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Headline Summary

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On Call Rest Breaks

The California Supreme Court in *Jennifer Augustus et al. v. ABM Security Services, Inc.* dealt with two issues related to employee rest breaks: 1) whether employers are required to permit their employees to take off-duty rest periods, and 2) whether employers may require their employees to remain “on call” during rest periods.

The important question was whether an employer could satisfy its obligation to provide an off-duty rest period while still requiring its employees to remain on call. The answer was no.

The Court found these obligations irreconcilable with an employee’s ability to use their rest break for their own purposes.

WatchDog

Guarding the Business of Print

March 2017

Legislative Activity

The 2017 California Legislative Session, which began last December 5, is officially “off to the races” now that the bill introduction deadline of February 17 has passed. This year, there was an almost 25% increase in the number of bill introductions compared to last year’s total, and there are more bills introduced in the first year than in the second year of the 2-year Legislative Session. Below are a number of bill introductions each year for the past five years:

Total 2017 bill introductions as of the deadline: 2,495
Total 2016 bill introductions as of the deadline: 1,993
Total 2015 bill introductions as of the deadline: 2,297
Total 2014 bill introductions as of the deadline: 1,930
Total 2013 bill introductions as of the deadline: 2,256

Source: Chris Micheli, *Fox and Hounds*, February 21st, 2017

California Health Care

California lawmakers have introduced legislation (SB 562) to replace private medical insurance with a government health care system covering all 38 million Californians — including its undocumented residents.

The Healthy California Act, co-authored by State Senators Ricardo Lara (D-Bell Gardens) and Toni Atkins (D-San Diego), doesn’t yet offer many specifics other than the lawmakers’ intent: to create a so-called single-payer system that would pay for coverage for everyone.

Proponents argue that single-payer systems make health care more affordable and efficient because they eliminate the need for reams of paperwork, but opponents say they raise taxpayer costs and give the government too much power.

Colorado voters overwhelmingly rejected a similar proposal last fall amid widespread concerns about the cost. Perhaps the best-known effort to create a single-payer plan was in Vermont, but it failed in 2014 after the state couldn’t figure out how to finance it.

The California Nurses Association is backing SB 562, which insurers will no doubt lobby heavily to kill.

One big issue is that the state relies on about \$22 billion in federal funding annually to cover private insurance subsidies linked to plans purchased through the state’s health insurance exchange. It also pays for a provision of the law that greatly expanded Medicaid — a health care program for the poor (called Medi-Cal in this state) that is paid for by states and the federal government — to include adults without dependent children. What would happen to those funds is unclear.

Ban the Box

With passage of the "Ban-the-Box" Ordinance ("Fair Chance Initiative for Hiring"), the City of Los Angeles has joined a growing list of municipalities extending similar limitations to private employers. The law went into effect on January 22, 2017.

The law applies to employers in the City of Los Angeles with 10 or more employees. During the initial stages of the application process, employers may not inquire into an applicant's criminal background, nor can the employer independently seek information about the applicant's criminal background, either on its own or through third parties.

Once an employer gives the applicant a conditional offer of employment, the employer is free to inquire into the applicant's criminal history.

An employer, however, cannot automatically disqualify an applicant with a criminal history. Instead, the employer must perform a written assessment that links the applicant's criminal history with risks inherent to the duties and responsibilities of the job. And prior to withdrawal of a conditional offer of employment, the employer must provide the applicant at least 5 days to respond to the accuracy of a criminal history. The employer must consider any information and documentation provided and then perform a written "reassessment" before it can take any adverse action against the applicant.

Finally, employers must post a notice about the provisions of the law in a conspicuous location where applicants may visit. The poster can be found at <http://bit.ly/LAFairChanceNotice>.

Sales Tax Rate Changes

California Sales and Use tax rates will change throughout the state beginning April 1, 2017.

Although the list is too lengthy to publish in *Watchdog*, you can download it from the Graphic Arts Resource Center at the following URL: <http://bit.ly/2017SalesTaxRateChanges>.

Labor and Employment Bills

With the 2017 legislative session under way, here are five key proposals related to labor and employment that will get serious consideration this year. PIC will be tracking and taking a position on each proposed measure.

AB 168 (Eggman) – Salary History Information – Prohibits an employer from seeking salary history information about an applicant for employment. This bill also requires an employer, upon reasonable request, to provide the pay scale for a position to an applicant for employment. Previous legislative efforts in this regard have not been successful.

1008 (McCarty) – "Ban the Box" – This bill would enact a statewide version of the "ban-the-box" ordinance recently adopted in Los Angeles.

AB 353 (Voepel) – Veterans' Preference – Hiring Policy – Authorizes a private employer to establish and maintain a written veterans' preference employment policy to give a voluntary preference for hiring or retaining a veteran. The granting of such a preference, in and of itself, shall not be deemed to violate local or state employment discrimination laws.

AB 442 (Frazier) – OSHA Liability: Small Businesses and Micro Businesses – Prohibits Cal/OSHA from commencing an enforcement action for any non-serious violation where the employer is a small business (100 or fewer employees with \$10 million or less in gross receipts) or a micro business (25 or fewer employees with \$2.5 million or less in gross receipts), without first giving the employer written notice and 30 days to correct the violation.

SB 63 (Jackson) – New Parent Leave – This bill would provide up to 12 weeks of job-protected family leave to bond with a new child for employees that work for employers with 20 or more employees (as opposed to CFRA, which applies to employers with 50 or more employees).

California Minimum Wage

There seems to be some confusion about minimum wage increases under California between 2017 and 2023. As of January 1, 2017, the State minimum wage increased to \$10.50 per hour for employers with 26 or more employees. The minimum wage remains at \$10.00 per hour for employers with 25 or fewer employees.

Below is the minimum wage scheduled on January 1 each year until 2023:

Date	Employers with 25 Employees or Fewer	Employers with 26 Employees or More
2017	\$10.00/hour	\$10.50/hour
2018	\$10.50/hour	\$11.00/hour
2019	\$11.00/hour	\$12.00/hour
2020	\$12.00/hour	\$13.00/hour
2021	\$13.00/hour	\$14.00/hour
2022	\$14.00/hour	\$15.00/hour
2023	\$15.00/hour	

Although the federal minimum wage is \$7.25, California's minimum wage is higher and controls the California workplace unless there is a higher minimum stated by other law. Employees working in some California cities and counties may be entitled to higher rates based upon local ordinances.

You can find a matrix of California state and local minimum wage rates at pic.gov.org under the Human Resource link.

