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Headline Summary

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- New Temporary Disability Rates
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New Temporary Disability Rates

California's Division of Workers' Compensation (DWC) announced that the minimum and maximum temporary total disability (TTD) rates will increase on January 1, 2017:

- The minimum TTD rate will increase to \$175.88 (from \$169.26); and
- The maximum TTD rate will increase to \$1,128.43 per week (from \$1,128.43 per week).

California Labor Code section 4453(a) (10) requires the rate for TTD be increased by an amount equal to the percentage increase in the State Average Weekly Wage (SAWW) as compared to the prior year.

In the 12 months ending March 31, 2016, the SAWW increased to \$1,164.51 (from \$1,120.67)—an increase of just under 3.912 percent.

WatchDog

Guarding the Business of Print

July 2016

San Diego Minimum Wage

The June 7th primary election saw that Proposition I, the referendum on the City of San Diego Minimum Wage Increase, unanimously passed. The actual title of the ordinance better describes the reach of the ordinance: Earned Sick Leave-Minimum Wage Ordinance.

In 2014, the San Diego City Council voted to approve the minimum wage increase ordinance, which was originally proposed as a ballot measure for voters to decide. After approval by the city council, the bill was vetoed by Mayor Kevin Faulconer. The city council, however, voted to override the mayor's veto. Thus the ordinance was again law. Thereupon, a citizens group gathered signature to put a [popular] referendum on the minimum wage increase before voters. That's how we got to the June 7th ballot vote.

The "yes" vote was a vote in favor of approving the city council's minimum wage increase/sick leave ordinance, thereby incrementally increasing the city's minimum wage to \$11.50 per hour by January 2017. The "no" vote was a vote against the minimum wage increase. The "yes" vote won handily (63% yes, 37% no).

The ordinance set wages to increase according to the following schedule:

- \$10.50 per hour as early as July 11th of this year (this will make San Diego's rate higher than the current \$10.00 per hour state rate).
- \$11.50 per hour on January 1, 2017
- The rate is attached to inflation beginning on January 1, 2019.

Perhaps more confusing will be the second part of the ordinance: paid sick leave component. The San Diego measure differs, in some respects, from state law. For each provision or allowance, San Diego employers will need to provide whichever is more generous to the employer. To illustrate, under state law, the employer can limit the amount of paid sick leave a year to three days or 24 hours, no matter how much sick leave the employee accrues. In contrast, the San Diego ordinance is more liberal, and employers must allow up to five days or 40 hours of accrued paid sick leave a year.

Questions come to mind with this measure. For the employer, is it better, perhaps easier would be a better statement, to employ an accrual basis—one hour for every 30 hours worked until the employee reached an accrued 40 hours paid sick leave? The employee would max out at 1200 hours worked. As an alternative, the employer may simply give 40 hours paid sick leave up front as soon as the employee reaches the 90-day waiting period of work.

What is unclear about the rule is this statement, "accrual cannot be capped and unused leave must be carried over." We read that to mean that if the employee doesn't use the 40 hours or five days in a year, the employee can carry them over to the next year. However, in the so-called next year, the employer can cap the use in that second year to 40 hours or five days. And so on through the years.

SCAQMD Activity

SB 1387 (Majority Leader Kevin de Leon). This bill does two things: it passes authority from the South Coast Air District (SCAQMD) to the California Air Resources Board to amend, change or reject rules adopted by the SCAQMD as not strict enough and expands the SCAQMD Board from 13 to 16 members. The three new members, from environmental justice organizations, would be appointed by the Assembly Speaker, Senate Majority leader and Governor, and give each a second appointee on the Executive Board.

PIC has been involved in defeating this onerous bill. On June 14th, we testified before the San Bernardino Board of Supervisors urging it to send a letter in opposition to the bill. We're happy to say the Board voted 5-0 to send a letter of opposition. We had communications with the Riverside and Orange County Board of Supervisors to submit a letter in opposition, which they voted to do so.

Passage of this bill would be a disaster for business in the SCAQMD jurisdiction since it would give oversight to Sacramento and stack the board with environmental advocates.

Printed Proofs

There seems to be some confusion among State Board of Equalization (BOE) auditors about the basis for taxing printed (hard) proofs. For decades, the printing industry has treated printed proofs in one of two ways: if the printer, designer, or prepress house (retailer) takes the position that it owns the proofs and maintains possession of the proof, then it will pay tax on the raw material to make the proof and that is the extent of tax liability. However, if the printer maintains or gives the proof to the client, then the proof is taxable since it is considered the sales of tangible personal property.

The issue centers on the value of the proof when given (sold) to the client. Some board auditors contend that it's the invoiced amount of the job when the job is electronically transferred to the client or the job is sold on resale. (cont.)

Printed Proofs (cont.)

The industry has always taken the position that the value of the proof is the estimated cost of material for the proof plus whatever cost the charges to retrieve and print the proof.

We have submitted a lengthy letter outlining how the industry and BOE have addressed this issue and asked for a letter of clarification reaffirming our position.

Los Angeles City Minimum Wage

The City of Los Angeles recently enacted an ordinance that will increase the local minimum wage to \$10.50 an hour for employers with 26 or more employees beginning July 1, 2016. For those employers with less than 26 employees, the hike begins next year. Below is the wage schedule through 2021.

Effective Date	Employers with 26 or more Employees	Employers with 25 or fewer Employees
7/1/2016	\$10.50	10.00 (State Minimum Wage)
7/1/2017	\$12.00	\$10.50
7/1/2018	\$13.25	\$13.25
7/1/2019	\$14.25	\$13.25
7/1/2020	\$15.00	\$14.25
7/1/2021	\$15.00	\$15.00

The City of Los Angeles ordinance contains notice and posting which can be found at <http://wagesla.lacity.org/>.

Workplace Smoking Ban

For many years, California has limited smoking in the workplace to limited, designated areas. Recently, Governor Brown signed a number of bills that expands the already smoke free workplace protection. The bills are as follows:

- ABX2-7 - Assemblymember Mark Stone (D-Scotts Valley) – Smoking in the workplace.
- SBX2-5 - Senator Mark Leno (D-San Francisco) – Electronic cigarettes.
- SBX2-7 - Senator Ed Hernandez (D-Azusa) – Tobacco products: minimum legal age

The bills address the following, among other, items:

- Treats the use of e-cigarettes and other nicotine-delivery devices, such as vaporizers, as “smoking” — thus extending existing smoking bans to cover such products.
- Expands smoke-free workplace protections by getting rid of most of the existing exemptions that permitted smoking in certain work environments, such as bars, hotel lobbies and warehouse facilities.
- Eliminates the ability to have employer-designated smoking break rooms.
- Expands the workplace smoking ban to include owner-operated businesses and to eliminate any small business exception for employers with five or fewer employees.
- Raises the legal smoking age from 18 to 21, except for active military personnel.

Employers will want to review existing workplace smoking policies and practices to ensure compliance with the new laws.