



California Association of Wheat Growers

Newsletter

December 30, 2016

**Thank you for your commitment to
the future of agriculture and our membership. State Policy
Update**



New Employer Laws for 2017

The California Department of Industrial Relations has released its 2016 Legislative Digest, which summarizes new laws that impact workers and employers.

Most of the chaptered bills are slated to take effect on Jan. 1, 2017. Highlights those new laws include:

Wage and Hour Laws

Senate Bill 3 increases the state minimum wage annually starting on Jan. 1, 2017 until it reaches \$15 per hour on Jan. 1, 2022. Employers with 25 or fewer employees have an extra year to comply with these requirements. It also provides that, starting July 1, 2018, In-Home Supportive Services workers are entitled to paid sick days.

Assembly Bill 1066 ensures California farmworkers earn overtime pay after eight hours in a day or 40 hours in a week. It creates a schedule to phase in these overtime requirements over a four-year period: from 2019 to 2022 for employers with 26 or more employees and from 2022 to 2025 for employers of 25 or fewer employees.

Workers Compensation

Senate Bill 1015 indefinitely extends the Domestic Workers Bill of Rights specifying that domestic workers earn overtime pay when they work more than nine hours in one workday or more than 45 hours in any workweek.

Access to Medical Care and Fraud Prevention

Assembly Bill 1244 and Senate Bill 1160 build upon California's workers' compensation reforms by addressing two issues: reducing treatment delays for injured workers and rooting out provider fraud and illegitimate liens. AB 1244 requires the Division of Workers' Compensation to suspend any medical provider, physician or practitioner convicted of fraud from participating in the workers' compensation system. SB 1160 expedites treatment to injured workers in the acute stage of a claim. It also mandates electronic reporting of utilization review data by claims administrators and implements measures intended to increase transparency and combat fraud in the system.

Worker Health and Safety

AB 1978 protects janitorial workers by requiring registration of employers, starting July 1, 2018, and mandating the Labor Commissioner to establish a biennial in-person sexual violence and harassment prevention training requirement.

Senate Bill 1167 mandates Cal/OSHA propose a new standard that minimizes heat-related illness and injury among workers working in indoor places by Jan. 1, 2019.

Budget Implementation

Senate Bill 836 does the following: reforms the Labor Code Private Attorneys General Act to allow greater state government and court oversight of PAGA claims and litigation. SB 836 - Amendments to the California Labor Code Private Attorneys General Act of 2004 (PAGA).

New Reforms to the PAGA Lawsuit Intended to Offer Transparency to Employer Suits

SB 836 made numerous amendments to the PAGA statute, effective June 27, 2016. Many of the amendments are procedural but ultimately increase the Labor Workforce Development Agency's (LWDA) general oversight over PAGA investigations and civil actions. Overall, it is unclear what effect these amendments will have on the frequency and settlement of PAGA actions. These amendments are more limited than the several other, more substantive amendments that were introduced but not passed by the California legislature in 2016. A summary of SB 836's amendments are set forth below:

1. The LWDA now has 60 days to review PAGA notice letters and determine if the LWDA will investigate (and 65 days to notify the parties whether the LWDA will investigate). Before SB 836, the LWDA had only 30 days to review PAGA letters (and 33 days to notify the parties whether the LWDA would investigate).
2. Alleged aggrieved employees must now wait 65 days after sending the PAGA notice letter to the LWDA (assuming that the LWDA does not send an earlier notice of its intention not to investigate, and assuming that the LWDA provides

no notice of its intention to investigate either way) before filing a PAGA complaint (i.e., exhaustion of administrative remedies). Before SB 836, employees had to wait only 33 days after sending the PAGA notice letter to the LWDA (assuming that the LWDA did not send an earlier notice of its intention not to investigate, and assuming that the LWDA provided no notice of its intention to investigate either way) before filing a PAGA complaint.

3. For PAGA notice letters filed on or after July 1, 2016, the LWDA may decide to extend its 120-day deadline to issue citations up to 180 days. Before SB 836, the LWDA still had 120 days to issue citations but had no authority to extend the deadline.
4. Within 10 days following commencement of a PAGA action, PAGA plaintiffs must now provide the LWDA with a file-stamped copy of the complaint that includes the case number assigned by the court.
5. Within 10 days following the entry of a court judgment or order awarding or denying PAGA penalties, PAGA plaintiffs must now provide such judgment or order to the LWDA.
6. There is now a \$75 filing fee for the PAGA notice letter and a \$75 filing fee for an employer response to a PAGA notice letter.
7. PAGA notice letters and cure notices must be filed with the LWDA through an online system and sent to the employer and employee via certified mail.
8. PAGA settlements must still be court-approved, but effective June 27, 2016, any proposed PAGA settlement must be submitted to the LWDA.

Federal Policy Update



Congress Returns January 3; President Obama Continues Regulatory Push

The 115th Congress opens January 3, with a newly elected GOP majority in both chambers - and one of their own set to move into the White House - and at least the political rhetoric promises an ambitious agenda. Republican leadership is keenly aware the November 8 election effectively gives the party two years to show it can enact legislation making good on its promises.

At the same time, President Obama is ignoring the calendar and the less than four weeks left in his second term, as the White House regulatory machine continues to crank out proposals and final rules tagged to the president's legacy projects

The likely first congressional item up will be an FY2017 budget resolution, a generally innocuous lawmaker move as it can be approved by each chamber on a simple majority vote and does not require a presidential signature. The reason the budget resolution is important - Congress rarely formally agrees on a budget resolution - is that it will be the legislative vehicle which carries the first language beginning the dismantling of the Affordable Care Act (ACA). The Obamacare "repeal and replace" pledge is a cornerstone of President-elect Donald Trump's White House agenda, and

this action, which will most likely begin in the Senate, will dominate the first quarter of 2017.

The Democrats have promised to resist the GOP move on Obamacare. House Minority Leader Nancy Pelosi (D, CA) sent her caucus a "dear colleague" letter urging them to join her on January 14 for a "National Day of Action" to stop ACA changes.

Next up on the congressional screen will be federal tax reform. While there is no public agreement on how "comprehensive" reform will be - both Trump and House Speaker Paul Ryan (R, WI) want to see both personal and corporate rate reductions - a one-time repatriation of U.S. corporate profits held overseas will be prove to be a major battle.

Obama's EPA continues to publish the rule which support the sitting president's priorities. At USDA, for instance, animal rights groups and others have pushed for Secretary of Agriculture Tom Vilsack to approve a proposal by the National Organic Standards Board (NOSB) that all meat and dairy certified organic must come from animals raised with what are called "the five freedoms." Advocates say these welfare standards allow for "natural" animal behavior, translating to housing that allows an animal to stand up, lie down, turn around, extend its limbs and groom itself. The challenge for Vilsack is that USDA has no legislative authority to set such standards for on-farm production.

Importat among other rulemakings will be coal mining restrictions as part of the Obama clean air plan. Senate Majority Leader Mitch McConnell has voted to force rescision of these rules once Trump takes the oath of office. Finalizing Dodd-Frank implementation continues despite similar pledges from congressional Republicans to repeal and replace much of the financial re-regulation effort that followed the 2008 economic meltdown.

EPA can Negotiate with No Formal Deadline on Nitrogen, Phosphorus Runoff Prevention

A federal court has given EPA more time to work cooperatively with farm chemical companies, farms, ranches and others to devise schemes under which nitrogen and phosphorus runoff from ag operations can be curtailed to eliminate so-called "dead zones" in waterways and the Gulf of Mexico.

A dead zone is an area where nitrogen and phosphorus concentrations cause algae blooms that can choke off oxygen in a waterway. Farms are acknowledged to be the biggest source of runoff contributing to zone development.

The federal court decision came in action brought by 11 environmental groups against EPA for not using its existing authority to impose run-off regulations. Nearly 60 agriculture and business groups filed as "interested intervenors," arguing voluntary and existing agency and producer

actions have already reduced runoff by 20%, citing a U.S. Geological Survey report showing nitrogen/phosphorus runoff has dropped 21% over the 1980-2014 average.

Quick Links...

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[California Weekly Grain and Feed Report: USDA-AMS](#)

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