



San Mateo County Chamber of Commerce Alliance

January 2016 Legislative Report

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Legislative Report

- **AB 688 (Gomez – D) 1155 (Alejo – D) Disability Compensation: Paid Family Leave**
- **SB 368 (Berryhill – R) Employment: Work Hours**

2016 Ballot Measures

Legislative Report

AB 688 (Gomez – D) 1155 (Alejo – D) Disability Compensation: Paid Family Leave

Summary

1. AB 688 would amend current law which authorizes an employer to require an employee to take a certain number of weeks of earned but unused vacation before, and as a condition of, the employee's initial receipt of wage replacement benefits for workers who take time off work to care for a seriously ill family member or to bond with a minor child.

Background

2. Current law establishes within the state disability insurance program, a family temporary disability insurance program, also known as the paid family leave program, for the provision of wage replacement benefits to workers who take time off work to care for a seriously ill family member or to bond with a minor child within one year of birth or placement.
3. Current law authorizes an employer to require an employee to take up to 2 weeks of earned but unused vacation before, and as a condition of, the employee's initial receipt of these benefits during any 12-month period in which the employee is eligible for these benefits.
4. AB 688 eliminates the employer authorization and other related provisions.

Arguments in Support

5. AB 688 intent is to minimize administrative costs for the Employment Development Department (EDD).

Arguments in Opposition

6. The Calchamber argues that AB 688 which creates a conflict with the California Family Rights Act (CFRA), Family Medical Leave Act (FMLA), and the Paid Family Leave program (PFL), by eliminating an employer's right to have employees utilize accrued, but unused, paid time off before receiving wage replacement benefits under PFL.
7. Currently, an employee who takes leave under CFRA or FMLA may concurrently receive partial wage replacement benefits from PFL. CFRA, FMLA, and PFL all allow an employer to require an employee to utilize paid time off as a part of their leave. AB 688 proposes to delete this employer right for the purposes of receipt of wage replacement benefits under PFL, which will conflict with CFRA and FMLA.
8. This conflict created by AB 688 will increase employers' burden with regard to compliance with CFRA, FMLA, and PFL, as well as their costs. While we appreciate the intent of AB 688 is to minimize administrative costs for the Employment Development Department, it will directly increase the cost and burden for employers.
9. AB 688 was amended in early January 2016 and is awaiting a hearing in Assembly Insurance Committee.

Supporting

None on file at this time.

Opposing

California Chamber of Commerce

Summary

1. SB 368 would enact the Workplace Flexibility Act of 2016 and permits an individual nonexempt employee to request an employee-selected flexible work schedule providing for workdays up to a specified number of hours per day within a standard workweek.

Background

2. SB 368 would also allow the employer to implement the schedule without the obligation to pay overtime for additional hours in a workday.
3. SB 368 prescribes a method for calculating overtime hours and provides an exemption for employees covered by collective bargaining and public employees.
4. Current law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek and requires payment of prescribed overtime compensation for additional hours worked.
5. Current law authorizes the adoption by 2/3 of employees in a work unit of alternative workweek schedules providing for workdays no longer than 10 hours within a 40-hour workweek.
6. Various versions of SB 368 have been introduced over the years. SB 368 is awaiting a hearing in the Senate Labor and Industrial Relations Committee.

Arguments in Support

7. Calchamber argues that California is one of only three states that requires employers to pay daily overtime after eight hours of work and weekly overtime after 40 hours of work. Even the other two states that impose daily overtime requirements allow the employer and employee to essentially waive the daily eight-hour overtime requirement through a written agreement. California, however, provides no such common sense alternative.
8. Rather, California requires employers to navigate through a multi-step process to have employees elect an alternative workweek schedule that once adopted must be “regularly” scheduled. This process is filled with potential traps for costly litigation, as one misstep may render the entire alternative workweek schedule invalid and leave the employer on the hook for claims of unpaid overtime wages.

Arguments in Opposition

9. Currently, none on file.

Supporting

California Chamber of Commerce

Opposing

None on file.

2016 Ballot Measures

The following is a list of statewide measures that have qualified for the ballot. An eligible initiative measure is one in which the required number of signatures have been submitted to and verified by the county elections officials. Eligible initiatives will become qualified for the ballot on the 131st day prior to the next Statewide General Election unless withdrawn by the proponents prior to its qualification by the Secretary of State. In future Legislative Reports, full summary and background will be provided.

June 2016 Statewide Ballot Measures

1. SCA 17 (Resolution Chapter 127, Statutes of 2014), Steinberg. Members of the Legislature: suspension.

Summary

This ballot measure would specify when suspending a Member of either house of the Legislature, a motion or resolution to that effect shall be adopted by a vote of the majority of the membership of the house. Prohibits a suspended Member from exercising any rights, privileges, duties, or powers of his or her office, or any resources of the Legislature, while under suspension. Requires that same vote to remove the suspension. Authorizes the forfeiture of salary and benefits as well.

November 2016 Statewide Ballot Measures

2. Referendum to Overturn Ban on Single-Use Plastic Bags.

Summary

Current law prohibits grocery and certain other retail stores from providing single-use bags but permits sale of recycled paper bags and reusable bags. This ballot measure would overturn current law (SB 270) which was passed last legislative session, and would overturn the ban on single-use plastic bags.

3. SB 1174 (Chapter 753, Statutes of 2014), Lara. English language education.

Summary

This ballot measure amends and repeals provisions of Proposition 227 (1998). Deletes the sheltered English immersion and waiver provisions. Provides school districts and county offices of education shall provide English learners with a structured English immersion program. Authorizes parents and legal guardians to choose a program that best suits their child. Requires parent and community input in establishing language acquisition programs. Deletes provisions regarding liability for fees and actual damages for non-implementation.

4. State Fees on Hospitals. Federal Medi-Cal Matching Funds.

Summary

Increases required vote to two-thirds for the Legislature to amend a certain existing law that imposes fees on hospitals (for purpose of obtaining federal Medi-Cal matching funds) and that directs those fees and federal matching funds to hospital-provided Medi-Cal health care services, to uncompensated care provided by hospitals to uninsured patients, and to children's health coverage. Eliminates law's ending date. Declares that law's fee proceeds shall not be considered revenues for purposes of applying state spending limit or determining required education funding. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: State savings from increased revenues that offset state costs for children's health coverage of around \$500 million beginning in 2016-17 (half-year savings) to over \$1 billion annually by 2019-20, likely growing between 5 percent to 10 percent annually thereafter. Increased revenues to support state and local public hospitals of around \$90 million beginning in 2016-17 (half-year) to \$250 million annually by 2019-20, likely growing between 5 percent to 10 percent annually thereafter.

Circulating Initiatives with 25% of Signatures Reached

Once proponent(s) of a proposed initiative measure have gathered 25% of the number of signatures required (currently 91,740 for an initiative statute and 146,352 for a constitutional amendment) proponent(s) must immediately certify that they have done so under penalty of perjury to the Secretary of State.

Upon receipt of the certification, the Secretary of State must provide copies of the proposed initiative measure and the circulating title and summary to the Senate and the Assembly. Each house is required to assign the proposed initiative measure to its appropriate committees and hold joint public hearings, at least 131 days before the date of the election at which the measure is to be voted on. However, the Legislature cannot amend the proposed initiative measure or prevent it from appearing on the ballot. The following has reached the 25% threshold.

- **Minimum Wage. Increases and Future Adjustments. Initiative Statute.**

Summary

Under existing law, California's minimum wage will increase from \$9.00 per hour to \$10.00 per hour on January 1, 2016. This measure increases the minimum wage to \$11.00 per hour, effective January 1, 2017, and by \$1.00 each of the next four years, to \$15.00 per hour on January 1, 2021. Thereafter, adjusts the minimum wage annually based on the rate of inflation for the previous year, using the California Consumer Price Index for Urban Wage Earners and Clerical Workers. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Change in annual state and local tax revenues potentially ranging from a loss of hundreds of millions of dollars to a gain of more than \$1 billion. Changes in state revenues would affect required state budget reserves, debt payments, and funding for schools and community colleges. Increase in state and local government spending totaling billions of dollars per year.

Other Potential Statewide Ballot Measures Pending Approval

Over 30 proposed ballot measures are in various stages of the initiative process which includes signature gathering, eligible summary and title and signature approval by local county registrars and the Secretary of State. Topics of potential statewide ballot measures include but are not limited to: statewide minimum wage increase; several medical marijuana and legalization of marijuana initiatives; park fees; spousal support; and neighborhood legislatures. In future Legislative Reports full summary and background will be provide as each qualifies for the statewide ballot in 2016.