

California Department of Industrial Relations
Office of the Director

2016 Legislative Report



STATE OF CALIFORNIA

EDMUND G. BROWN, JR.

Governor

LABOR AND WORKFORCE DEVELOPMENT AGENCY

DAVID M. LANIER

Secretary

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS

CHRISTINE BAKER

Director

VICTORIA HASSID

Deputy Director of Policy and Legislation

GEORGE PARISOTTO (Acting)

Administrative Director

Division of Workers' Compensation

DIANE RAVNIK

Chief

Division of Apprenticeship Standards

JULIE SU

Labor Commissioner

Division of Labor Standards Enforcement

JULIANN SUM

Chief

Division of Occupational Safety and Health

TABLE OF CONTENTS

CHAPTERED ASSEMBLY BILLS.....	5
CHAPTERED SENATE BILLS	7
CHAPTERED BILLS BY DIVISION	9
Division of Workers' Compensation	9
Division of Occupational Safety and Health.....	10
Division of Labor Standards Enforcement	11
Division of Apprenticeship Standards.....	18
Department of Industrial Relations	18
TABLE OF AMENDED LABOR CODE SECTIONS	21
APPENDIX A: VETOED BILLS	26
Division of Workers' Compensation	27
Division of Occupational Safety and Health.....	32
Division of Labor Standards Enforcement	33

Introduction

This Legislative Digest describes bills that were chaptered or vetoed during the second half of the 2015/16 Legislative Session that will have or would have had some impact on the California Department of Industrial Relations (DIR).

The summaries included in the digest provide a brief overview of the intent of the bills and not a complete description of the legislation. Copies of the legislation referenced in this digest, along with information such as legislative committee analyses, are available from the Legislative Counsel of California website at leginfo.legislature.ca.gov.

The chaptered bills go into effect January 1, 2017, unless they contain an urgency clause, in which case they took effect immediately upon the Governor's signature. Alternatively, some measures specify their effective date.

For additional information regarding these measures, please contact the Deputy Director of Legislation and Policy, Victoria Hassid, at LegInquiry@dir.ca.gov or 510-286-7087.

Prepared by:
Department of Industrial Relations
Director's Office
1515 Clay Street
Oakland, CA 94612

Chaptered Assembly Bills

Signed:

[AB 326](#) (Frazier, Chapter 345, Statutes of 2016) Public works: prevailing wage rates: wage and penalty assessments.

[AB 1066](#) (Gonzalez, Chapter 313, Statutes of 2016) Agricultural workers: wages, hours, and working conditions.

[AB 1244](#) (Gray, Chapter 852, Statutes of 2016) Workers' compensation.

[AB 1311](#) (Cooper, Chapter 61, Statutes of 2016) Temporary services employees: wages.

[AB 1669](#) (Hernández, Chapter 874, Statutes of 2016) Displaced employees: service contracts: collection and transportation of solid waste.

[AB 1676](#) (Campos, Chapter 856, Statutes of 2016) Employers: wage discrimination.

[AB 1697](#) (Bonilla, Chapter 446, Statutes of 2016) Alternative and Renewable Fuel and Vehicle Technology Program.

[AB 1843](#) (Stone, Chapter 686, Statutes of 2016) Applicants for employment: criminal history.

[AB 1926](#) (Cooper, Chapter 746, Statutes of 2016) Public works: prevailing wage: apprentices.

[AB 1978](#) (Gonzalez, Chapter 373, Statutes of 2016) Employment: property service workers.

[AB 2025](#) (Gonzalez, Chapter 409, Statutes of 2016) Barbering and cosmetology: labor law education requirements.

[AB 2027](#) (Quirk, Chapter 749, Statutes of 2016) Victims of crime: nonimmigrant status.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

[AB 2068](#) (Holden, Chapter 245, Statutes of 2016) Talent services.

[AB 2230](#) (Chu, Chapter 314, Statutes of 2016) Overtime compensation: private elementary or secondary academic institutions: teachers.

[AB 2288](#) (Burke, Chapter 692, Statutes of 2016) Apprenticeship programs: building and construction trades.

[AB 2337](#) (Burke, Chapter 355, Statutes of 2016) Employment protections: victims of domestic violence, sexual assault, or stalking.

[AB 2437](#) (Ting, Chapter 357, Statutes of 2016) Barbering and cosmetology: establishments: posting notice.

[AB 2503](#) (Obernolte, Chapter 885, Statutes of 2016) Workers' compensation: utilization review.

[AB 2535](#) (Ridley-Thomas, Chapter 77, Statutes of 2016) Employment: wages: itemized statements.

[AB 2551](#) (Gallagher, Chapter 760, Statutes of 2016) Contract procurement: surface storage projects.

[AB 2883](#) (Committee on Insurance, Chapter 205, Statutes of 2016) Workers' compensation: employees.

[AB 2899](#) (Roger Hernández, Chapter 622, Statutes of 2016) Minimum wage violations: challenges.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

Chaptered Senate Bills

Signed:

[SB 3](#) (Leno, Chapter 4, Statutes of 2016) Minimum wage: in-home supportive services: paid sick days.

[SB 465](#) (Hill & Hancock, Chapter 372, Statutes of 2016) Building construction: contractors: discipline: reporting: building standards.

[SB 693](#) (Hueso, Chapter 774, Statutes of 2016) Public contracts: skilled and trained workforce.

[SB 702](#) (McGuire, Chapter 775, Statutes of 2016) Employment of minors: agricultural packing plants.

[SB 836](#) (Committee on Budget and Fiscal Review, Chapter 31, Statutes of 2016) State government.

[SB 914](#) (Mendoza, Chapter 84, Statutes of 2016) Workers' compensation: medical provider networks: independent medical reviews.

[SB 954](#) (Hertzberg, Chapter 231, Statutes of 2016) Public works: prevailing wage: per diem wages.

[SB 957](#) (Hueso, Chapter 212, Statutes of 2016) Health care districts: design-build process.

[SB 1001](#) (Mitchell, Chapter 782, Statutes of 2016) Employment: unfair practices.

[SB 1015](#) (Leyva, Chapter 315, Statutes of 2016) Domestic work employees: labor standards.

[SB 1063](#) (Hall, Chapter 866, Statutes of 2016) Conditions of employment: wage differential: race or ethnicity.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

[SB 1160](#) (Mendoza, Chapter 868, Statutes of 2016) Workers' compensation.

[SB 1167](#) (Mendoza, Chapter 6720, Statutes of 2016) Employment safety: indoor workers: heat regulations.

[SB 1171](#) (Committee on Judiciary, Chapter 86, Statutes of 2016) Maintenance of the codes.

[SB 1175](#) (Mendoza, Chapter 214, Statutes of 2016) Workers' compensation: requests for payment.

[SB 1241](#) (Wieckowski, Chapter 632, Statutes of 2016) Employment contracts: adjudication: choice of law and forum.

[SB 1342](#) (Mendoza, Chapter 115, Statutes of 2016) Wages: investigations: subpoenas.

Chaptered Bills by Division

Note: Governor's signing messages appear where available

Division of Workers' Compensation

AB 1244 (Gray, Chapter 852, Statutes of 2016) Workers' compensation.

This bill requires the Administrative Director of the Division of Workers' Compensation to suspend any medical provider, physician, or practitioner from participating in the workers' compensation system in any capacity when the individual or entity meets specific criteria as related to fraud. Those criteria include conviction of a felony or misdemeanor: (1) involving fraud or abuse of the Medi-Cal, Medicare, or workers' compensation systems; (2) relating to patient care; (3) involving fraud or abuse of any patient; or (4) otherwise substantially related to the qualifications and duties of the provider. The medical provider would also be suspended when his or her license, certificate, or approval to provide health care has been surrendered or revoked, or when that individual or entity has been suspended from participation in the Medicare or Medicaid programs due to fraud or abuse. This bill also requires the Administrative Director to establish the procedure for suspending the medical provider's participation in the workers' compensation system, including a hearing if the suspension is challenged. Additionally, the bill would bar a medical provider from submitting or pursuing claims for payment for services or supplies provided, if that provider has been suspended from participation in the workers' compensation system, subject to certain exemptions. Finally, this bill will limit reimbursement for legal fees unless an attorney has filed the appropriate disclosures prior to representing an injured worker.

SB 1160 (Mendoza, Chapter 868, Statutes of 2016) Workers' compensation.

This bill makes significant improvements to the workers' compensation system in several key areas by (1) providing for appropriate utilization review, specifically expediting treatment to injured workers in the acute stage of a claim (2) improving medical case management by electronic reporting (3) clarifying and implementing anti-fraud measures to reduce the number of illegitimate liens; and (4) implementing measures intended to increase transparency and combat fraud in the system.

SB 914 (Mendoza, Chapter 84, Statutes of 2016) Workers' compensation: medical provider networks: independent medical reviews.

This bill deletes all references to the American College of Occupational and Environmental Medicine's (ACOEM) Occupational Medicine Practice Guidelines from Labor Code section 4616.4 covering Medical Provider Networks (MPN) and, more

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

specifically, the MPN Independent Medical Review process. The changes are technical and delete outdated references that are no longer substantively correct. Currently, medical treatment that is reasonably required to cure or relieve an injured worker from the effects of his or her injury means treatment that is based upon the Division of Workers' Compensation's (DWC) Medical Treatment Utilization Schedule (MTUS), not the ACOEM's Occupational Medicine Practice Guidelines.

[AB 2883](#) (Committee on Insurance, Chapter 205, Statutes of 2016) Workers' compensation: employees.

This bill clarifies certain existing statutory exceptions to the definition of an "employee" for purposes of workers' compensation coverage. Specifically, it amends the Labor Code to set forth specific criteria and a clear process through which officers and directors at private corporations, general partners of a partnership, and managing members of a limited liability company (LLC) may elect to be excluded from their respective entity's workers' compensation policy. This bill also deletes statutes that have been repealed and are now obsolete.

[AB 2503](#) (Oberholte, Chapter 885, Statutes of 2016) Workers' compensation: utilization review.

This bill would require a treating physician under the utilization review process to send any request for authorization (RFA) for medical treatment, with supporting documentation, to the claims administrator for the employer, insurer, or other entity according to rules adopted by the Division of Workers' Compensation.

Division of Occupational Safety and Health

[SB 465](#) (Hill & Hancock, Chapter 372, Statutes of 2016) Building construction: contractors: discipline: reporting: building standards.

The bill is in response to the 2015 Berkeley balcony collapse and would expand the information required to be reported by various entities to the Contractors State Licensing Board (CSLB). The bill would require the Division of Occupational Safety and Health (DOSH), after consultation with the CSLB, to transmit to the CSLB copies of any citations or other actions taken by the Division against a contractor. Additionally, this bill would permit the CSLB to enter into an interagency agreement with state and local agencies to ensure specified disciplinary information related to a contractor is reported to CSLB in a timely manner. Other parts of the bill require: (1) a licensee to report specified criminal convictions to the registrar of the CSLB within 90 days, (2) the California Building Standards Commission to convene a specified working group and recommend any statutory changes to the California Building Standards Code, and (3)

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

the CSLB to report to the Legislature the results of its study to determine if the CSLB's ability to protect the public would be enhanced by the specified regulations.

[SB 1167](#) (Mendoza, Chapter 6720, Statutes of 2016) Employment safety: indoor workers: heat regulations.

Existing law protects employees who work outdoors from heat-related illness and injury. This bill requires that the Division of Occupational Safety and Health (DOSH) propose for review and adoption by the Occupational Safety and Health Standards Board a new standard that minimizes heat-related illness and injury among employees working in indoor places of employment by January 1, 2019. The new standard shall be based on environmental temperatures, work activity levels, and other factors, and DOSH shall consider specified heat stress and heat strain guidelines.

Division of Labor Standards Enforcement

[AB 326](#) (Frazier, Chapter 345, Statutes of 2016) Public works: prevailing wage rates: wage and penalty assessments.

Existing law permits an employer to deposit with the Department of Industrial Relations (DIR) the full amount of a civil wage and penalty assessment (CWPA) or of a Notice of Withholding of Contract Payments (Notice) for failure to pay a prevailing wage on a public works project to avoid liability for liquidated damages while the CWPA or Notice is under review. Funds are held in escrow pending administrative and judicial review, and released at the conclusion of all administrative and judicial review proceedings. This bill requires the DIR to release the funds held in escrow, plus interest earned, within 30 days following either: (1) the conclusion of all administrative and judicial review, or (2) the department receiving written notice from the Labor Commissioner or an authorized labor compliance program of a settlement or other final disposition of the CWPA or Notice.

[AB 1066](#) (Gonzalez, Chapter 313, Statutes of 2016) Agricultural workers: wages, hours, and working conditions.

This bill removes the exemption from overtime requirements for agricultural employees regarding payment for hours worked in excess of eight hours in a day and 40 hours in a week and other related exemptions for working conditions including meal breaks. It creates a schedule that would phase in overtime requirements for agricultural workers 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. If the Governor suspends a scheduled minimum wage increase pursuant to Labor Code section

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

1182.12, this bill also gives the Governor authority to suspend the scheduled phase-in of overtime requirements temporarily.

AB 1311 (Cooper, Chapter 61, Statutes of 2016) Temporary services employees: wages.

This bill provides that the wages of a registered security officer employed by a temporary services employer are due and payable, at a minimum, on a weekly basis, regardless of when the assignment ends, and no later than the regular payday of the following workweek.

AB 1676 (Campos, Chapter 856, Statutes of 2016) Employers: wage discrimination.

The Equal Pay Act prohibits employers from paying any of their employees at a wage rate less than an employee of the opposite sex for substantially similar work. Existing law permits the existence of a wage disparity so long as that differential is based on one or more bona fide factors. This bill further prohibits an employer from using information regarding an individual's prior salary history as the sole factor to justify a wage disparity between members of the opposite sex.

AB 1843 (Stone, Chapter 686, Statutes of 2016) Applicants for employment: criminal history.

Under current state law, employers are prohibited from asking an applicant to disclose information concerning arrests and detentions that did not lead to conviction. In addition, public employers are prohibited from asking applicants to disclose information regarding a criminal conviction until after the applicant's qualifications for the position have been assessed. This bill would extend existing prohibitions to also bar an employer from asking a job applicant to disclose information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of juvenile court law. The bill would also bar employers from utilizing that information as a factor in determining any condition of employment.

AB 1978 (Gonzalez, Chapter 373, Statutes of 2016) Employment: property service workers.

This bill enacts the Property Service Workers Protection Act and requires, beginning July 1, 2018, the registration of employers conducting janitorial business, as prescribed, and establishes specific authority for the Labor Commissioner to enforce and implement that requirement. The bill establishes civil fines for registrants not in compliance with the provisions of the bill and also for persons or entities that contract with unregistered janitorial services employers. Included in the bill is the requirement that the Labor Commissioner establish a biennial in-person training requirement on sexual violence and harassment prevention.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

AB 2025 (Gonzalez, Chapter 409, Statutes of 2016) Barbering and cosmetology: labor law education requirements.

Under existing law the Board of Barbering and Cosmetology (BBC) is required to establish a Health and Safety Advisory Committee to advise and make recommendations to the board. This bill specifies that the health and safety issues before the board include ensuring licensees are aware of basic labor laws. This bill also requires every application, including online electronic applications, to include a signed acknowledgement that the applicant understands his or her rights as a licensee regarding basic labor laws. This bill requires that an application to operate an establishment include a signed acknowledgment that the applicant understands the informational materials distributed by the board regarding basic labor laws and that the applicant is aware that establishments are responsible for complying with any applicable state labor laws. This bill also requires the board to develop or adopt a health and safety course on hazardous substances and basic labor laws that would be required to be taught in schools approved by the board.

AB 2027 (Quirk, Chapter 749, Statutes of 2016) Victims of crime: nonimmigrant status.

Existing federal law provides that an immigrant who is a victim of certain qualifying criminal activity can request temporary immigration benefits and the law provides a form (Form I-914 Supplement B) to certify that the person is a victim of human trafficking and has cooperated in the investigation or prosecution of human trafficking. Existing state law establishes certain rights of victims and witnesses of crimes, including, among others, the right to be notified and to appear at all sentencing proceedings and parole eligibility hearings, and for certain offenses, to be notified when a convicted defendant has been ordered placed on probation. This bill requires an official from a state or local entity to certify "victim cooperation" on the federal form upon request from a victim or a victim's family member. The bill establishes a rebuttable presumption that a victim is cooperative if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. This bill also requires a certifying entity to report to the Legislature on or before January 1, 2018, and annually thereafter, the number of victims that requested such declarations from the entity, as well as the number of declaration forms that were signed and denied.

AB 2068 (Holden, Chapter 245, Statutes of 2016) Talent services.

Existing law requires talent services to remove information and/or photographs of an artist displayed on any internet website that the service has the authority to design or alter, within ten days of a request. This bill specifies that an internet website includes an online service, online application, or mobile or application program, and would require the talent service to also remove artist information and photographs based on requests made by text message, electronic mail, or other electronic communication.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

[AB 2230](#) (Chu, Chapter 314, Statutes of 2016) Overtime compensation: private elementary or secondary academic institutions: teachers.

This bill revises the overtime exemption for private school teachers effective July 1, 2017. The new earnings standard requires an employee to earn no less than the lowest salary offered by any school district, or the equivalent of no less than 70% of the lowest schedule salary offered by the school district or county in which the private elementary or secondary institution is located.

[AB 2337](#) (Burke, Chapter 355, Statutes of 2016) Employment protections: victims of domestic violence, sexual assault, or stalking.

Existing law prohibits an employer with 25 or more employees from discharging, or in any manner discriminating or retaliating against, an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work for specified reasons related to the domestic violence, sexual assault, or stalking, such as medical services and psychological counseling. This bill requires employers to inform each new employee upon hire, and to other employees upon request, of his or her rights under those laws in writing and requires the Labor Commissioner to develop and post online by July 1, 2017, a form that an employer may use to comply with such notice requirements.

[AB 2437](#) (Ting, Chapter 357, Statutes of 2016) Barbering and cosmetology: establishments: posting notice.

This bill requires the Labor Commissioner to create a model posting that informs workers of licensed Barbering and Cosmetology establishments of their workplace rights. These rights include information regarding misclassification of an employee as independent contractor, tip or gratuity distribution, and other wage and hour laws. The Labor Commissioner is required to develop a model posting in English, Spanish, Vietnamese, and Korean by June 1, 2017, and employers licensed by the Board of Barbering and Cosmetology must post the notice in a conspicuous location within view of workers by July 1, 2017.

[AB 2535](#) (Ridley-Thomas, Chapter 77, Statutes of 2016) Employment: wages: itemized statements.

This bill provides that employers are not required to include the total hours worked on an employee paystub if the employee is exempt from payment of minimum wage and overtime pursuant to specified statutes or any applicable order of the Industrial Welfare Commission (IWC). This bill specifies that this exemption includes outside salespersons.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

AB 2899 (Roger Hernández, Chapter 622, Statutes of 2016) Minimum wage violations: challenges.

Existing law provides two key methods to collect unpaid wages in the administrative system of the Division of Labor Standards Enforcement (DLSE or the “Labor Commissioner”). One method involves the filing of a wage claim by a worker, which is adjudicated through a hearing by the Labor Commissioner’s Wage Claim Adjudication Unit. The second method of collecting unpaid wages is for the Labor Commissioner’s Bureau of Field Enforcement (BOFE) to issue a citation. Employers may appeal these citations through an administrative hearing process. Under the first method, if an employee wins a wage claim, the employer must post a bond equal to the unpaid wages before the employer may pursue an appeal to the superior court (which holds a trial de novo on the matter). This bill extends this requirement to post a similar bond to employers who have been cited by BOFE and who challenge the citation.

SB 3 (Leno, Chapter 4, Statutes of 2016) Minimum wage: in-home supportive services: paid sick days.

Existing law requires the minimum wage for all industries to be not less than \$10 effective January 1, 2016. This bill requires the minimum wage to increase incrementally each year, starting on January 1, 2017, until it reaches \$15 per hour on January 1, 2022. Employers with 25 employees or less would have an extra year to comply with the minimum wage requirements. If specified budgetary or economic conditions exist, the Governor may temporarily suspend the minimum wage increase. After 2022, the minimum wage would be indexed annually to the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics. The minimum wage will automatically be adjusted annually (with no reductions or suspensions possible) based on the change to the U.S. CPI with a cap of 3.5% annually. This bill also removes the In-Home Supportive Services (IHSS) exemption from California’s paid sick days law and provides that, starting July 1, 2018, IHSS workers are entitled to paid sick days as specified.

SB 693 (Hueso, Chapter 774, Statutes of 2016) Public contracts: skilled and trained workforce.

Under existing law school districts and counties are required to obtain an enforceable commitment that a “skilled and trained workforce” will be used to complete a contract or project under certain circumstances. Definitions and specifications for what constitutes a “skilled and trained workforce” are set forth in different provisions of the Education and Public Contract Codes. This bill would establish one uniform set of provisions defining what constitutes a “skilled and trained workforce.” The bill would also authorize a public entity to require the use of a skilled and trained workforce regardless of whether the public entity is required to do so by statute.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

SB 702 (McGuire, Chapter 775, Statutes of 2016) Employment of minors: agricultural packing plants.

This bill extends the sunset date for an exemption available to employers operating agricultural packing plants in Lake County regarding the limit on hours of employment of minors. Existing law limits the hours of employment for minors, but the Labor Commissioner can grant an exemption to employers operating agricultural packing plants for minors 16 and 17 years of age for up to 10 hours on days when school is not in session, during the peak harvest season. The current exemption is set to sunset on January 1, 2017, and this bill extends the availability of this exemption until January 1, 2022. This bill also includes a reporting requirement for the Labor Commissioner to submit a written report to the Legislature on or before November 1, 2020, that describes the general working conditions of minors employed in the agricultural packing industry during the period from October 1, 2016, to October 1, 2020.

SB 954 (Hertzberg, Chapter 231, Statutes of 2016) Public works: prevailing wage: per diem wages.

Under current law, all workers on public works projects over \$1,000 are to earn a prevailing rate of per diem wages. “Per diem wages” include various types of employer payments for fringe benefits, including those made for industry advancement and collective bargaining agreements’ administrative fees, “provided these payments are required under a collective bargaining agreement,” and also include payments made for “other purposes similar to those specified” in the statute. Employer payments operate as a credit towards the employer’s obligation to pay the “general prevailing wage rate of per diem wages.” This bill amends Labor Code section 1773.1 to specify that “per diem wages” include industry advancement and collective bargaining agreements’ administrative fees only when the employer is required by a collective bargaining agreement to make those payments. If the payments are not required by a collective bargaining agreement, the bill would prohibit employers from taking a credit for such payments against the general prevailing wage rate of per diem wages.

SB 957 (Hueso, Chapter 212, Statutes of 2016) Health care districts: design-build process.

Existing law allows certain designated local health care districts, formed and managed pursuant to the Local Health Care District Law, to use the local agency “design-build” procurement process, as specified in Public Contract Code sections 22160–22169 for the construction of hospitals or health facility buildings and related improvements. This bill expands the authorization to use the design-build procedure to all local health care districts that own or operate a hospital or clinic.

SB 1001 (Mitchell, Chapter 782, Statutes of 2016) Employment: unfair practices.

Current law prohibits an employer or any other person or entity from engaging in unfair immigration-related practices for the purpose of retaliation against any person who

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

exercises any rights under the Labor Code. This bill would make it unlawful for an employer to request more or different documents than are required under federal law, to refuse to honor documents tendered that on their face reasonably appear to be genuine, to refuse to honor documents or work authorization based upon the specific status or term of status that accompanies the authorization to work, or to reinvestigate or reverify an incumbent employee's authorization to work, as specified. This bill creates a new protection establishing strict liability for victims of "document abuse." The bill would authorize an applicant for employment or an employee who suffers a violation to file a complaint with the Labor Commissioner for equitable relief and any applicable penalties not to exceed \$10,000.

SB 1015 (Leyva, Chapter 315, Statutes of 2016) Domestic work employees: labor standards.

In 2013 California adopted the Domestic Workers Bill of Rights which created new daily and weekly overtime protections for domestic work employees. The Domestic Workers Bill of Rights defined the duties of a personal attendant and specified that workers performing those duties shall be paid one and one half times their regular rate of pay when they work in excess of 9 hours in one workday day or more than 45 hours in any workweek. Under existing law, these provisions are set to repeal on January 1, 2017. This bill removes the repeal date and extends the provisions indefinitely.

SB 1063 (Hall, Chapter 866, Statutes of 2016) Conditions of employment: wage differential: race or ethnicity.

Existing law prohibits an employer from paying any of his or her employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work. Existing law authorizes an employee paid lesser wages in violation of this prohibition to file a complaint with the Division of Labor Standards Enforcement. This bill expands the protections of the Equal Pay Act to prohibit the payment of lower wages to employees of another race or ethnicity for substantially similar work.

SB 1342 (Mendoza, Chapter 115, Statutes of 2016) Wages: investigations: subpoenas.

Existing law provides for the general powers of cities and counties and specifies that the legislative body of a city or county may issue subpoenas requiring attendance of witnesses or production of documents for evidence or testimony in any action or proceeding pending before it. This bill specifies that a city or county legislative body is authorized to delegate its authority to issue subpoenas to a county or city official or department head and may report noncompliance thereof to the judge of the superior court of the county in order to enforce local wage laws.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

Division of Apprenticeship Standards

AB 1697 (Bonilla, Chapter 446, Statutes of 2016) Alternative and Renewable Fuel and Vehicle Technology Program.

Under existing law the State Energy Resources Conservation and Development Commission administers the Alternative and Renewable Fuel and Vehicle Technology Program. Existing law requires the program to provide funding to certain entities to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change objectives. Existing law requires the Commission to give preference to projects that maximize the goals of the program based on certain criteria, including the project's ability to provide economic benefits for California by promoting California-based technology firms, jobs, and businesses. Existing law specifies that projects eligible for funding include workforce training programs related to various sectors or occupations related to the purposes of the program. This bill adds a project's ability to transition workers to, or promote employment in, the alternative and renewable fuels and vehicle technology sector as new criteria on which preference under the program shall be provided. The bill would require the Commission to collaborate with entities that have expertise in workforce development to implement the workforce development components of the program.

AB 2288 (Burke, Chapter 692, Statutes of 2016) Apprenticeship programs: building and construction trades.

This bill requires the California Workforce Development Board (CWDB) to ensure, to the maximum extent feasible, that pre-apprenticeship programs in the building and construction trades follow the Multi-Craft Core Curriculum developed by the California Department of Education for the purpose of preparing students and pre-apprenticeship participants for labor-management apprenticeship programs. This bill also requires pre-apprenticeship training programs, among other programs and services funded by the federal Workforce Innovation and Opportunity Act of 2014, to include a plan for outreach, recruitment, and retention of women.

Department of Industrial Relations

AB 1669 (Roger Hernández, Chapter 874, Statutes of 2016) Displaced employees: service contracts: collection and transportation of solid waste.

Existing Labor Code sections 1070 through 1074 (Chapter 4.6, "Public Transit Service Contracts") require, among other provisions, that when a public transit agency lets a service contract out to bid for public transit services, the awarding authority must give a 10 percent bidding preference to contractors who agree to retain the employees of the

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

prior contractor or subcontractor for a period of at least 90 days. This bill extends the scope of the existing statutory provisions concerning bid preferences and related employee protections to cover employees affected by solid waste collection and transportation services contracts. The bill also adds new two new Labor Code sections: Labor Code section 1075 circumscribes to some extent the obligations of a successor contractor to a contract for the collection and transportation of solid waste to retain the employees of the prior contractor, and Labor Code section 1076 specifies that the provisions of the statute do not apply to any contract awarded prior to January 1, 2017, or for which the bid process was completed before January 1, 2017.

AB 1926 (Cooper, Chapter 746, Statutes of 2016) Public works: prevailing wage: apprentices.

Existing law requires that persons employed on public works projects be paid at a rate that is not less than the general prevailing rate of per diem wages as determined by the Director of the Department of Industrial Relations. This bill would provide that, unless otherwise provided by a collective bargaining agreement, when a contractor on a public works project requires an apprentice to fill out an application, or undergo testing, training, an examination, or other pre-employment processes as a condition of employment, the apprentice shall be paid at prevailing wage rates for the time spent on the required activity, including travel time. This bill specifies that a contractor would not be required to compensate an apprentice for the time spent on pre-employment activities if the apprentice is required to take a pre-employment drug or alcohol test and he or she fails to pass that test.

AB 2551 (Gallagher, Chapter 760, Statutes of 2016) Contract procurement: surface storage projects.

This bill would authorize the use of alternative contracting procedures for surface water storage projects that receive funding through Proposition 1 (Water Quality, Supply, and Infrastructure Improvement Act of 2014). This bill would allow local agencies to use the construction manager-at-risk, design-build, or design-build-operate contract procurement and delivery methods in lieu of the traditional design-bid-build method. A local agency that chooses to use one of these alternatives would be required to follow a prescribed procurement process and impose certain conditions on contractors seeking to perform the work. The contractor would be required to have an acceptable safety record and to provide an enforceable commitment to use a “skilled and trained workforce to perform all work on the project or contract.”

SB 836 (Committee on Budget and Fiscal Review, Chapter 31, Statutes of 2016) State government.

This consolidated budget trailer bill contains provisions relating to multiple programs in state government. Regarding the Department of Industrial Relations this bill: (1) makes procedural and structural reforms to the Labor Code Private Attorneys General Act

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

(PAGA) to provide for greater agency and court oversight of PAGA claims and litigation; (2) makes technical revisions clarifying a 2015 statute that extends public works requirements to ready-mix cement deliveries; (3) revises and brings into alignment several statutes that authorize the Divisions of Labor Standards Enforcement (DLSE) and Occupational Safety and Health (DOSH) to charge fees for various regulatory activities in order to (A) make the programs self-sustaining through user fees (rather than dependent on general employer assessments) and (B) reduce the number of designated funds into which those fees are deposited; (4) eliminates a duplicate inspection requirement in the Permanent Amusement Ride Safety Inspection Program; and (5) authorizes sharing confidential information among state education and job training agencies for the purpose of evaluating and reporting on program performance and outcomes for program participants.

SB 1171 (Committee on Judiciary, Chapter 86, Statutes of 2016) Maintenance of the codes.

Current law directs the Legislative Counsel to advise the Legislature from time to time as to legislation to maintain the codes. This bill makes non-substantive grammatical and other minor changes to numerous code sections to effectuate recommendations made by the Legislative Counsel to the Legislature.

SB 1241 (Wieckowski, Chapter 632, Statutes of 2016) Employment contracts: adjudication: choice of law and forum.

This bill prohibits any employer from requiring an employee who primarily resides and works in California, as a condition of employment, to agree to any contractual provision that would either: (1) require the employee to adjudicate a claim arising in California outside of California, or (2) deprive the employee of the substantive protection of California law with respect to a controversy arising in California. This bill also renders any such provision voidable at the request of the employee, and in such an instance would provide that the matter be adjudicated in California pursuant to California law. This bill also provides for injunctive relief and an award of reasonable attorneys' fees to any employee who is enforcing his or her rights under the statute. The bill defines adjudication as including both litigation and arbitration, and specifies that it would apply to any contract that is entered into, modified, or extended on or after January 1, 2017. Lastly, this bill provides that it would not apply to a contract with an employee who is individually represented by legal counsel in negotiating the contract terms pertaining to venue or choice of law.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

Table of Amended Labor Code Sections

Note: All sections reference the Labor Code (unless otherwise specified)

Bill	Labor Code Section
AB 326 (Frazier, Chapter 345, Statutes of 2016) Public works: prevailing wage rates: wage and penalty assessments.	Amend Section 1742.1
AB 1066 (Gonzalez, Chapter 313, Statutes of 2016) Agricultural workers: wages, hours, and working conditions.	Amend Section 554 and add Chapter 6 to Division 2 (commencing with Section 857)
AB 1244 (Gray, Chapter 852, Statutes of 2016) Workers' compensation.	Amend Section 4906, Add Section 139.21; Amend Section 14123 of the Welfare and Institutions Code
AB 1311 (Cooper, Chapter 61, Statutes of 2016) Temporary services employees: wages.	Amend Section 201.3
AB 1669 (Roger Hernández, Chapter 874, Statutes of 2016) Displaced employees: service contracts: collection and transportation of solid waste.	Amend Sections 1070, 1071, & 1072, and amend the heading of Chapter 4.6 (commencing with Section 1070) of Part 3 of Division 2 of the Labor Code, and add Sections 1075 and 1076
AB 1676 (Campos, Chapter 856, Statutes of 2016) Employers: wage discrimination.	Amend Section 1197.5
AB 1697 (Bonilla, Chapter 446, Statutes of 2016) Alternative and Renewable Fuel and Vehicle Technology Program.	Amend Section 44272 of the Health and Safety Code
AB 1843 (Stone, Chapter 686, Statutes of 2016) Applicants for employment: criminal history.	Amend Section 432.7
AB 1926 (Cooper, Chapter 746, Statutes of 2016) Public works: prevailing wage:	Amend Section 1777.5

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

apprentices.	
AB 1978 (Gonzalez, Chapter 373, Statutes of 2016) Employment: property service workers.	Add Part 4.2, Division 2 (commencing with Section 1420)
AB 2025 (Gonzalez, Chapter 409, Statutes of 2016) Barbering and cosmetology: labor law education requirements.	Amend Sections 7312, 7314, 7314.3, 7337, 7347, and 7389 of the Business and Professions Code
AB 2027 (Quirk, Chapter 749, Statutes of 2016) Victims of crime: nonimmigrant status.	Add Section 679.11
AB 2068 (Holden, Chapter 245, Statutes of 2016) Talent services.	Amend Section 1703 and 1703.4
AB 2230 (Chu, Chapter 314, Statutes of 2016) Overtime compensation: private elementary or secondary academic institutions: teachers.	Amend Section 515.8
AB 2288 (Burke, Chapter 692, Statutes of 2016) Apprenticeship programs: building and construction trades.	Amend Section 14230 of the Unemployment Insurance Code
AB 2337 (Burke, Chapter 355, Statutes of 2016) Employment Protections: victims of domestic violence, sexual assault, or stalking.	Amend Section 230.1
AB 2437 (Ting, Chapter 357, Statutes of 2016) Barbering and cosmetology: establishments: posting notice.	Add Section 7353.4 to the Business and Professions Code; add Section 98.10 to the Labor Code
AB 2503 (Obernolte, Chapter 885, Statutes of 2016) Workers' compensation: utilization review.	Amend Section 4610
AB 2535 (Ridley-Thomas, Chapter 77, Statutes of 2016) Employment: wages: itemized statements.	Amend Section 226.
AB 2551 (Gallagher, Chapter 760, Statutes of 2016) Contract procurement:	Add Article 60.6 (commencing with Section 20928) to Chapter 1 of Part 3 of Division 2

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

surface storage projects.	of the Public Contract Code
AB 2883 (Committee on Insurance, Chapter 205, Statutes of 2016) Workers' compensation: employees.	Amend Sections 3351, 3352 and repeal Section 6354.7
AB 2899 (Roger Hernández, Chapter 622, Statutes of 2016) Minimum wage violations: challenges.	Amend Section 1197.1
SB 3 (Leno, Chapter 4, Statutes of 2016) Minimum wage: in-home supportive services: paid sick days.	Amend Sections 245.5, 246, and 1182.12
SB 465 (Hill & Hancock, Chapter 372, Statutes of 2016) Building construction: contractors: discipline: reporting: building standards.	Add Sections 7021 and 7071.18 to the Business and Professions Code, add and repeal Section 18924.5 of the Health and Safety Code, and amend Section 6313.5 of the Labor Code
SB 693 (Hueso, Chapter 774, Statutes of 2016) Public contracts: skilled and trained workforce.	Amend Sections 17250.25 and 17407.5 of the Education Code, amend Section 25536.7 of the Health and Safety Code, and amend Sections 10191, 20119.1, 20119.3, 20155.4, and 22164, repeal Section 20155.2 and add Chapter 2.9 (commencing with Section 2600) to Part 1 of Division 2 of, the Public Contract Code
SB 702 (McGuire, Chapter 775, Statutes of 2016) Employment of minors: agricultural packing plants.	Amend Section 1393.5
SB 836 (Committee on Budget and Fiscal Review, Chapter 31, Statutes of 2016) State government.	Amend Sections 1308.10, 1684, 1698, 1700.18, 1706, 1720.9, 2059, 2065, 2658, 2699, 4724, 4725, 4726, 6507, 7311.4, 7314, 7315, 7340, 7341, 7342, 7343, 7344, 7345, 7346, 7347, 7348, 7350, 7351, 7352, 7353, 7354, 7354.5, 7356, 7357, 7373, 7720, 7721, 7722, 7904, 7924, 7929, 7991, 8001, 8002, 9021.6, and 9021.9, amend the heading of

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

	Chapter 4 (commencing with Section 7340) of Part 3 of Division 5 , amend, repeal, and add Section 2699.3, add Section 1308.11, and repeal Section 9021.7 and add Section 7380 (partial listing)
SB 914 (Mendoza, Chapter 84, Statutes of 2016) Workers' compensation: medical provider networks: independent medical reviews.	Amend Section 4616.4
SB 954 (Hertzberg, Chapter 231, Statutes of 2016) Public works: prevailing wage: per diem wages.	Amend Section 1773.1
SB 957 (Hueso, Chapter 212, Statutes of 2016) Health care districts: design-build process.	Amend Section 32132.5 of the Health and Safety Code
SB 1001 (Mitchell, Chapter 782, Statutes of 2016) Employment: unfair practices.	Add Section 1019.1
SB 1015 (Leyva, Chapter 315, Statutes of 2016) Domestic work employees: labor standards.	Repeals Section 1453
SB 1063 (Hall, Chapter 866, Statutes of 2016) Conditions of employment: wage differential: race or ethnicity.	Amend Sections 1197.5 and 1199.5
SB 1160 (Mendoza, Chapter 868, Statutes of 2016) Workers' compensation.	Amend Sections 138.4, 138.6, 4610.5, 4610.6, 4903.05, 4903.8, 5307.27, 5710, 5811, & 6409; and amend, repeal and add section 4610, add section 4615
SB 1167 (Mendoza, Chapter 6720, Statutes of 2016) Employment safety: indoor workers: heat regulations.	Add Section 6720
SB 1171 (Committee on Judiciary, Chapter 86, Statutes of 2016) Maintenance of the codes.	Amend Sections 139.2, 1720, 2750.8, 3503, and 4663 (partial listing)
SB 1175 (Mendoza, Chapter 214, Statutes of 2016) Workers' compensation: requests	Amend Sections 4603.2, 4603.4 and 4625

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

for payment.	
SB 1241 (Wieckowski, Chapter 632, Statutes of 2016) Employment contracts: adjudication: choice of law and forum.	Add Section 925
SB 1342 (Mendoza, Chapter 115, Statutes of 2016) Wages: investigations: subpoenas.	Add Section 53060.4 to the Government Code

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

APPENDIX A: Vetoed Bills

Vetoed Assembly Bills:

[AB 1050](#) (Low) Occupational safety and health: permanent variances.

[AB 1643](#) (Gonzalez) Workers' compensation: permanent disability apportionment.

[AB 1922](#) (Daly) Workers' compensation policies: ancillary agreements.

[AB 2086](#) (Cooley) Workers' compensation: neuropsychologists.

[AB 2272](#) (Thurmond) Occupational safety and health standards: plume.

[AB 2493](#) (Atkins) Firefighters: disability.

Vetoed Senate Bills

[SB 896](#) (Nguyen) Barbering and cosmetology: nail care establishments: credit and debit cards.

[SB 897](#) (Roth) Workers' compensation.

APPENDIX A: VETOED BILLS BY DIVISION

Division of Workers' Compensation

AB 1643 (Gonzalez) Workers' compensation: permanent disability apportionment.

This bill, which applies to injuries occurring on or after January 1, 2017, would have done the following: (1) mandated that the impairment ratings for breast cancer and the aftereffects of the disease shall in no event be less than comparable ratings for prostate cancer and its aftereffects; (2) prohibited apportionment of permanent disability, in the case of physical injury, from being based on pregnancy, menopause, osteoporosis, or carpal tunnel syndrome; and (3) prevented apportionment of permanent disability, in the case of a psychiatric injury, from being based on psychiatric disability or impairment caused by pregnancy, menopause, osteoporosis, or carpal tunnel syndrome.

Governor's Veto Message: I am returning Assembly Bill 1643 without my signature.

This bill prohibits apportionment in cases of physical injury based on pregnancy, menopause, osteoporosis, and carpal tunnel syndrome and requires that breast cancer not be less than the comparable impairment rating for prostate cancer.

I am vetoing this bill for many of the same reasons that I returned a similar measure, AB 305, last year. This bill is poorly drafted and reflects a seriously flawed understanding of both the workers' compensation system and the nature of physical disability that may result from a work-related injury. The bill would, among other provisions, mandate that impairment ratings for breast cancer be no less than the ratings for prostate cancer. It would also create broad gender-based exceptions to the core principle of apportionment, i.e., that employers are liable only for the permanent disability directly caused by their employee's work-related injury.

This measure seeks to draw a false comparison between disability ratings resulting from prostate and breast cancers, notwithstanding that these organs neither perform analogous physiological functions nor do their treatments result in similar physical limitations. There is a wide disparity in impairment levels that may result among individual women diagnosed with breast cancer and individual men diagnosed with prostate cancer, and individuals of all genders diagnosed with any form of cancer, depending on the stage at which the cancer was diagnosed, the nature of the treatment, and the degree and process of recovery. The suggestion that these two very different

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

APPENDIX A: VETOED BILLS BY DIVISION

conditions should be rated equivalently in all cases has no basis in medical fact and upends the goals of ensuring consistency, uniformity and objectivity in ratings supported by substantial medical evidence.

On the issue of apportionment, this bill creates broad, gender-based exceptions to the rule that employers are liable only for the percentage of permanent disability directly caused by a work-related injury. As written, the bill would prohibit apportionment to, and thus require employers to pay for, a permanent disability that actually resulted from pregnancy or menopause, or from osteoporosis or carpal tunnel syndrome where these are pre-existing conditions or unrelated to work.

As I said last year, there is no place for gender discrimination in the workers' compensation system. Current law, however, already prohibits apportionment to risk factors, including gender, age, and family history. There is ample opportunity within the workers' compensation adjudicatory process for workers, their counsel, and others to raise any concerns or allegations of improper and impermissible gender discrimination in the medical evaluation or apportionment process.

California's workers' compensation system strives to treat all injured workers fairly and to ensure that all workers, regardless of gender, are adequately compensated for any permanent disability directly caused by work-related injuries. Rather than promoting equality, the statutory changes proposed by this measure would create new gender-based classifications and spur additional and costly litigation, undermining the successful reforms enacted in 2012 and the sustainability of the system.

I urge proponents of this bill to support efforts to educate medical evaluators on current laws prohibiting bias and to collaborate with my administration.

AB 1922 (Daly) Workers' compensation policies: ancillary agreements.

Existing law, Insurance Code section 11658, prohibits an insurer from issuing a workers' compensation insurance policy or endorsement unless it is filed with the Workers' Compensation Insurance Rating Bureau of California (WCIRB) and 30 days have expired without notice from the Insurance Commissioner. This bill would have prohibited an ancillary agreement to a workers' compensation insurance policy from being issued by an insurer to a California employer, unless the insurer files a copy of the ancillary agreement with the WCIRB and 30 days have expired from the date the

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

APPENDIX A: VETOED BILLS BY DIVISION

ancillary agreement is received by the Insurance Commissioner from the WCIRB without notice from the commissioner, or the commissioner has approved the filing. This bill would have provided that the terms and conditions of a workers' compensation policy and any endorsements take precedence over the provisions contained in an ancillary agreement should there be a conflict or inconsistency with the ancillary agreement.

This bill would also have created a filing exemption for ancillary agreements issued in conjunction with a workers' compensation policy or endorsement that contains a qualifying deductible obligation or retrospectively rated loss limitation of \$250,000 or more, if the California employer meets at least three specified criteria and the agreement does not change the benefits payable, the coverage provided, any cancellation provision, any dispute resolution agreement, or any premium or other costs under the policy. The bill's filing exemption would have applied to ancillary agreements issued or renewed on or after January 1, 2017, and would expire as of January 1, 2022.

[Governor's Veto Message](#): I am returning Assembly Bill 1922 without my signature. This bill exempts large employers who purchase high deductible policies from workers' compensation insurance policy filing requirements. I am supportive of efforts to increase the ability of insurance carriers to efficiently conduct their business. This bill, however, reverses Department of Insurance regulations that have been in effect less than six months. These regulations are designed to promote consumer protection and transparency. Let's allow time for them to work.

[AB 2086](#) (Cooley) Workers' compensation: neuropsychologists.

This bill would substantially change the qualification requirements for appointment as a qualified medical examiner (QME) in the workers' compensation system for medical doctors and osteopaths. Under current law, with respect to QME physician specialty boards, both the Administrative Director and one of the two recognized medical licensing boards (the Medical Board and the Osteopathic Board) must recognize the specialty boards. This bill would have allowed the appointment of a QME whose qualifications the Administrative Director deemed equivalent to board certification. This bill would have also provided the statutory authorization for neuropsychologists to be qualified in a neuropsychologist specialty.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

APPENDIX A: VETOED BILLS BY DIVISION

[Governor's Veto Message](#): I am returning Assembly Bill 2086 without my signature. This bill requires the Division of Worker's Compensation to appoint qualified clinical neuropsychologists as Qualified Medical Examiners (QMEs). I have the same concerns with this bill as with its predecessor, AB 1542, which I vetoed last year. The changes contemplated by this bill relate to legal evaluations, not medical treatment of injured workers as suggested by the declaratory text of the measure. If enacted, the bill would create a unique lower standard for a select group of providers with a direct financial interest in being appointed as QMEs in California's workers' compensation system. In addition to increasing benefits and stabilizing costs, the 2013 workers' compensation reforms were intended to return medical treatment decisions to doctors and reduce the excessive litigation relating to medical treatment disputes. Treatment of injuries by neuropsychologists where medically appropriate as determined by injured workers' physicians will be unchanged by a signature or veto of this measure. However, a signature would be a step backwards in the ongoing efforts to reduce unnecessary costs that do not benefit injured workers.

[AB 2493 \(Atkins\) Firefighters: disability.](#)

Existing law allows certain peace officers, city, county, and district firefighters, along with other specified public safety employees, including employees of the Department of Justice falling within the "state peace officer/firefighter" class, who are disabled by injury arising out of and in the course of their duties to take a leave of absence without loss of pay for up to one year instead of receiving workers' compensation benefits. This bill would have extended this enhanced temporary disability benefit to all rank-and-file and supervisory firefighters employed by the California Department of Forestry and Fire Protection (CDF or Cal Fire), whose principal duties include active fire suppression or prevention services.

[Governor's Veto Message](#): I am returning Assembly Bill 2493 without my signature. This bill grants to the Department of Forestry and Fire Protection firefighters up to one year of "4800 time" disability leave paid at full salary and tax-free. This policy results in higher take home pay than pre-injury wages. As stated in my veto of AB 1451 last year, costs go up significantly when this benefit is extended to new classes of employees. The state now faces over \$200 billion in unfunded pension and health liabilities. Since 2011 the costs for all this has increased by nearly \$5 billion per year-a 59 percent increase. In light of these huge commitments, I am reluctant to extend this disability benefit at all -let alone through legislation outside the bargaining process.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

APPENDIX A: VETOED BILLS BY DIVISION

SB 897 (Roth) Workers' compensation.

Existing law provides that certain peace officers, firefighters, and other specified public safety employees are entitled to a leave of absence without loss of salary while disabled by injury or illness arising out of and in the course of employment, for the period of the disability, not to exceed one year. The leave of absence is in lieu of temporary disability payments or maintenance allowance payments otherwise payable under the workers' compensation system. This bill would have allowed certain employees of local agencies, including police officers, firefighters, and sheriffs, an additional year of a leave of absence without loss of salary when they are temporarily disabled, as determined by a physician, by a catastrophic injury at the hands of another, referring to "severe burns, severe bodily injuries resulting from the collapse of a building, or severe bodily injuries resulting from a shooting, stabbing, or battery."

Governor's Veto Message: I am returning Senate Bill 897 without my signature. This bill doubles from one to two years special leave benefits for police officers, firefighters, or sheriffs who are disabled by a qualifying catastrophic injury. This leave is required to be provided at full salary and tax-free, resulting in take home pay that is higher than pre-injury wages. I was concerned when told this bill was prompted by a City of Riverside police officer who nearly lost his health benefits while on temporary disability. In that case, the City chose to extend the officer's benefits. Upon closer review, I have not found any other city which terminates the health benefits of police officers while they are on temporary disability. As noted in my veto of AB 1451 last year, this disability leave benefit drives up costs significantly. Many local agencies are under significant financial stress. They must consider employee benefit increases in light of competing demands for critical services and long term pension and health care debts. In light of all this, I believe the decision on how to handle cases such as this is best left to the local jurisdiction.

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

APPENDIX A: VETOED BILLS BY DIVISION

Division of Occupational Safety and Health

AB 1050 (Low) Occupational safety and health: permanent variances.

Existing law authorizes the Occupational Safety and Health Standards Board, upon an application from an employer, to grant a permanent variance from an occupational safety or health standard. Currently, employers applying for a variance must notify their employees of the variance application. For employers applying for permanent variance from an elevator safety order, this bill would have required the applicant to provide the required notice of the hearing to the “union representing elevator workers in the region where the building is being constructed or modified and to those workers who will be performing the tasks pursuant to the proposed variance, or their authorized representative.” This bill would also have granted those affected employees party status in permanent variance proceedings.

Governor’s Veto Message: I am returning Assembly Bill 1050 without my signature. This bill requires employers seeking a permanent variance from an elevator safety order to notify the union representing elevator workers in the region where the building is located and to also notify the workers who will be performing the work. The bill also requires the Occupational Safety and Health Standard Board to grant party status to affected workers, or their authorized representative, to participate in the variance proceedings. As I noted last year, the board routinely works with stakeholders to provide timely written notice of a variance request and permits those parties to intervene in the proceedings. I continue to believe that the existing process is one that provides adequate opportunity for interested and affected workers to be heard.

AB 2272 (Thurmond) Occupational safety and health standards: plume.

This bill would have required the Division of Occupational Safety and Health (DOSH) to convene an advisory committee by June 1, 2017, to develop a regulation that requires a health facility to evacuate or remove smoke plumes generated as byproducts of devices routinely used during certain medical procedures, including cauterization and laser incision. This would have required the use of a plume scavenging system in all settings that employ techniques that involve the creation of a plume. This bill would have required that in developing this regulation the DOSH advisory committee evaluate the use of certain standards adopted by specified organizations as a benchmark and take into consideration recommendations from the federal Occupational Safety and Health

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
Legislative Digest 2016

APPENDIX A: VETOED BILLS BY DIVISION

Administration and the National Institute of Occupational Safety and Health. Additionally, this bill would have required DOSH to submit the proposed regulation to the Occupational Safety and Health Standards Board by June 1, 2018. The Standards Board would have been required to adopt the proposed regulation by July 1, 2019.

[Governor's Veto Message](#): I am returning Assembly Bill 2272 without my signature. This bill would require the Occupational Safety and Health Standards Board to adopt a regulation that requires a health facility to remove plume through the use of plume scavenging systems by July 1, 2019. I agree with the author and sponsor that the potentially hazardous effects of plume merits thorough review. By specifically requiring the adoption of the regulation, however, the bill divests the Standards Board of its discretion to consider a proposed standard for adoption and instead mandates it to do so. This Board was created as an independent body and I believe that independence must be maintained in order for it to effectively perform its mission and protect all California workers.

Division of Labor Standards Enforcement

[SB 896](#) (Nguyen) Barbering and cosmetology: nail care establishments: credit and debit cards.

This bill would have required an establishment offering nail care services that accepts a debit or credit card as a form of payment for nail care services to also accept a tip or gratuity paid by either a debit or credit card.

[Governor's Veto Message](#): I am returning Senate Bill 896 without my signature. This bill requires a nail salon that accepts credit cards for nail care to also accept a credit card for the payment of tips. I understand the author's intent to encourage the giving of tips to nail salon workers, but I don't believe that government should mandate the use of credit cards as required by this bill. In matters like this, the competitive marketplace should be sufficient. I would also note that this bill lacks any enforcement mechanism.