



Member Associations of

PRINTING INDUSTRIES OF CALIFORNIA

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Headline Summary

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LA County Tax Hike

Effective July 1, 2017, Los Angeles County's tax rate increases by 0.50 percent. The increase was approved by voters in November 2016 (Measure M) and applies to the county of Los Angeles, including all cities and unincorporated areas within the county.

To find the correct tax rate for your area or business location, visit www.boe.ca.gov and click the *Find a SALES TAX RATE by Address* button.

At this time, the California State Board of Equalization (BOE) will not be administering Los Angeles County's Measure H, Sales Tax for Homeless Services and Prevention, which was approved by voters on March 7, 2017. The BOE may implement Measure H at a later date pending legislative approval.

WatchDog

Guarding the Business of Print

June 2017

Waste Disposal Problem

California companies, including printers, have heard from the South Carolina Department of Health and Environmental Control (the Department) who have been identified with the contamination of Philip Services Corporation site in that state. Those receiving letters are considered "potentially responsible parties."

The site is a former treatment, storage, and disposal facility that operated from 1966 until 2003. Studies identified extensive areas of soil and groundwater contamination which require remedial action.

Companies that have received notice are encouraged to participate in formal negotiations with the Department through a Potentially Responsible Part Group (PRP). This PRP group has performed several functions—especially a group negotiated settlement to conduct or finance cleanup of this site.

If you have received a notice from the Department, do not ignore it. Moreover, call your local affiliate to let us know if you have been contacted as a potentially responsible party.

Non-Compete Agreements

We periodically get a request from a member looking for language for a non-compete agreement for either their employee handbook or an employee who is leaving the company. However, in California non-compete agreements are unenforceable.

California Business and Professions Code Section 16600 provides that "every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void." Therefore, Section 16600 invalidates provisions in employment contracts or noncompetition agreements that prohibit an employee from working for a competitor after completion of his/her employment or imposing a penalty for doing so.

The California Supreme Court has repeatedly confirmed that non-compete agreements are unenforceable in California. Agreements that restrict an employee's ability to pursue similar employment after leaving a job are prohibited, even if they are narrowly written and leave a substantial portion of the available employment market open to the employee.

There are, however, a few exceptions to the non-compete agreements being unenforceable: the protection of trade secrets; the sale of a business, which can legally restrict the seller's ability to compete in a specific geographic area; or the dissolution of a partnership, which can legally define a geographical area in which one partner cannot conduct similar business.

Single-Payer Health Care

SB 562 would create a universal, single-payer health care system in California. There are numerous uncertainties about how enrollees, providers, employers, and the state would adapt to such a system.

The projected costs and revenue needs for the proposed Program are as follows.

- Total annual costs of about \$400 billion per year, including all covered health care services and administrative costs, at full enrollment.
- Existing federal, state, and local funding of about \$200 billion could be available to offset a portion of the total program cost.
- About \$200 billion in additional tax revenues would be needed to pay for the remainder of the total program cost. Assuming that this cost was raised through a new payroll tax (with no cap on wages subject to the tax), the additional payroll tax rate would be about 15% of earned income.

Although precise estimates of total spending for employer sponsored health insurance are not available, the best available information indicates that existing spending is between \$100 and \$150 billion per year.

SCAQMD News

The South Coast Air Quality Management District (the District) is updating its Best Available Control Technology Guidelines for flexographic printing. PIC has been involved in the process, setting up visits for District staff, gathering safety data sheets, and providing written comments on draft amendments.

The District has agreed to incorporate UV/EB and water-based ink in the document along with the current cleanup solvent limits for flexographic ink in Rule 1171. This gives the printer who installs new equipment or relocated the flexibility to use solvent, UV/EB, and water-based ink and current cleanup solvent limits.

More on Sick Leave

The City of San Diego and the California Department of Labor Standards Enforcement ("DLSE") have updated their "Frequently Asked Questions" ("FAQs") related to the respective local and state sick leave requirements. Below are the more prominent points from each.

San Diego Earned Sick Leave

Similar to the City of Los Angeles' recent changes, the City of San Diego updated its FAQs related to the City's earned sick leave ordinance as applied to employees who are "salaried" and not "entitled to payment of minimum wage" by stating that they are not entitled to earned sick leave under the ordinance.

Presumably, such employees may include those who are so-called exempt "white collar" employees. Regardless of coverage under the San Diego ordinance, employers still must comply with state law, which mandates provision of sick leave to nearly all employees. For more information, see <https://www.sandiego.gov/treasurer/minimum-wage-program>.

California State Paid Sick Leave

The DLSE issued additional FAQs regarding the state law. Specifically, these updated FAQs address questions regarding "grandfathered" paid time off policies (or PTO plans in effect prior to January 1, 2015), rates of pay, and the impact of state law on employer attendance policies.

Grandfathered Plans

The FAQs elaborate on how a "grandfathered" PTO plan will comply with state law. These further criteria include:

- (1) the existing policy or plan makes an amount of paid leave available that could be used for at least as many paid sick days as required under state law; and
- (2) that satisfies one of the following criteria: (a) the time off may be used under the same or more favorable conditions as specified under state law; or (b) that the plan contains more favorable conditions to employees than required under state law (e.g., provides more sick days or a more favorable accrual rate, etc.).

Rate of Pay

The FAQs confirm that the state law does not impact how employers must compensate employees under existing PTO plans for time that is taken off for purposes other than paid sick leave, e.g., vacation, etc.

For more information, see http://www.dir.ca.gov/dlse/paid_sick_leave.htm.

On-Duty Rest Periods

The California Supreme Court recently ruled that on-call rest periods are not permissible. The decision will require many California employers to re-examine their rest-break policies and practices.

The Court concluded that, "state law prohibits on-duty and on-call rest periods. During required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time." The 10-minute rest break must be uninterrupted. "The rest period, in short, must be a period of rest."

Thus an employer cannot meet its rest-period obligations by requiring employees to remain on-call. The Court noted, however, that its ruling does not prevent employers from being able to reasonably reschedule a rest period when the need arises — although such circumstances should be "the exception rather than the rule."