

A Dozen Major Employment Law Bills Wind Through the California Legislature

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The California State Senate and Assembly have been busy this year, moving a number of employment law bills through the legislative process. May 31, 2019, was the deadline for either the assembly or the senate to pass a bill and send it to the other house. A few employment-related bills failed to advance, but there are still a dozen major bills marching forward.

The following employment law bills of considerable significance have passed and are now pending in the second house. September 13, 2019, is the deadline for these bills to pass in the second house, and then the governor has until October 13, 2019, to sign or veto the bills.

AB 5: Independent Contractor Status

[California Assembly Bill \(AB\) 5](#) seeks to codify a 2018 independent contractor decision out of the Supreme Court of California, which established the “ABC” test. Under this bill, the [“ABC” test](#) would be added to the California Labor Code and the

Unemployment Insurance Code. A few industries have lobbied for exclusions, and the bill would exclude specified occupations, including certain insurance agents, medical doctors, investment advisors, real estate agents, licensed hairstylists and barbers, direct sales salespersons, and licensed professionals in the professions of law, dentistry, architecture, engineering, accounting, marketing, and human resources.

Status: Passed in assembly, pending in senate committee

AB 9: Extension of FEHA Statute of Limitations

AB 9 proposes to extend the statute of limitations from one year to three years for all Fair Employment and Housing Act (FEHA) discrimination, harassment, and retaliation claims.

Status: Passed in assembly, pending in senate committee

AB 25: Exclusion of Certain Employer Data From California Consumer Privacy Act

[The California Consumer Privacy Act of 2018 \(CCPA\)](#), which will go into effect on January 1, 2020, “grants consumers various rights with regard to their personal information held by businesses, including the right to request a business to disclose specific pieces of personal information it has collected and to have information held by that business deleted.” Employers have been uncertain as to whether the CCPA applies to employment data. This bill would exclude certain employment data. Specifically, it would exclude from the definition of “consumer” a “natural person whose personal information has been collected by a business in the course of a person acting as a job applicant to, an employee of, a contractor of, or an agent on behalf of, the business, to the extent the person’s personal information is collected and used solely for purposes compatible with the context of that person’s role as a job applicant, employee, contractor, or agent of the business.”

Status: Passed in assembly, pending in senate committee

AB 51: Prohibition of Arbitration Agreements

Apparently in reaction to a recent decision by the Supreme Court of the United States buttressing the right to compel arbitration of employment disputes, this bill seeks to prohibit employers from requiring that employees enter into agreements as a condition of employment, where the agreements cover California Labor Code claims or FEHA claims. Governor Jerry Brown vetoed a similar bill last year, stating that it violates federal law.

Status: Passed in assembly, pending in senate committee

AB 170: Labor Contractor Joint Liability for Workplace Harassment

AB 170 proposes to impose joint employer liability on companies that hire a labor

contractor for employee harassment claims made against the labor contractor pursuant to FEHA.

Status: Passed in assembly, pending in senate committee

AB 403: Extended Statute of Limitations for Labor Code Retaliation

AB 403 would extend the statute of limitations for pursuing a California Labor Code Section 98.7 agency claim for retaliation from six months to two years. The bill also seeks to add an attorney fee provision to California Labor Code Section 1102.5, which is another anti-retaliation section found in the labor code.

Status: Passed in assembly, pending in senate committee

AB 547: Expansion of Janitorial Workers Training Requirements

AB 547 proposes to impose additional registration, enforcement, and training requirements on the janitorial industry.

Status: Passed in assembly, pending in senate committee

AB 673: Expansion of Labor Code Penalties

This bill proposes to give employees the right to collect statutory penalties for the failure to pay wages, either in a labor agency administrative claim or in civil court.

Status: Passed in assembly, pending in senate committee

AB 1478: Private Cause of Action for Violation of Certain Leave Rights

California employees may take time off related to jury duty; being a victim of certain crimes; and being a victim of domestic violence, sexual assault, or stalking, as specified in California Labor Code Section 230. Currently, employees have the right to file a complaint with the state labor agency. This bill would grant such employees the right to file a private civil action against their employer.

Status: Passed in assembly, pending in senate committee

SB 142: Lactation Accommodation

Senate Bill (SB) 142 seeks to expand existing law relating to lactation accommodation in the workplace. [The bill proposes](#) to require the California Building Standards Commission to develop and propose for adoption new building code requirements related to lactation rooms, using the [San Francisco ordinance](#) as a model. The proposed legislation also adds a number of new location standards, employer policy requirements, and document retention obligations, as well as additional California Labor Code penalties.

Status: Passed in senate, pending in assembly committee

SB 171: Disclosure of Pay Equity Data

With the deadline for [federal EEO-1 pay data reporting](#) obligations looming, the California legislature is seeking to impose similar requirements at the state level. This bill “would require, on or before March 31, 2021 and on or before March 31 each year thereafter, a private employer that has 100 or more employees and who is required to file an annual Employer Information Report under federal law, to submit a pay data report to the Department of Fair Employment and Housing that contains specified wage information.” Employers would be required to submit a report breaking all employees into 10 general job classifications and disclosing the number of employees by race, ethnicity, and sex who fall into pay bands set by the U. S. Bureau of Labor Statistics.

Status: Passed in senate, pending assignment to assembly committee

SB 688: Unpaid Wages

This bill proposes to amend California Labor Code Section 1197.1, which currently permits the labor commissioner to issue a citation where an employer has failed to pay at least the minimum wage. The bill proposes to expand the power to issue a citation to instances where the employer has contractually promised to pay more than minimum wage but has failed to pay the promised wage.

Status: Passed in senate, pending assignment to assembly committee

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