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Headline Summary

- Workers' Comp Reform
- Lower Test for Tax Hikes
- Wage Lien Alternative
- On-Call Rest Periods
- Paid Sick Leave
- Manufacturing Exemption

Lower Test for Tax Hikes

The Senate and Assembly have introduced bills—ACA 4 (Frazier, D-Oakley) and SCA 5 (Hancock, D-Berkeley)—seeking constitutional changes to how local governments pass and levy special taxes for services and projects: lower the current vote threshold to approve to pass special taxes from two-thirds to fifty-five percent.

ACA and SCA measures must be passed by a two-thirds vote in the Legislature before being submitted to the election ballot and placed before voters for final approval. With a strong Democratic majority, it is possible that these, and similar measures, may garner the approval necessary to be placed on the ballot. However, the question remains whether there is enough voter support to pass them.

WatchDog

Guarding the Business of Print

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Workers' Comp Reform

The 2012 overhaul of California's workers' compensation system for job-related illnesses and injuries appears to have reduced its medical costs, according to a new study by the Workers Compensation Research Institute (WCRI).

The WCRI said that in 2013, the first year the reform took effect, the average medical payment per claim declined by 5 percent after steady increases over the preceding half-decade. The decline in California also contrasted with medical cost increases in other states, the study noted.

The reform, sponsored by Gov. Jerry Brown and backed by both employers and unions, was aimed specifically at reducing medical costs and using the savings to increase cash benefits to disabled workers.

The WCRI study also credited the reform with moderating other costs of the system, including cash benefits and overhead.

The 2012 reform has drawn sharp criticism from medical care providers, who say they were unfairly singled out by other stakeholders in the system. It continued the tradition of making major changes in the system about once a decade.

The WCRI's study is available only by sale at http://www.wcrinet.org/studies/public/books/bmcscope_multi15_CA_Book.html.

Wage Lien Alternative

In an effort to address the growing difficulty in collecting unpaid wage theft judgments, Assembly Member Mark Stone (D-Scotts Valley) introduced AB 2416 last year that would have allowed an employee to place a wage lien on the real and personal property of their employer absent proof that a violation had actually occurred. The bill, however, was defeated in the Assembly.

Senate President pro Tempore Kevin de León (D-Los Angeles) has offered an alternative approach—SB 588—that better targets those bad actors who evade efforts to collect on judgments for wage violations.

SB 588 would allow the Labor Commissioner to file a lien on any property the employer owns in the State to recover wages and other compensation, penalties and interests owed to the employee; however, unlike AB 2416, the action can only be taken after a wage violation judgment has been rendered and all appeal options have been exhausted.

The bill has no opposition, but concerns have been expressed related to a few technical provisions that if fixed would make the bill better. Given that the pre-judgment aspect of the enforcement has been eliminated, most in the business community supports the Labor Commissioner's ability to collect on debts owed by unscrupulous businesses operating outside of the law.

On-Call Rest Period Review

In *Augustus v. ABM Security Systems, Inc.*, a California Court of Appeals recently ruled that an employer may require employees to remain “on-call” during rest periods without violating laws mandating paid breaks. The California Supreme Court, however, has now granted review of the *Augustus* decision.

Employers will want to stay tuned for updates on this case. Consult an attorney with any questions relating to on-call rest breaks.

In *Augustus v. ABM Security Services, Inc.*, the Court of Appeal reversed the trial court, concluding that “on-call rest breaks are permissible.” In forming its decision, the appeals court analyzed the Industrial Welfare Commission (IWC) Wage Order No. 4, and California Labor Code sections 226.7 and 512.

The court found that while subdivision 11(A) of Wage Order No. 4 requires that an employee be “relieved of all duty” during a meal period, subdivision 12(A) of Wage Order No. 4, which pertains to rest periods, does not include a similar requirement.

The court emphasized that meal and rest break periods are different from one another; meal breaks are unpaid and rest breaks are mandated to be paid. This implies, the court wrote, that “rest periods are normally taken while on duty, i.e., while subject to employer control.”

Manufacturing Exemption

For the period beginning July 1, 2014, through December 31, 2016, the state has adopted a partial sales and use tax exemption for the purchase or lease of manufacturing equipment.

The exemption will reduce the state sales and use tax rate from 7.5% to 3.3125%. The exemption does not apply to any local, city, county, or district taxes, which would have to be added to the 3.3125 state rate.

Paid Sick Leave

All employers must begin providing the paid sick leave benefit beginning July 1, 2015. The following are the basics of the requirement:

- **Eligible Employees:** Any employee, including part-time and temporary employees, whether exempt or nonexempt, who works in California for 30 or more days.
- **Amount of Sick Leave:** The statute provides employers with different options to satisfy its requirements. Despite which option is adopted, employers must provide three days (or 24 hours) of paid sick leave for each eligible employee to use per year.
- **Increments for Use:** Employers will be able to set minimum increment for use of sick leave, but the minimum increment cannot be greater than 2 hours.

Accrual Option

- Employee accrues one hour of paid leave for every 30 hours worked.
- Employee may start using accrued paid sick leave beginning on the 90th day of employment.
- Employer may limit the amount of sick leave to 24 hours (3 days) in each year no matter the amount of sick leave accrued by having an explicit written policy.
- Employee can carry over unused sick leave from year to year, of which the carryover can be capped at no less than 48 hours (6 days)—although the employer policy limits paid sick leave to 24 hours (3 days) per year.

Lump Sum Option

- Employer may avoid calculating accrual and carry-over by frontloading the full amount of leave that could be used at the beginning of each year, i.e., 24 hours or 3 days, into an employee’s sick leave account.
- No carryover of unused hours is permitted but at the beginning of the next year the employee will automatically receive three new paid sick days.

Existing Paid Sick Leave, Part-time Off, or Other Paid Sick Leave Policy

- An employer that already has in place a paid sick leave plan does not need to provide additional paid leave if the plan meets the following criteria:
 - Employer must have a written paid leave or paid time off policy.
 - Employer provides no less than 24 hours (3 days) of paid sick leave for employee use for each year of employment or on a 12 month basis

Posting And Recordkeeping Requirements:

- Effective January 1, 2015, employers are required to post the paid sick leave notice where it is visible to employees (PIASC’s All-in-One Poster contains this notice).
- Effective July 1, 2015: (1) employers will be required to provide notice to employees of their accrued and available sick leave on their itemized wage statement or on a separate document provided at the same time as wages;
- **Noncompliance:** There are significant administrative penalties provided for noncompliance and there is a possibility that Private Attorney General Act gives private citizens the ability to pursue penalties against employers for violations of the California Labor Code.

If you have any questions, please call Cheryl Chong, Director Human Resources, at (323) 728-9500, Ext. 218 or email: cheryl@piasc.org.

