

California Department of Industrial Relations
Office of the Director

2017 Legislative Report



STATE OF CALIFORNIA

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Introduction

This Legislative Digest describes bills that were chaptered or vetoed during the first half of the 2017/18 Legislative Session that will have or would have had some impact on the California Department of Industrial Relations (DIR).

The brief summaries do not purport to provide a complete description of the legislation or to go into the details of the measures. The summaries provide a brief overview of the intent of the bills. 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, 2018, 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.

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Chaptered Assembly Bills

Signed:

[AB 44](#) (Reyes, Chapter 736, Statutes of 2017) Workers' compensation: medical treatment: terrorist attacks: workplace violence.

[AB 46](#) (Cooper, Chapter 776, Statutes of 2017) Employers: wage discrimination.

[AB 55](#) (Thurmond, Chapter 608, Statutes of 2017) Hazardous materials management: stationary sources.

[AB 73](#) (Chiu, Caballero, Bonta, and Kalra, Chapter 371, Statutes of 2017) Planning and zoning: housing sustainability districts.

[AB 168](#) (Eggman, Chapter 688, Statutes of 2017) Employers: salary information.

[AB 199](#) (Chu, Chapter 610, Statutes of 2017) Public works: private residential projects.

[AB 450](#) (Chiu, Chapter 492, Statutes of 2017) Employment regulation: immigration worksite enforcement actions.

[AB 579](#) (Flora, Chapter 344, Statutes of 2017) Apprenticeship: fire protection: firefighter preapprenticeship program.

[AB 581](#) (McCarty, Chapter 553, Statutes of 2017) Apprenticeships on public works projects.

[AB 677](#) (Chiu, Chapter 744, Statutes of 2017) Data collection: sexual orientation.

[AB 851](#) (Caballero, Chapter 821, Statutes of 2017) Local Agency Contracts.

[AB 1008](#) (McCarty, Chapter 789, Statutes of 2017) Employment discrimination: conviction history.

[AB 1066](#) (Aguiar-Curry, Chapter 616, Statutes of 2017) Public works: definition.

[AB 1422](#) (Daly, Chapter 300, Statutes of 2017) Workers' compensation insurance: fraud.

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[AB 1516](#) (Cunningham, Chapter 561, Statutes of 2017) Maintenance of the codes.

[AB 1649](#) (Muratsuchi, Chapter 590, Statutes of 2017) Oil refineries: public safety.

[AB 1690](#) (Committee on Judiciary, Chapter 160, Statutes of 2017) Personal rights: compensatory relief.

[AB 1701](#) (Thurmond, Chapter 804, Statutes of 2017) Labor-related liabilities: original contractor

[AB 1731](#) (Committee on Jobs, Economic Development, and the Economy, Chapter 94, Statutes of 2017) Apprenticeships: training funds: audits.

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Chaptered Senate Bills

Signed:

[SB 3](#) (Beall, Chapter 365, Statutes of 2017) Veterans and Affordable Housing Bond Act of 2018.

[SB 35](#) (Wiener, Chapter 366, Statutes of 2017) Planning and zoning: affordable housing: streamlined approval process.

[SB 54](#) (De León, Chapter 495, Statutes of 2017) Law enforcement: sharing data.

[SB 96](#) (Committee on Budget and Fiscal Review, Chapter 28, Statutes of 2017) State Government.

[SB 189](#) (Bradford, Chapter 770, Statutes of 2017) Workers' compensation: definition of employee.

[SB 258](#) (Lara, Chapter 830, Statutes of 2017) Cleaning Product Right to Know Act of 2017.

[SB 272](#) (Mendoza, Chapter 539, Statutes of 2017) State Compensation Insurance Fund: executive and management appointments.

[SB 295](#) (Monning, Chapter 424, Statutes of 2017) Farm labor contractors: sexual harassment prevention.

[SB 306](#) (Hertzberg, Chapter 460, Statutes of 2017) Retaliation actions: complaints: administrative review.

[SB 418](#) (Hernandez, Chapter 393, Statutes of 2017) Public contracts: skilled and trained workforce.

[SB 430](#) (Committee on Insurance, Chapter 268, Statutes of 2017) California Insurance Guarantee Association: covered claims.

[SB 489](#) (Bradford, Chapter 240, Statutes of 2017). Workers' compensation: change of physician.

[SB 490](#) (Bradford, Chapter 831, Statutes of 2017) Wages: Barbering and Cosmetology Act: licenses.

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[SB 621](#) (Bradford, Chapter 99, Statutes of 2017) Overtime compensation: private school teachers.

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Chaptered Bills by Division

Note: Governor's signing messages appear where available

Department of Industrial Relations (DIR)

AB 55 (Thurmond, Chapter 608, Statutes of 2017) Hazardous materials management: stationary sources.

Existing law exempts owners or operators of a refinery or other specified facility from requiring their contractors and subcontractors to use a "skilled and trained workforce" if the contract covering such work was awarded before January 1, 2014, and not extended or renewed after that date. This bill adds the requirement that an owner or operator file a complete copy of the contract with the local Certified Unified Program Agency (CUPA), a redacted copy of which would be available as a public record. AB 55 also extends the timeframe under which a worker must meet specified safety training hours in order to be classified as a "skilled journeyperson" for purposes of meeting the "skilled and trained workforce" requirement, from 20 hours in the prior two years to 20 hours in the prior three years. This requirement applies to work performed on or after July 1, 2018.

AB 73 (Chiu, Caballero, Bonta, and Kalra, Chapter 371, Statutes of 2017) Planning and zoning: housing sustainability districts.

This bill is one of several bills addressing the issue of affordable housing this legislative session. AB 73 authorizes local governments to create by ordinance a "housing sustainability district" that would meet a number of requirements, including that the residential development be authorized within the district through the ministerial issuance of a permit. This bill requires the Department of Housing and Community Development (HCD) to review proposed and existing housing sustainability district ordinances to determine and certify compliance with the applicable statutory provisions. It also authorizes the HCD to make "zoning incentive payments" to local governments that create housing sustainability districts if, and to the extent that, appropriations are made for such purpose. AB 73 mandates the preparation of an environmental impact report concerning the designation of a housing sustainability district and then exempts from the California Environmental Quality Act (CEQA) those housing projects subsequently undertaken in the district. Of direct relevance to the DIR, the bill specifies that an applicant for a project within a housing sustainability district must certify that the project is either a public work or that all construction workers will be paid prevailing wages. Apprentices can be paid the applicable apprentice prevailing rate, and small projects can be exempt from having to pay prevailing wages. AB 73 requires the use of a "skilled and trained workforce" on certain projects.

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AB 199 (Chu, Chapter 610, Statutes of 2017) Public works: private residential projects.

The California Prevailing Wage Law, Labor Code sections 1720, *et seq.*, requires prevailing wages to be paid to all workers performing construction or similar work on public works projects. Certain types of public works projects such as private residential projects built on private property are not subject to prevailing wage requirements unless the projects are built pursuant to an agreement with “a state agency, redevelopment agency or local public housing authority.” This bill amends Labor Code section 1720, subdivision (c)(1), to specify that in addition to the three types of public entities currently listed in the statute, private residential projects are subject to prevailing wage requirements when the projects are built pursuant to an agreement with a “successor agency to a redevelopment agency when acting in that capacity.”

AB 677 (Chiu, Chapter 744, Statutes of 2017) Data collection: sexual orientation.

This bill requires the Labor and Workforce Development Agency (LWDA) and the DIR to comply with the Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act in order to improve the availability of wellbeing-related data. The Act requires specified state agencies to collect “voluntary self-identification information pertaining to sexual orientation and gender identity” in the course of collecting other data. It also requires LWDA and the DIR to report the collected data to the Legislature and to make it available to the public in accordance with state and federal law. Designated agencies are authorized, but not required, to collect demographic data provided by third party entities, including private employers.

AB 851 (Caballero, Chapter 821, Statutes of 2017) Local Agency Contracts.

This bill amends the Public Contract Code to expand the usage of two procurement methods, “construction manager at-risk” (CMAR) and “local agency design-build,” as well as to expand the application of the “skilled and trained” workforce requirement. Under AB 851, counties are authorized to use CMAR contracts for construction projects exceeding \$1 million through January 1, 2023, on the condition that construction managers provide an enforceable commitment to use a “skilled and trained workforce” (defined in Public Contract Code section 2601, subdivision (d)). The City of San Diego is also authorized to use CMAR contracts for all projects exceeding \$25 million subject to the same sunset date and “skilled and trained workforce” requirements. This bill also authorizes the Santa Clara Valley Water District to use the local agency design-build procurement process (Public Contract Code sections 22160, *et seq.*) for flood protection improvements, habitat restoration or enhancement, groundwater recharge or storage facilities, water treatment facilities, and the retrofit, repair, or expansion of existing surface water facilities.

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AB 1066 (Aguiar-Curry, Chapter 616, Statutes of 2017) Public works: definition.

This bill codifies the DIR's interpretation regarding what types of tree removal work is covered under the definition of "public works." This bill amends Labor Code section 1720 to specify that tree removal done in the execution of a contract for construction, alteration, demolition, installation, or repair work, paid for in whole or in part out of public funds, constitutes "public works." It ensures that tree removal work performed in connection with public works projects is covered under California prevailing wage law.

AB 1516 (Cunningham, Chapter 561, Statutes of 2017) Maintenance of the codes.

This bill made non-substantive grammatical and other minor changes to numerous code sections to implement recommendations made by the Legislative Counsel to the Legislature. It does not substantively alter in any manner the Department's statutory authority or duties.

AB 1690 (Committee on Judiciary, Chapter 160, Statutes of 2017) Personal rights: compensatory relief.

This bill clarifies existing protections related to the immigration status of an individual seeking to exercise his or her rights under California's consumer protection laws. This bill amends the California Civil Code, Government Code, Health and Safety Code, and the Labor Code and provides that a person's immigration status is irrelevant to the issue of liability.

SB 3 (Beall, Chapter 365, Statutes of 2017) Veterans and Affordable Housing Bond Act of 2018.

This bill, the "Veterans and Affordable Housing Bond Act of 2018," is part of a legislative package aimed at easing California's affordable housing shortage. If passed by the voters in the November 6, 2018, statewide general election, SB 3 would authorize the issuance of \$4 billion in bonds pursuant to the State General Obligation Bond Law. Of the proceeds from the sale of those bonds, \$3 billion would be used to finance various existing housing programs, as well as infill infrastructure financing and affordable housing matching grant programs. The remaining \$1 billion would be used to provide additional funding for a specified program for farm, home, and mobilehome purchase assistance for veterans. SB 3 declares that it is to take effect immediately as an urgency statute.

SB 35 (Wiener, Chapter 366, Statutes of 2017) Planning and zoning: affordable housing: streamlined approval process.

This bill is one of several bills addressing the issue of affordable housing this legislative session. It creates a streamlined ministerial approval process to replace the conditional use permit process for multifamily housing developments that meet specific criteria. Among those criteria, relevant to the Department of Industrial Relations, is that the

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development proponent must certify that the entirety of the development is either a public work, as defined in the Labor Code, or that all construction workers on the project will be paid prevailing wages (apprentices can be paid prevailing apprentice rates). In addition, in some cases, the developer also has to certify that a skilled and trained workforce will be used to complete the project. SB 35 authorizes the Division of Labor Standards Enforcement to enforce the prevailing wage and skilled and trained workforce requirements in projects approved under the ministerial process. The new statutory provisions also require that any design review or public oversight of qualifying projects be objective and strictly focused on assessing compliance with the specified criteria.

SB 54 (De León, Chapter 495, Statutes of 2017) Law enforcement: sharing data.

This bill establishes the “California Values Act” which prohibits state and local law enforcement agencies, including school police and security departments, from using agency resources to investigate, interrogate, detain, detect, hold, or arrest persons for immigration enforcement purposes, or to otherwise assist federal immigration authorities. The bill does not prevent law enforcement agencies from responding to requests about a specific person’s criminal history or from participating in a joint law enforcement task force so long as the purpose of the task force is not immigration enforcement. In addition, this bill requires the California Attorney General to consult with relevant stakeholders including, among others, the Division of Labor Standards Enforcement and the Division of Workers’ Compensation, for the purpose of developing and publishing model policies limiting assistance to federal immigration enforcement to the fullest extent possible, consistent with federal and state law at those entities’ facilities. This bill also requires the Attorney General to consult with appropriate stakeholders and publish guidance, audit criteria, and training recommendations aimed at ensuring that relevant government database operators limit the accessibility or availability of information for purposes of immigration enforcement.

Governor’s Signing Message:

I am signing Senate Bill 54, the California Values Act.

This bill states that local authorities will not ask about immigration status during routine interactions. It also bans unconstitutional detainer requests and prohibits the commandeering of local officials to do the work of immigration agents. The bill further directs our Attorney General to promulgate model policies for local and state health, education, labor and judiciary officials to follow when they deal with immigration matters.

In enshrining these new protections, it is important to note what the bill does not do. This bill does not prevent or prohibit Immigration and Customs Enforcement or the Department of Homeland Security from doing their own work in any way. They are free

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to use their own considerable resources to enforce federal immigration law in California. Moreover, the bill does not prohibit sheriffs from granting immigration authorities access to California jails to conduct routine interviews, nor does it prevent cooperation in deportation proceedings from anyone in state prison or for those in local jails for any of the hundreds of serious offenses listed in the TRUST Act.

These are uncertain times for undocumented Californians and their families, and this bill strikes a balance that will protect public safety, while bringing a measure of comfort to those families who are now living in fear every day.

SB 96 (Committee on Budget and Fiscal Review, Chapter 28, Statutes of 2017) State Government.

This consolidated budget trailer bill contains provisions relating to multiple programs in state government. SB 96 makes numerous changes including changes relating to the Labor Commissioner's public works, field enforcement, and anti-retaliation enforcement units as well as changes to Cal/OSHA penalties. This bill makes significant changes to the Labor Commissioner's Public Works Contractor Registration program. It increases the contractor registration and renewal fee from \$300 to \$400 annually, creates new penalties and sanctions for unregistered contractors, for general contractors, and subcontractors that hire unregistered contractors, and for agencies that award public works projects to unregistered contractors or contractors with unregistered subcontractors. This bill also increases penalties for occupational safety and health violations enforced by the Division of Occupational Safety and Health. This bill also establishes an annual increase in penalty violation amounts, indexed to the Consumer Price Index for All Urban Consumers (CPI-U).

SB 272 (Mendoza, Chapter 539, Statutes of 2017) State Compensation Insurance Fund: executive and management appointments.

This bill authorizes the State Compensation Insurance Fund's Board of Directors to appoint and employ five new executive/management-level positions that are exempt from state civil service rules and salary schedules: (1) Chief Underwriting Officer; (2) Senior Vice President of Insurance Services; (3) Executive Vice President of Corporate Claims; (4) Executive Vice President of Strategic Planning; and (5) Pricing Actuary. This bill requires the board to set the salary for each position in amounts reasonably necessary to attract and retain qualified individuals and to submit that salary-setting criteria to the Department of Human Resources. Beginning on September 1, 2018, this bill also requires the submission of a biannual report to those legislative committees with jurisdiction over insurance, containing salary-setting criteria and salary and total compensation for each position filled pursuant to this authority for the previous two fiscal years.

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[SB 418](#) (Hernandez, Chapter 393, Statutes of 2017) Public contracts: skilled and trained workforce.

This bill amends the definition of a “skilled and trained workforce,” as set forth in Public Contract Code section 2601, which applies in a number of different contexts related to construction by public entities, public works projects, and other regulated construction contracts. It specifies that the requirement that a certain percentage of skilled journeypersons be graduates of an approved apprenticeship program does not apply to the occupation of teamster and holds the percentage required for a number of other specified occupations at 30 percent.

Division of Apprenticeship Standards (DAS)

[AB 579](#) (Flora, Chapter 344, Statutes of 2017) Apprenticeship: fire protection: firefighter preapprenticeship program.

This bill mandates the development of a statewide firefighter preapprenticeship program designed to recruit candidates from underrepresented groups, particularly minorities and women. Under AB 579, the DAS, in conjunction with the California Firefighter Joint Apprenticeship Committee (Cal-JAC), is required to develop a statewide firefighter preapprenticeship program, meeting specified objectives.

[AB 581](#) (McCarty, Chapter 553, Statutes of 2017) Apprenticeships on public works projects.

Under AB 581, apprenticeship programs must agree to keep adequate records documenting the expenditure of grant funds from the California Apprenticeship Council (CAC) in order to be eligible to receive funding. This bill also requires those apprenticeship programs to make all records available to the DIR to verify that grant funds are used solely for apprenticeship training purposes. Any program that violates the requirements of AB 581 will not be eligible to receive grants from the CAC, and the DIR is authorized to rescind its registration.

[AB 1731](#) (Committee on Jobs, Economic Development, and the Economy, Chapter 94, Statutes of 2017) Apprenticeships: training funds: audits.

This bill requires the California Community Colleges Chancellor's Office (CCCCO) to provide guidance to local educational agencies (LEAs) on the allocation and oversight of apprenticeship training funds consistent with the rules set by the California Apprenticeship Council.

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Division of Labor Standards Enforcement (DLSE)

AB 46 (Cooper, Chapter 776, Statutes of 2017) Employers: wage discrimination.

This bill expressly applies the California Equal Pay Act to both public and private employers by defining “employer” as both a public and private employer for purposes of that statute. The California Equal Pay Act (Labor Code section 1197.5) prohibits an employer from paying any of its employees at wage rates that are less than the rates paid to employees of the opposite sex or of another race or ethnicity, for substantially similar work. AB 46 would extend the act’s remedies to public employees and would specify that public employers are not subject to the misdemeanor provision.

AB 168 (Eggman, Chapter 688, Statutes of 2017) Employers: salary information.

This bill prohibits an employer from seeking information regarding an individual’s prior salary history for an interview and explicitly applies its provisions to all employers, including state and local government employers and the Legislature. This bill clarifies that an applicant can voluntarily disclose salary history information to a prospective employer. In that case, the employer is not prohibited from relying on that information to determine the salary for that applicant. This bill exempts from its prohibition salary history information made available to the public pursuant to federal or state law.

AB 450 (Chiu, Chapter 492, Statutes of 2017) Employment regulation: immigration worksite enforcement actions.

This bill establishes within the Government Code new prohibitions and requirements on public and private employers with regard to federal immigration enforcement actions. It prohibits employers, or persons acting on their behalf, from providing voluntary access to a federal government immigration agent to any nonpublic areas of a place of employment without a judicial warrant. This bill also prohibits an employer, or a person acting on their behalf, from providing voluntary consent to an immigration enforcement agent to access, review, or obtain the employer’s employee records without a subpoena or judicial warrant. It expressly provides that it does not prohibit an employer from challenging the validity of a subpoena or judicial warrant in a federal district court. This bill provides that the DLSE and California’s Attorney General have exclusive jurisdiction to enforce its provisions through a civil action. The bill also adds a provision in the Labor Code requiring an employer to post notice to current employees, in the language that the employer normally uses to communicate employment-related information to employees, of any inspection of employment records to be conducted by a federal immigration agency within 72 hours of receiving the federal notice of inspection. For that purpose, the DLSE is required to create and make available a template by July 1, 2018. The bill prescribes penalties of two to five thousand dollars (\$2,000 - \$5,000) for failure to satisfy its requirements and prohibitions for a first violation and five to ten thousand dollars (\$5,000 - \$10,000) for each subsequent violation.

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AB 1008 (McCarty, Chapter 789, Statutes of 2017) Employment discrimination: conviction history.

This bill expands existing state policy that prohibits state or local agencies from asking a job applicant to disclose information regarding a conviction by repealing a limited protection provided in the Labor Code and replacing it with a broader prohibition under the Fair Employment and Housing Act. Unless specifically exempted, it is now unlawful practice for all employers with five or more employees to include on a job application any question that seeks the disclosure of an applicant's conviction history or to consider the applicant's conviction history before extending the applicant a conditional offer of employment. Among other things, employers are also required to conduct an individualized assessment of whether an applicant's conviction history is directly and adversely related to the specific duties of the job and to provide an opportunity for the applicant to respond to a determination to deny employment. The Department of Fair Employment and Housing is charged with enforcing this newly expanded "ban the box" policy.

AB 1701 (Thurmond, Chapter 804, Statutes of 2017) Labor-related liabilities: original contractor.

This bill establishes that on non-public works projects a direct contractor is liable to employees of any subcontractor for unpaid wages, fringe, or other benefits, excluding penalties, for the wage claimant's performance of labor included in the subject of the original contract, for all contracts entered into on or after January 1, 2018. This bill authorizes three types of enforcement for joint wage and benefits liability. First, the bill authorizes the Labor Commissioner to collect unpaid wages from the direct contractor as well as the subcontractor through wage claim or administrative citation processes, or through a civil suit. Second, it allows a joint labor-management committee to file suit to collect unpaid wages against a direct contractor as well as the subcontractor. Third, this bill authorizes a civil action by a third party for unpaid contributions, typically a union pension and welfare benefit trust fund.

Governor's Signing Message:

I am signing Assembly Bill 1701.

This bill would extend liability against a general contractor for wages owed to workers of a subcontractor and create new wage collection remedies for private non-public work projects.

The author and sponsors of this bill have committed to proposing legislation next year to resolve a dispute over the meaning of section 218.7 subdivision (h) in the Labor Code by striking that subdivision. I look forward to receiving that legislation early next year to

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avoid any ongoing disputes about the meaning of that provision when this measure takes effect on January 1, 2018.

SB 295 (Monning, Chapter 424, Statutes of 2017) Farm labor contractors: sexual harassment prevention.

This bill adds new requirements to the farm labor contractor sexual harassment training program and specifies that training for each employee must be in a language understood by that employee. It also requires licensees to disclose information regarding their sexual harassment training programs to the DLSE as part of their application for license renewal. The bill requires the DLSE to publish on the Division's website the total number of agricultural employees trained in the previous calendar year. It makes it a violation of existing law relating to farm labor contractors to fail to comply with specific provisions relating to the training requirements and authorizes the DLSE to issue citations and assess civil penalties for each violation.

SB 306 (Hertzberg, Chapter 460, Statutes of 2017) Retaliation actions: complaints: administrative review.

This bill provides new enforcement tools to the DLSE in retaliation complaint investigations. This bill permits the DLSE to commence an investigation of an employer without a complaint when the Division suspects that retaliation or discrimination took place during the course of conducting a wage claim adjudication or during a field inspection by the Division, or in instances of suspected immigration-related threats in violation of Labor Code sections 244, 1019, or 1019.1. In cases where the DLSE determines, after an investigation, that unlawful retaliation or discrimination has occurred, this bill also authorizes the DLSE to enforce the law by issuing an administrative citation instead of filing a civil suit. This bill also allows the DLSE to immediately petition a court for injunctive relief, including a temporary restraining order, and directs the court to consider the chilling effect of the alleged unlawful retaliation on other employees asserting their rights in determining if temporary injunctive relief is just and proper.

SB 490 (Bradford, Chapter 831, Statutes of 2017) Wages: Barbering and Cosmetology Act: licenses.

This bill adds section 204.11 to the Labor Code to designate certain wages paid to employees who are licensed barbers and cosmetologists as commissions when specified conditions are met. Specified conditions include that employees earn a regular hourly rate of at least double the state's minimum wage for all hours worked, in addition to commissions paid, and that they be paid at least their regular hourly rate for mandated rest and recovery periods.

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SB 621 (Bradford, Chapter 99, Statutes of 2017) Overtime compensation: private school teachers.

Existing law provides that eight hours of labor constitutes a day's work and requires that any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek be compensated at the rate of no less than 1.5 times the regular rate of pay for the employee. Existing law exempts from these provisions an individual employed as a teacher at a private elementary or secondary academic institution if specific requirements are met. This bill specifies that the existing standards apply to full-time employees and prescribes a revised earnings standard for exemption from overtime provisions for part-time employees that requires that a part-time employee earn the proportional amount of a full-time salary that is equal to the proportion of the full-time instructional schedule for which the part-time employee is employed. SB 621 also provides that a private school may use school salary schedules in effect for up to 12 months prior to the start of the school year for use in budgeting for salaries under these provisions.

Division of Occupational Safety and Health (Cal/OSHA)

AB 1649 (Muratsuchi, Chapter 590, Statutes of 2017) Oil refineries: public safety.

This bill requires the California Environmental Protection Agency (CalEPA), in consultation with specified federal, state, and local agencies, including Cal/OSHA, to examine ways to improve public and worker safety through enhanced oversight of refineries, and to strengthen emergency preparedness in anticipation of any future refinery incident. CalEPA must facilitate coordination among those agencies to protect the public, fence-line communities, and refinery workers from risks associated with refinery operations throughout the state. CalEPA is required to convene at least two public meetings a year, in a distinct location where a refinery is located, to provide members of the public with current information on refinery safety, as specified.

SB 258 (Lara, Chapter 830, Statutes of 2017) Cleaning Product Right to Know Act of 2017.

This bill establishes the "Cleaning Product Right to Know Act," and requires ingredient labeling for certain cleaning products. Under SB 258, as of January 1, 2020, manufacturers of cleaning products sold in California must post online: 1) a list of all intentionally added ingredients; 2) a list of all nonfunctional constituents present in the designated product at a concentration at or above .01 percent; 3) the Chemical Abstracts Service (CAS) number of ingredient or nonfunctional constituents subject to provisions one and two; and 4) the functional purpose of each intentionally added ingredient. This bill also requires that after January 1, 2021, all cleaning products sold in California be labeled with either: 1) a list of every intentionally added ingredient included

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on various designated lists of substances and every fragrance allergen included on Annex III of the EU Cosmetics Regulation 1223/2009; or 2) a list of all intentionally added ingredients that are not confidential business information and the statement “contains fragrance allergen(s),” if an Annex III fragrance allergen is present in concentrations at or above .01 percent. If the label does not include a full list of intentionally added ingredients, it must display the statement “For more information visit,” and the address of a website that contains all requisite disclosures. The website disclosures have to be posted in a printable format and employers are required to make that printable information available to employees in the same manner as Safety Data Sheets. The latter requirement is to be enforced by Cal/OSHA.

Division of Workers’ Compensation

AB 44 (Reyes, Chapter 736, Statutes of 2017) Workers’ compensation: medical treatment: terrorist attacks: workplace violence.

This bill is a response to the challenges in obtaining medical treatment experienced by workers injured in the 2015 terrorist attack in San Bernardino. AB 44 ensures that resources are available to facilitate the provision of medically necessary treatment to workers injured in acts of domestic terrorism. This bill requires that all employers provide the immediate support of a nurse case manager to employees injured in the course of employment by an act of domestic terrorism when the Governor has declared a state of emergency in connection with that terrorist act. The purpose of nurse case manager services is to assist employees in obtaining medically necessary treatment in compliance with the medical treatment utilization schedule (MTUS) and to assist medical providers in seeking authorization of that recommended treatment.

AB 1422 (Daly, Chapter 300, Statutes of 2017) Workers’ compensation insurance: fraud.

This bill is a clean-up measure to reduce uncertainty and litigation over last year’s workers’ compensation antifraud legislation: AB 1244 (Gray and Daly, Chapter 852, Statutes of 2016) and SB 1160 (Mendoza, Chapter 868, Statutes of 2016). Those bills established grounds and procedures for staying the lien claims of medical providers prosecuted for fraud-related crimes and for suspending convicted providers from the workers’ compensation system and disposing of their claims in consolidated lien proceedings. AB 1422 reconciles inconsistencies in the language of the 2016 statutes (Labor Code sections 139.21 and 4615); closes a time gap so that lien claims will remain stayed between a conviction and the start of lien consolidation proceedings following suspension; and clarifies the meaning of statutory terms. This bill also provides for entities convicted of fraud-related crimes to be suspended from the workers’ compensation system and authorizes employers to object to bills from

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suspended providers and to defer responding to bills from providers whose liens are stayed.

Governor's Signing Message:

I am signing AB 1422 which is clean-up legislation to last year's workers' compensation anti-fraud bills, AB 1244 and SB 1160. Those measures established new requirements and authority to help prevent and reduce fraud in the workers' compensation system. Specifically, they require the suspension of medical providers who have been convicted of crimes involving fraud or abuse. They also require placing a stay on any liens filed by providers charged with such crimes (pending disposition of the charges).

AB 1422 confirms that the Workers' Compensation Appeals Board retains jurisdiction to resolve disputes about the applicability of the automatic stay provision to specific liens. This bill is declaratory of existing law which provides for the resolution of these disputes through the Board's current practices and procedures. Nothing in last year's legislation creating the stay was intended, or operated, to divest the Board from jurisdiction over these issues.

SB 189 (Bradford, Chapter 770, Statutes of 2017) Workers' compensation: definition of employee.

This bill is a clean-up measure to AB 2883 (Committee on Insurance, Chapter 205, Statutes of 2016) which revised the definition of "employee" for the purpose of authorizing when corporate officers and members of a board of directors may waive workers' compensation coverage. This bill makes numerous changes including lowering the qualifying ownership percentage for when an owner may waive workers' compensation coverage as well as provides numerous other exemptions for specific employment and ownership situations. SB 189 creates a conclusive presumption that a person who executes a workers' compensation waiver is not covered by workers' compensation insurance. It allows the insurance carrier to backdate the acceptance of the waiver up to 15 days prior to the date of receipt of the waiver. This bill provides that all substantive changes take effect on July 1, 2018.

SB 430 (Committee on Insurance, Chapter 268, Statutes of 2017) California Insurance Guarantee Association: covered claims.

This bill allows the California Insurance Guarantee Association (CIGA), with the Insurance Commissioner's express approval, to reinsure, or transfer liabilities to, a California-admitted and authorized reinsurer or other reinsurer approved by the Insurance Commissioner in order to limit or eliminate adverse development, to stabilize or limit the need for assessments, or to reduce its potential ultimate liability for covered claims, provided that the association retains the ultimate responsibility to the policyholder or beneficiary for payment of claims covered by the reinsurance

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agreement. This bill requires the payment and discharge of covered claims to be handled by CIGA either directly or through an authorized third party administrator. It requires that the reinsurance agreement be paid for using CIGA's available funds from one of its accounts and provides that it may not be charged to administrative expense or allocated to any liquidation estate. This bill also requires that any recoveries from the reinsurance agreement or transfer of liabilities be the sole property of CIGA, not benefit any liquidation estate, and be paid to the account that paid for the reinsurance or transfer of liabilities.

SB 489 (Bradford, Chapter 240, Statutes of 2017). Workers' compensation: change of physician.

This bill clarifies one of the "fast pass" provisions adopted last year by SB 1160 (Mendoza, Chapter 868, Statutes of 2016), regarding the utilization review process. Under SB 1160, providers must submit billing for treatment provided under the "fast pass" provisions within 30 days of service. This bill amends Labor Code section 4610 to create an exception to the 30-day billing requirement for providers of "emergency treatment services." This bill defines "emergency treatment services" as treatment for an emergency medical condition as specified in Health and Safety Code section 1317.1(b) and provided in a licensed general acute care hospital, as defined in Health and Safety Code section 1250. This bill would allow requests for payment for emergency treatment services to be submitted to the employer, its insurer, or claims' administrator no later than 180 days from the date of service.

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Table of Amended Labor Code Sections

Note: All sections reference the California Labor Code unless otherwise specified.

Bill	Labor Code Section
AB 44 (Reyes, Chapter 736, Statutes of 2017) Workers' compensation: medical treatment: terrorist attacks: workplace violence.	Add Section 4600.05
AB 46 (Cooper, Chapter 776, Statutes of 2017) Employers: wage discrimination.	Amend Section 1197.5
AB 55 (Thurmond, Chapter 608, Statutes of 2017) Hazardous materials management: stationary sources.	Amend Section 25536.7; add Section 25536.9 of the Health and Safety Code
AB 73 (Chiu, Caballero, Bonta, and Kalra, Chapter 371, Statutes of 2017) Planning and zoning: housing sustainability districts.	Amend Section 65582.1 and add Chapter 11 (commencing with Section 66200) to Division 1 of Title 7 of, the Government Code; add Chapter 4.3 (commencing with Section 21155.10) to Division 13 of the Public Resources Code
AB 168 (Eggman, Chapter 688, Statutes of 2017) Employers: salary information.	Add Section 432.3
AB 199 (Chu, Chapter 610, Statutes of 2017) Public works: private residential projects.	Amend Section 1720
AB 450 (Chiu, Chapter 492, Statutes of 2017) Employment regulation: immigration worksite enforcement actions.	Add Sections 7285.1, 7285.2, and 7285.3 to the Government Code; add Sections 90.2 and 1019.2 to the Labor Code

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<p>AB 579 (Flora, Chapter 344, Statutes of 2017) Apprenticeship: fire protection: firefighter preapprenticeship program.</p>	<p>Add Section 13159.15 to the Health and Safety Code</p>
<p>AB 581 (McCarty, Chapter 553, Statutes of 2017) Apprenticeships on public works projects.</p>	<p>Amend Section 1777.5</p>
<p>AB 677 (Chiu, Chapter 744, Statutes of 2017) Data collection: sexual orientation.</p>	<p>Add Section 51514 to the Education Code; amend Section 8310.8 of the Government Code</p>
<p>AB 851 (Caballero, Chapter 821, Statutes of 2017) Local Agency Contracts.</p>	<p>Amend Sections 20146 and 21162, add Section 22162.5, and add and repeal Section 20175 of the Public Contract Code</p>
<p>AB 1008 (McCarty, Chapter 789, Statutes of 2017) Employment discrimination: conviction history.</p>	<p>Add Section 12952 to the Government Code; repeal Section 432.9 of the Labor Code</p>
<p>AB 1066 (Aguiar-Curry, Chapter 616, Statutes of 2017) Public works: definition.</p>	<p>Amend Section 1720</p>
<p>AB 1422 (Daly, Chapter 300, Statutes of 2017) Workers' compensation insurance: fraud.</p>	<p>Amend Sections 139.21, 4603.2, and 4615</p>
<p>AB 1516 (Cunningham, Chapter 561, Statutes of 2017) Maintenance of the codes.</p>	<p>Amend Sections 139.21, 201.3, 1072, 1285, 1286, 1288, 1290, 1291, 1299, 1301, 1302, 1303, 1304, 1305, 1308, 1308.3, 1308.11, 1309, 1310, 1311, 1312, 1390, 1391, 1393, 1393.5, 1394, 1398, 1399, 1420, 1433, 4603.2, 4616.4, and 4800, repeal the heading of Article 2 (commencing with Section 1285) of Chapter 2 of Part 4 of Division 2, and</p>

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	repeal the heading of Article 2 (commencing with Section 1390) of Chapter 3 of Part 4 of Division 2 (partial listing)
AB 1649 (Muratsuchi, Chapter 590, Statutes of 2017) Oil refineries: public safety.	Add Part 3.8 (commencing with Section 71275) to Division 34 of the Public Resources Code
AB 1690 (Committee on Judiciary, Chapter 160, Statutes of 2017) Personal rights: compensatory relief.	Amend Section 3339 of the Civil Code; amend Section 7285 of the Government Code; amend Section 24000 of the Health and Safety Code; amend Section 1171.5 of the Labor Code
AB 1701 (Thurmond, Chapter 804, Statutes of 2017) Labor-related liabilities: original contractor	Add Section 218.7
AB 1731 (Committee on Jobs, Economic Development, and the Economy, Chapter 94, Statutes of 2017) Apprenticeships: training funds: audits.	Amend Section 88600 of the Education Code
SB 3 (Beall, Chapter 365, Statutes of 2017) Veterans and Affordable Housing Bond Act of 2018.	Add Part 16 (commencing with Section 54000) to Division 31 of the Health and Safety Code; add Article 5z (commencing with Section 998.600) to Chapter 6 of Division 4 of the Military and Veterans Code
SB 35 (Wiener, Chapter 366, Statutes of 2017) Planning and zoning: affordable housing: streamlined approval process.	Amend Sections 65400 and 65582.1, and add and repeal Section 65913.4 of the Government Code
SB 54 (De León, Chapter 495, Statutes of 2017) Law enforcement: sharing data.	Amend Sections 7282 and 7282.5, add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of the Government Code; repeal Section 11369 of the Health and Safety Code

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<p>SB 96 (Committee on Budget and Fiscal Review, Chapter 28, Statutes of 2017) State Government.</p>	<p>Amend Sections 98.7, 226.4, 1197.1, 1287, 1684, 1725.5, 1742.1, 1770, 1771.1, 1771.3, 1771.4, 1773.3, 1773.6, 1778, 1780, 1811, 1860, 2065, 2675.5, 6310, 6427, 6429, 6431, 6505.5, 7381, and 9060; add Sections 90.6 and 1174.1 (partial listing)</p>
<p>SB 189 (Bradford, Chapter 770, Statutes of 2017) Workers' compensation: definition of employee.</p>	<p>Amend Sections 3364, 3706.5, and 4156, and amend, repeal, and add Sections 3351 and 3352</p>
<p>SB 258 (Lara, Chapter 830, Statutes of 2017) Cleaning Product Right to Know Act of 2017.</p>	<p>Add Section 6398.5, and add Chapter 13 (commencing with Section 108950) to Part 3 of Division 104 of the Health and Safety Code</p>
<p>SB 272 (Mendoza, Chapter 539, Statutes of 2017) State Compensation Insurance Fund: executive and management appointments.</p>	<p>Amend Section 11785 of the Insurance Code</p>
<p>SB 295 (Monning, Chapter 424, Statutes of 2017) Farm labor contractors: sexual harassment prevention.</p>	<p>Amend Section 1684 and Section 1697.5</p>
<p>SB 306 (Hertzberg, Chapter 460, Statutes of 2017) Retaliation actions: complaints: administrative review.</p>	<p>Amend Section 98.7; and add Sections 98.74, 1102.61, and 1102.62</p>
<p>SB 418 (Hernandez, Chapter 393, Statutes of 2017) Public contracts: skilled and trained workforce.</p>	<p>Amend Section 2601 of the Public Contract Code</p>
<p>SB 430 (Committee on Insurance, Statutes of 2017, Ch. 268) California Insurance Guarantee Association: covered claims.</p>	<p>Amend Section 1063.2 of the Insurance Code</p>
<p>SB 489 (Bradford, Chapter 240, Statutes of 2017). Workers' compensation: change of physician.</p>	<p>Amend Section 4610</p>

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SB 490 (Bradford, Chapter 831, Statutes of 2017) Wages: Barbering and Cosmetology Act: licenses.	Add Section 204.11
SB 621 (Bradford, Chapter 99, Statutes of 2017) Overtime compensation: private school teachers.	Amend Section 515.8

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APPENDIX A: Vetoed Bills

Vetoed Assembly Bills:

[AB 61](#) (Holden) State Compensation Insurance Fund: board.

[AB 247](#) (Garcia, Gomez, Reyes, and Santiago) Public health: childhood lead poisoning: Lead Advisory Task Force.

[AB 402](#) (Thurmond) Occupational safety and health standards: plume.

[AB 569](#) (Gonzalez Fletcher) Discrimination: reproductive health.

[AB 570](#) (Gonzalez Fletcher) Workers' compensation: permanent disability apportionment.

[AB 978](#) (Limón) Employment safety: injury and illness prevention program.

[AB 1209](#) (Gonzalez Fletcher) Employers: gender pay differentials.

Vetoed Senate Bills:

[SB 574](#) (Lara) University of California: contracts: bidding.

VETOED BILLS BY DIVISION

Department of Industrial Relations (DIR)

SB 574 (Lara) University of California: contracts: bidding.

This bill would have modified the requirements for qualifying as a lowest responsible bidder or best value awardee for specified types of service contracts with the University of California (UC) by requiring a bidder to certify in writing that all its employees, intermediaries' employees, and subcontractors' employees who work under contract for more than ten days at the university in any 12-month period are compensated at a level that does not undercut, by more than five percent, the average per-employee value of total compensation for UC employees who perform comparable work. This bill would have made these provisions effective on January 1, 2019, including as to any amendment, renewal, or extension of existing contracts for goods, materials, and services involving an expenditure of \$100,000 or more annually occurring after that date.

Governor's Veto Message:

I am returning Senate Bill 574 without my signature.

This bill seeks to equalize, or at least greatly minimize, the wage and benefit disparity between employees of the University of California (UC) and its contracted workers in specific job categories. This is the third time this policy, with some modification, has been passed by the Legislature.

After twice vetoing prior attempts, I am tempted to sign this measure, for no other reason than it is a well-intentioned bill that seeks to improve the financial security of contracted workers, or, alternatively, expand direct employment at the UC for lower wage workers. As the UC prides itself on being an agent of social mobility for students, it might follow that UC could similarly be an agent of social mobility for lower-wage workers at its campuses.

Good intentions, however, aren't always enough. The mechanism to create this social change locks in cumbersome and overly costly contracting rules that provide little flexibility, regardless of circumstance. This will not serve the university or the state well.

In the best of worlds, the UC would make greater efforts to control its cost structure and find the means to better compensate lower wage workers, both employed and

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contracted-so that fewer would be concerned about housing, hunger and healthcare. Though UC has made some attempts in this regard, much work remains, including holding flat executive compensation and benefits that near many hundreds of thousands of dollars and more, far beyond what the average Californian would think reasonable for an employee of a public university.

What the state requires of the university's contracting policy should be more carefully considered, thoughtfully debated and weighed against other high value programs of expenditure. The State Auditor's recent report made some useful recommendations on contracting practices, which the UC can act on now. Other actions to improve UC's policies can be considered when the UC's total budget is considered by the state.

Division of Labor Standards and Enforcement (DLSE)

AB 569 (Gonzalez Fletcher) Discrimination: reproductive health.

The California Fair Employment and Housing Act prohibits employment-related discrimination based upon immutable personal characteristics. Under existing law, the DLSE enforces the state's labor laws, including anti-retaliation protections. This bill would have amended the Labor Code to expressly prohibit an employer from taking any adverse employment action against an employee based on an employee's reproductive health decisions, including the timing thereof or the use of any drug, device, or medical service. The bill would have required an employer that provides an employee handbook to include in the handbook notice of the employees' rights and remedies under the provisions of this law. This bill would have specified that it did not create a new basis upon which an employee can accrue or use benefits relating to paid or protected time off.

Governor's Veto Message:

Assembly Bill 569 would add to the labor code a prohibition against any employer from taking an action against an employee because of that employee's reproductive decision.

The California Fair Employment and Housing Act has long banned such adverse actions, except for religious institutions. I believe these types of claims should remain within the jurisdiction of the Department of Fair Employment and Housing.

For this reason, I am returning AB 569 without my signature.

AB 1209 (Gonzalez Fletcher) Employers: gender pay differentials.

This bill sought to provide transparency regarding how California's largest employers compensate their employees in an effort to highlight and eventually reduce the gender

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wage gap. It would have required employers with over 500 employees, on and after July 1, 2019, and biennially thereafter, to collect specified information on gender wage differentials of exempt employees and board members and to submit that information to the Secretary of State by July 1, 2020, and every two years thereafter. The Secretary of State would have been required to publish the information on a website available to the public.

Governor's Veto Message:

I am returning Assembly Bill 1209 without my signature.

This bill would require employers with 500 or more employees in California to provide to the Secretary of State specific information regarding gender wage differentials for exempt employees and board members.

I have strongly supported policies that ensure women are compensated equitably and will continue to do so. While transparency is often the first step to addressing an identified problem, it is unclear that the bill as written, given its ambiguous wording, will provide data that will meaningfully contribute to efforts to close the gender wage gap. Indeed, I am worried that this ambiguity could be exploited to encourage more litigation than pay equity.

Since the Equal Pay Act was signed into law in 2015, the Pay Equity Task Force, which is comprised of members from this administration, business, academia, labor, the legislature and pay equity advocates, has been engaged in analysis of the new law, as well as workplace and compensation policies that can lead to successful compliance with the Act. Guidance and recommendations coming out of the Task Force will assist companies around the state with assessing their current wage practices.

Division of Occupational Safety and Health (Cal/OSHA)

AB 247 (Garcia, Gomez, Reyes, and Santiago) Public health: childhood lead poisoning: Lead Advisory Task Force.

This bill would have directed the Office of Environmental Health Hazard Assessment (OEHHA) to convene a Lead Advisory Task Force by April 1, 2018, to review policies and procedures to reduce childhood lead poisoning; to identify sources of lead; to ensure that regulatory standards are protective of health; and to recommend a regulatory agenda for the state published by April 1, 2020, and updated by April 1, 2022. This bill specified the membership of the task force and specifically required the inclusion of a representative from Cal/OSHA.

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Governor's Veto Message:

I am returning Assembly Bill 247 without my signature.

This bill creates a twenty-one member Lead Advisory Task Force to review and advise on state policies and procedures to reduce childhood lead poisoning and to suggest a regulatory agenda that would identify sources of lead and ensure standards are protective of public health.

The responsibilities of this task force would be duplicative of ongoing work by the Office of Environmental Health Hazard Assessment, the Department of Public Health, the State Water Resources Control Board, and the Department of Toxic Substances Control. Coordination and evaluation of procedures to reduce childhood lead poisoning is being accomplished administratively amongst these agencies so there is no reason to divert resources to a task force.

AB 402 (Thurmond) Occupational safety and health standards: plume.

This bill would have required Cal/OSHA to convene an advisory committee by June 1, 2018, 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, Cal/OSHA's 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 Administration and the National Institute of Occupational Safety and Health. Additionally, this bill would have required Cal/OSHA to submit the proposed regulation to the Occupational Safety and Health Standards Board (the Standards Board) by June 1, 2019. The Standards Board would have been required to adopt the proposed regulation by July 1, 2020. Finally, this bill would have provided that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions.

Governor's Veto Message:

I am returning Assembly Bill 402 without my signature.

AB 402 would require the Occupational Safety and Health Standards Board to adopt a regulation that requires a health facility to evacuate or remove smoke plumes routinely generated during certain medical procedures through the use of plume scavenging systems by July 1, 2020.

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The creation of new occupational safety and health standards does not require legislation; any member of the public may petition the Standards Board to consider creating a new safety regulation. I agree that the state should evaluate the need for a standard to address the health and safety hazards posed by plume and I suggest that the Author and Sponsor petition the Standards Board to initiate that process.

AB 978 (Limón) Employment safety: injury and illness prevention program.

This bill would have amended existing provisions of the Labor Code that require employers to maintain a written injury and illness prevention program (IIPP), by allowing current employees or their authorized representatives to receive, free of charge, a complete paper or electronic copy of their employer's IIPP no later than ten business days from the date that the employer received such a request. AB 978 aimed to enhance worker health and safety by increasing employee access to IIPPs and by providing a method for workers to verify that employers are in compliance with the statutory mandate to have an IIPP.

Governor's Veto Message:

I am returning Assembly Bill 978 without my signature.

This bill would require employers to provide their employees, or their representative, access to an employer's written injury and illness prevention program within ten business days upon request.

I support policies that promote access and transparency in order to prevent injuries and improve health and safety. This bill, however, is unnecessary and duplicative of an existing regulatory proposal that is already underway at the Occupational Safety and Health Standards Board. The Standards Board advisory committee process is better suited to determine how to properly implement requirements of this kind.

Division of Workers' Compensation (DWC)

AB 61 (Holden) State Compensation Insurance Fund: board.

Insurance Code section 11770(b) provides that the Board of Directors of the State Compensation Insurance Fund (SCIF) is comprised of 11 members, nine of whom are appointed by the Governor. Among the members appointed by the Governor, one must be from organized labor. The Speaker of the Assembly also appoints one member, who must represent organized labor. The final member is appointed by the Senate Committee on Rules, and must be a person who has been an SCIF policyholder, or an officer or employee of a policyholder, for one year immediately preceding the appointment, and that person must also continue as a policyholder during his or her

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term. This bill would have required that one of the nine members of the SCIF Board of Directors appointed by the Governor be a current or former owner of a small business who has owned a small business for a period of at least five years, or who has been a SCIF policyholder for one year immediately preceding the appointment and who would have had to continue in this status during his or her membership term.

Governor's Veto Message:

I am returning Assembly Bill 61 without my signature.

This bill requires one of the Governor's appointees to the State Compensation Insurance Fund be a current or former small business owner.

I have not seen evidence that the Fund is lacking insight relative to the needs of its many small business policyholders. Nevertheless, if the Fund needs to improve its expertise in this area, current law provides sufficient opportunity to appoint board members with experience running a small business.

AB 570 (Gonzalez Fletcher) Workers' compensation: permanent disability apportionment.

This bill would have amended the Labor Code to provide that, for all injuries occurring after January 1, 2018, no apportionment of the cause of any permanent disability could be "based on pregnancy, childbirth, or other medical conditions related to pregnancy or childbirth." In other words, for all workplace injuries occurring after January 1, 2018, the workers' compensation system would have had to require an employer to pay for not only permanent disability directly caused by the work injury, but also for any permanent disability that was actually caused by pregnancy, childbirth, or pregnancy or childbirth-related medical conditions.

Governor's Veto Message:

I am returning Assembly Bill 570 without my signature.

This bill would prohibit apportionment of permanent disability, in the case of a physical injury occurring on or after January 1, 2018, from being based on pregnancy, childbirth, or other medical conditions related to pregnancy or childbirth. I am vetoing this bill for the same reasons that I vetoed similar measures Assembly Bill 1643 in 2016 and Assembly Bill 305 in 2015.

The California Constitution provides that the Legislature shall create a complete system of Workers' Compensation so that employers compensate employees for injuries sustained in the course of their employment. To that end, Labor Code Section 4663 provides that the employer shall only be liable for the percentage of permanent disability directly caused by the injury. AB 570 is in direct contradiction to this Constitutional

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mandate and legislative scheme because it requires employers to be liable for non-work related injuries. This measure would extend the scope of the workers' compensation system well beyond what it is meant to do: compensate injured workers who suffer a work related injury.

I agree with the Author that there is no place for gender discrimination in the workers' compensation system. However, it is not discrimination to have a gender-neutral system in which only permanent disability that results directly from work injuries is compensable. The creation of a broad exception to the apportionment statutes for medical conditions that affect only women would create a gender-based classification and would not be likely to withstand constitutional challenge.

I am committed to ensuring that California's workers' compensation policy treats all injured workers fairly and that every worker, regardless of gender, is adequately compensated for their injury. I encourage proponents of this bill to support continuing efforts to educate medical evaluators on current laws prohibiting gender bias.