or services, and before one year after completion of the work of improvement or 180 days after the owner records a notice of completion. In the event that a laborer enforces his wage lien, the law currently requires the court to include in the costs owed to the employee the amount paid to verify and record the claim of lien. This bill would provide that a laborer shall be entitled to the court costs and attorney's fees incurred as a result of recording the foreclosing on a mechanic's lien. These amounts shall be considered part of the lien and shall relate back to the date of recording of the lien.

Status: Failed passage on the Assembly Floor.

AB 2573 Furutani

Child Care: Family Child Care Providers: Bargaining Representative

This bill would create the Quality Family Child Care Act to promote quality, access, and stability in the child care system by authorizing an appropriate unit of family child care providers to choose a provider organization to act as their exclusive representative on all matters specified in this article. It also aims to promote full communication between family child care providers and the state by permitting a provider organization certified as the representative of the family child care providers to meet and confer with the state regarding the state's child care system.

Status: Referred but never heard in the Assembly Appropriations Committee.

AB 2601 Furutani

California Workforce Investment Board: Duties: Report on Green Collar Jobs Council Activities

Existing law requires the California Workforce Investment Board to provide an annual report to the Legislature regarding the status of Green Collar Jobs Council activities, grants awarded, and its development and implementation of a green workforce strategic initiative. This bill would require the CWIB to provide this report to the Governor and to publish the annual report on its website.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 2602 Furutani**ETP: Duties: Annual Report: Governor: Internet Website**

Existing law requires the Employment Training Panel to provide an annual report to the Legislature regarding projects that aid in the development and implementation of employment training programs within the Employment Development Department. This bill would require the ETP to provide the annual report to the Governor, as well as publish the report on its website.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 2636 Furutani**Electricians: Registration Fees**

Existing law allows uncertified individuals to perform electrical work if he is registered with the Division of Apprenticeship Standards, has completed or is enrolled in an approved curriculum of classroom instruction, and is under the supervision of a certified electrician. This bill would exempt a veteran from paying the Division of Apprenticeship's registration fee.

Status: Referred but never heard in the Assembly Committee on Labor and Employment.

AB 2674 Swanson**Employment Records: Right to Inspect**

Under existing law, an employee has the right to inspect the personnel records that his employer maintains relating to the employee's performance or to any grievance concerning the employee. This bill would require an employer provide a current or former employee the opportunity to inspect and receive a copy of those records within a specified period of time, except during the pendency of a lawsuit filed by the employee relating to a personnel matter. It also provides that an employer is not required to comply with more than 50 requests for a copy of the above-described records filed by a representative in one calendar month. The bill would provide the above provisions shall not apply with respect to an employee covered by a valid collective bargaining agreement if the agreement provides for a procedure for inspection and copying of personnel records. In the event an employer violates these provisions, the bill would permit a current or former employee or the Labor Commissioner to recover a penalty of \$750 from the employer. Furthermore, under current law, an employer who fails to permit an employee to inspect the employee's personnel records is guilty of a misdemeanor punishable by fine or imprisonment. This bill would instead provide that such violation constitutes an infraction.

Status: Chapter # 842, Statutes of 2012.

AB 2675 Swanson**Commission Pay Plans**

This bill provides that, for purposes of the requirement that commission pay plans must be in writing, "commissions" does not include temporary, variable incentive payments that increase, but do not decrease, commissions paid under the written contract. This legislation is a follow-up to AB 1396 from 2011.

Status: Chapter # 826, Statutes of 2012

AB 2676 Charles Calderon

Agricultural Employee Safety

This bill provides that it is a misdemeanor for any person who directs or supervises an agricultural employee in the performance of outdoor work to fail to supply that employee with both continuous, ready access to an area of shade sufficient to allow the body to cool, and potable water that is suitably cool and available in quantities sufficient to allow the employee to drink one quart of water per hour throughout the employee's work shift. This bill provides that a violation of the above misdemeanor is punishable by imprisonment in the county jail not exceeding six months and/or a fine not exceeding \$10,000. This bill provides that if a violation of the above misdemeanor causes injury, it is punishable by up to one year in the county jail and/or a fine not exceeding \$25,000. *Original provisions in this bill heard by this Committee were amended out.

Status: Vetoed by Governor Brown.

AB 2677 Swanson

Public Works: Wages: Employer Payment Contributions

Existing law requires that the general prevailing rate of per diem wages be paid to workers employed on public works projects. This bill would specify that increased employer payment contributions that result in a lower hourly or overtime wage, or a lower taxable wage does not violate the prevailing wage requirement if specified conditions are met.

Status: Chapter # 827, Statutes of 2012.

ACR 155 Fuentes

Justice for Janitors Day

This measure would recognize June 15th of each year as Justice for Janitors Day in order to commemorate the struggle of janitors for affordable family health care and dignified wages.

Status: Resolution Chapter # 84, Statutes of 2012.

AJR 47 Block

Compensation: Gender Pay Equity

This resolution urges Congress to reintroduce and adopt the Paycheck Fairness Act to help close the gender wage gap and makes related legislative findings and declarations.

Status: Resolution Chapter # 145, Statutes of 2012.

HR 11 Ammiano/V.M. Perez

Domestic Workers

Recognizes March 30th as International Domestic Workers' Day.

Status: Adopted April 2011, Assembly Floor.

Senate Bills

SB 56 Corbett

Apprenticeship Oversight

This bill streamlines auditing requirements of the California Apprenticeship Council.

Status: Chapter # 696, Statutes of 2011.

SB 104 Steinberg

Ag. Labor Representatives: Elections

This bill permits agricultural employees, as an alternative procedure, to select their labor representatives by submitting a petition to the Agricultural Labor Relations Board (ALRB) accompanied by representation cards signed by a majority of the bargaining unit. This bill also extends existing prohibitions and penalties to employers who engage in unfair labor practices with regard to a majority signup election.

Status: Vetoed by Governor Brown.

SB 126 Steinberg

Agricultural Labor Relations

This bill makes a number of changes to the Agricultural Labor Relations Act. Specifically, this bill provides that if the Agricultural Labor Relations Board (ALRB) sets aside an election because of employer misconduct that (in addition to affecting the outcome of an election) would render slight the chances of a new election reflecting the free and fair choice of employees, the labor organization shall be certified as the exclusive bargaining representative for the bargaining unit. Imposes time limits to certain ALRB proceedings as specified. Shortens the time under current law for a request for mandatory mediation from 180 days to 90 days after an initial request to bargain. Provides that a party may also request mandatory mediation in the specified circumstances. Provides that the mandatory mediation proceedings of current law shall not be stayed on the grounds that a specified petition for review of an ALRB order related to unfair labor practice charges have been filed. Expands existing law related to judicial injunctions to provide that the court shall also consider the indirect effect upon protected rights of all agricultural employees of the employer in determining whether temporary relief is just and proper. Provides that when the alleged unfair labor practice is such that, by its nature, it would interfere with employee free choice, appropriate temporary relief or a restraining order shall issue on a showing that reasonable cause exists to believe that the unfair labor practice has occurred. The order shall remain in effect until an election has been held or for 30 days, whichever occurs first. Provides that temporary relief or restraining orders shall not be stayed pending appeal.

Status: Chapter # 697, Statutes of 2011.

SB 136 Yee**Public Contracts: Prevailing Wages**

This bill provides that specified "energy services contracts" entered into pursuant to existing law are public works projects and subject to applicable prevailing wage laws.

Status: Chapter # 698, Statutes of 2011.

SB 272 DeSaulnier**Leave of Absence: Organ Donation**

This bill clarifies the Michelle Maykin Memorial Donation Protection Act to assist employer compliance with a leave of absence for an organ donation.

Status: Chapter # 147, Statutes of 2011.

SB 299 Evans**Employment: Pregnancy/Childbirth Leave**

This bill prohibits employers from refusing to maintain and pay for insurance coverage, as specified, for the duration of maternity leave up to four months, as specified. This bill authorizes employers to recover insurance premiums from the employee if the employee fails to return from maternity leave provided that the employee's failure to return from maternity leave is not due to leave taken under the Moore-Brown-Roberti Family Rights Act, for a health condition that entitles the employee leave, or for another circumstance beyond the control of the employee. This bill requires the collective bargaining agreements of state agencies govern maternity coverage specified in this bill.

Status: Chapter # 510, Statutes of 2011.

SB 432 De Leon**Workplace Safety: Lodging: Housekeeping**

This bill requires the Occupational Safety and Health Standards Board (OSHSB), no later than December 1, 2012, to adopt occupational safety and health standards for lodging establishment housekeeping that includes the use of a fitted bed sheet, instead of a flat sheet, and the use of long-handled tools in order to eliminate the need for housekeepers to work in a stooped, kneeled, or squatting position, as specified. Further requires these provisions to be operative September 1, 2013 with full compliance required no later than December 31, 2015.

Status: Assembly Appropriations Committee, suspense file.

SB 459 Corbett**Employment: Independent Contractors**

This bill (1) prohibits willful misclassification, as defined, of individuals as independent contractors; (2) prohibits charging individuals who have been mischaracterized as independent contractors a fee or making deductions from compensation, as specified, where those acts would have violated the law if the individuals had not been mischaracterized; (3) authorizes the Labor and Workforce Development Agency (Agency) to assess specified civil damages against, and requires the Agency to take other specified disciplinary actions against, persons or employers violating these prohibitions; (4) requires the Agency to notify the Contractors' State License Board (CSLB) of a violator that is a licensed contractor, and requires the CSLB to initiate

an action against the licensee; (5) authorizes an individual to file a complaint, as specified, to request the Labor Commissioner to issue a determination that a person or employer has violated these prohibitions with regard to the individual filing the complaint; (6) authorizes the Labor Commissioner to assess civil and liquidated damages against a person or employer based on a determination that the person or employer has violated these prohibitions; (7) provides that a person who, for money or other valuable consideration, knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for the individual shall be jointly and severally liable with the employer if the individual is not found to be an independent contractor; and (8) exempts from the provisions regarding joint and several liability a person who provides advice to his/her employer or an attorney who provides legal advice in the course of practicing law.

Status: Chapter # 706, Statutes of 2011.

SB 575 DeSaulnier Smoking in the Workplace

Expands the prohibition of smoking in a place of employment to include an owner-operated business, and eliminates most of the specified exemptions that permit smoking in certain work environments, as specified.

Status: Held without recommendation, Assembly Governmental Organization Committee.

SB 698 Lieu Workforce Development: High Performance Boards

Requires the establishment of standards and incentives for "high-performance" local workforce investment boards.

Status: Chapter # 497, Statutes of 2011.

SB 734 DeSaulnier Workforce Investment Boards: Funding

This bill imposes requirements related to the expenditure of Workforce Investment Act funds on job training programs.

Status: Chapter # 498, Statutes of 2011.

SB 776 DeSaulnier State and Local Workforce Investment Boards: Funding

This bill requires specified minimum amounts of federal Workforce Investment Act (WIA) funds provided to local WIA (LWIA) boards to be spent on workforce training programs, as specified.

Status: Failed passage, Assembly Appropriations Committee.

SB 829 DeSaulnier DOSH: Occupational Safety and Health Appeals Board

Revises various provisions of law related to the issuance and adjudication of citations for alleged violation of occupational safety and health laws.

Status: The labor provisions were subsequently amended out.

SB 912 Lieu**EDD: Training Expenditure Reports**

This bill would change existing law so that the Employment Development Department (EDD) will no longer be required to make an annual report detailing the training expenditures made by local workforce investment boards in the prior fiscal year. Instead, it would require the EDD to report annually to the Governor, Legislature, and California Workforce Investment Board the training expenditures made by local workforce investment boards in the prior two program years, and to identify the amount of any leveraged funds expended by the local boards for training services. This bill requires the EDD to provide this report within six months after the second program year of the two-year period of availability for expenditure of federal Workforce Investment Act of 1998 funds.

Status: The labor provisions were subsequently amended out.

SB 923 De León**Retirement Savings Plans**

This bill is a companion measure to SB 1234 (De León), which would establish the California Secure Choice Retirement Savings Trust, to be administered by the California Secure Choice Retirement Savings Investment Board, containing seven members. This bill would, contingent upon the enactment of SB 1234, instead expand the board membership to nine members, as specified. The bill would further prohibit the board from opening the trust program for enrollment without a subsequent authorizing statute.

Status: Chapter # 737, Statutes of 2012.

SB 931 Evans**Payroll Cards**

This bill authorizes employers to pay employee wages by means of payroll card programs that meet certain specified conditions.

Status: Vetoed by Governor Brown.

SB 1234 De León**Retirement Savings Plans**

This bill would enact the California Secure Choice Retirement Savings Trust Act, which would create the California Secure Choice Retirement Savings Trust to be administered by the California Secure Choice Retirement Savings Investment Board, which would also be established by the bill. The bill would require eligible employers, as defined, to offer a payroll deposit retirement savings arrangement so that eligible employees, as defined, could contribute a portion of their salary or wages to a retirement savings program account in the California Secure Choice Retirement Savings Program, as specified. The bill would require eligible employees to participate in the program, unless the employee opts out of the program, as specified. The bill would specify risk management and investment policies that the board would be subject to regarding administration of the program. The bill would require a specified percentage of the annual salary or wages of an eligible employee participating in the program to be deposited in the California Secure Choice Retirement Savings Trust, which would be segregated into a program fund and an administrative fund, both of which would be

continuously appropriated to the board for purposes of the act. The bill would limit expenditures from the administrative fund, as specified. The bill would also authorize the board to establish a Gain and Loss Reserve Account within the program fund. The bill, upon sufficient funds being made available through a nonprofit or private entity or federal funding, would require the board to conduct a market analysis to determine whether the necessary conditions for implementation can be met, as specified. The bill would require moneys made available to conduct the market analysis to be deposited in the Secure Choice Retirement Savings Program Fund which would be created in the State Treasury. The bill would provide that the operational provisions of the California Secure Choice Retirement Savings Trust Act shall be operative only if the board determines that, based on the market analysis, the provisions will be self-sustaining, and sufficient funds are made available through a nonprofit or private entity, federal funding, or the annual Budget Act, as specified, to allow the board to implement the program until the trust has sufficient funds to be self-sustaining. The bill would require the board to ensure that an insurance, annuity, or other funding mechanism is in place at all times that protects the value of individuals' accounts and protects, indemnifies, and holds the state harmless at all times against any and all liability in connection with funding retirement benefits pursuant to these provisions. The bill would prohibit the board from implementing the program if the IRA arrangements offered fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the Internal Revenue Code, or if it is determined that the program is an employee benefit plan under the federal Employee Retirement Income Security Act of 1974.

Status: Chapter # 734, Statutes of 2012.

SB 1255 Wright Employee Compensation: Itemized Statements

Existing law requires every employer to provide each employee with an accurate itemized statement showing specified information including. The law also provides that an employee suffering injury as a result of an employer's intentional failure to meet this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding \$4,000, as well as an award of costs and reasonable attorney's fees. This bill specifies the conditions under which an employee is deemed to suffer injury, which includes the employer's failure to provide a wage statement, or a wage statement that contains the name of the employee, the last four digits of his social security number or employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive date of the payment period, and the name and address of the employer.

Status: Chapter # 843, Statutes of 2012.

SB 1370 Berryhill Prevailing Wages: Public Works: Director: Code List

This bill would require the Director of Industrial Relations to publish a list of every California code section and its language that relate to the prevailing wage rate requirement for public work employees on the Department of Industrial Relations website by June 1, 2013. The list must be updated by February 1 of each year thereafter.

Status: Chapter # 280, Statutes of 2012.

This bill aims to promote the development of a well-educated and highly skilled 21st century economy and workforce. It would expand the duties of the California Workforce Investment Board so that, in addition to assisting the Governor in the development, oversight and improvement of California's workforce investment system, the board will also be responsible for assisting the Governor in the alignment of education and workforce investment systems to the needs of the 21st century economy and workforce. It requires the board to assist the Governor in ensuring that resources are invested in activities that meet the needs of specified industry sectors as well as advance the education and employment of students and workers to meet California's needs. This bill also calls for the board to include a California Industry Sector Initiative as part of the strategic workforce plan currently required by the law. The initiative will accomplish several tasks including, but not limited to, aligning the leveraging federal, state, and local Workforce Investment Act funding streams, identifying specific industry sectors and clusters, provide skills-gap analysis, and establishing specified eligibility criteria for the Workforce Investment Act eligible for training provider list.

Status: Held under submission, Senate Appropriations Committee.

Veto Messages

AB 101 J. Perez

I am returning Assembly Bill 101 without my signature.

Maintaining the quality and affordability of childcare is a very important goal. So too is making sure that working conditions are decent and fair for those who take care of our children. Balancing these objectives, however, as this bill attempts to do, is not easy or free from dispute.

Today California, like the nation itself, is facing huge budget challenges. Given that reality, I am reluctant to embark on a program of this magnitude and potential cost.

Edmund G. Brown Jr.

AB 217 Carter

I am returning Assembly Bill 217 without my signature.

This bill seeks to eliminate one of several statutory exceptions to the general prohibition on indoor smoking in the workplace. Specifically, AB 217 would ban all indoor smoking, and also restrict outdoor smoking, at nursing homes and similar facilities.

While health and safety considerations must prevail, to the extent a resident's preferences can be accommodated, they should. Allowing an elderly resident, who can't go home and who has smoked for a lifetime, to smoke in a designated indoor area during inclement weather - this sounds reasonable to me. Let's rely on the locals, in this case the facility and its residents and employees, to figure out which accommodations work or don't work.

Edmund G. Brown Jr.

AB 267 Swanson

I am returning Assembly Bill 267 without my signature.

This measure would prohibit employment contracts that require California employees to agree to the use of legal forums and laws of other states.

Current law prohibits California employees from being subjected to laws or forums that substantially diminish their rights under our laws and I have not seen convincing evidence that these protections are insufficient to protect employees in California.

Finally, I would note that imposing this burden could deter out of state companies from hiring Californians - something we can ill afford at this time of high unemployment.

Edmund G. Brown Jr.

AB 325 B. Lowenthal

I am returning Assembly Bill 325 without my signature.

Granting bereavement leave when a close family member dies is the moral and decent thing to do and I believe that the vast majority of employers voluntarily make such an accommodation for the loss of a loved one.

I am also concerned that this measure adds a more far reaching private right to sue than is contained in related statutes.

Edmund G. Brown Jr.

AB 889 Ammiano

I am returning Assembly Bill 889 without my signature.

Domestic workers work in the homes of ill, elderly or disabled people. They often share duties and responsibilities with the family and friends of the patient-employer. Those employed in this noble endeavor, like anyone who works for a living, deserve fair pay and safe working conditions. Seeking to improve the circumstances of these workers however, raises a number of unanswered questions.

What will be the economic and human impact on the disabled or elderly person and their family of requiring overtime, rest and meal periods for attendants who provide 24 hour care? What would be the additional costs and what is the financial capacity of those taking care of loved ones in the last years of life? Will it increase costs to the point of forcing people out of their homes and into licensed institutions?

Will there be fewer jobs for domestic workers? Will the available jobs be for fewer hours? Will they be less flexible?

What will be the impact of the looming federal policies in this area? How would the state actually enforce the new work rules in the privacy of people's homes?

The bill calls for these questions to be studied by the state Department of Industrial Relations and for the department to simultaneously issue new regulations to provide overtime, meal, rest break and sleep periods for domestic workers. In the face of consequences both unknown and unintended, I find it more prudent to do the studies before considering an untested legal regime for those that work in our homes.

Finally, a drafting error leaves most In Home Supportive Service (IHSS) workers subject to this measure - resulting in costs to the state of over \$200 million per year. This could require cuts in wages, reduced hours of care and other reductions to those served by IHSS workers.

Edmund G. Brown Jr.

AB 1450 Allen

I am returning Assembly Bill 1450 without my signature.

This measure seeks to prevent discrimination against the unemployed based on their job status by prohibiting employers from stating in employment ads that applicants must be employed. Unfortunately, as this measure went through the legislative process it was changed in a way that could lead to unnecessary confusion.

Edmund G. Brown Jr.

AB 2346 Butler

I am returning Assembly Bill 2346 without my signature.

California's current outdoor heat standards are the most stringent in the nation, and compliance with them has been improving each year-from a low of 32% in 2006 to more than 80% in 2012.

I am convinced that these standards should be improved, but this bill is flawed: it would create through legislation a new enforcement structure that would single out agricultural employers and burden the courts with private lawsuits. I believe the regulatory process is more flexible and the better way to improve standards for farm workers.

My administration stands ready to help, but ongoing litigation about past enforcement practices continues to drain resources away from improving the existing heat standards and ongoing enforcement.

Edmund G. Brown Jr.

SB 104 Steinberg

I am returning Senate Bill 104 without my signature.

In 1975, it was my privilege to sign into law our nation's first agricultural labor relations act, the "ALRA." This monumental achievement came only after a decade of intense conflict and violence in the fields.

The movement created by the United Farm Workers provided the political basis for the legislative process that made the ALRA possible. In previous years, all attempts at passing a farm labor bill had failed, caught in the cross pressures generated by the profound differences that divided the Teamsters, the growers and the UFW. The final bill was not the product of one side but a hard fought compromise. It came after months of meetings and the participation of literally thousands of people. I personally spent hundreds of hours-often late into the night-listening and arguing with lawyers and representatives of all the sides.

Thirty-six years later, the ALRA is still recognized as the best labor relations act in the country. Under its protections, tens of thousands of agricultural workers have voted for unionization or otherwise expressed their choice as to how their interests should be advanced.

Yet, the disputes never quite stopped and today there are serious complaints that workers are deprived of their rights through a variety of unfair, improper and illegal acts. The proponents of SB 104 argue that the ALRA no longer works and must be drastically changed.

SB 104 is indeed a drastic change and I appreciate the frustrations that have given rise to it. But, I am not yet convinced that the far reaching proposals of this bill--which alter in a significant way the guiding assumptions of the ALRA-are justified. Before restructuring California's carefully crafted agricultural labor law, it is only right that the legislature consider legal provisions that more faithfully track its original framework. The process should include all those who are affected by the ALRA.

I am deeply committed to the success of the ALRA and stand ready to engage in whatever discussions-public and private-that will accomplish the appropriate changes.

As at the beginning, all parties must be heard and, before any product emerges, a wide array of opinions and experiences should be fairly considered. Besides being personally involved, I will direct my Labor and Agricultural Secretaries to reach out to all those who can help us achieve a fair and just result.

Edmund G. Brown Jr.

SB 931 Evans

I am returning Senate Bill 931 without my signature.

Pay cards provide workers without bank accounts a way of avoiding high check cashing fees. They are now used by thousands of California employees and employers. This bill seeks to contain costs for workers who choose to accept pay cards, a goal with which I agree.

Unfortunately, this bill goes too far. It would impose numerous and costly new requirements on pay card providers. A likely result of these mandates is that banks and employers may simply stop offering this service, injuring the very workers this bill aims to protect.

I strongly believe that reasonable protections are needed for those who use pay cards. I will work with the bill's proponents and the financial institutions to forge a better solution that I can sign into law.

Edmund G. Brown Jr.