

## Bills Signed by the Governor

### **AB 22 (Mendoza D) Employment: credit reports.**

**Chapter Number:** 724

**Summary:** The federal Fair Credit Reporting Act (FCRA) and the state Consumer Credit Reporting Agencies Act define and regulate consumer credit reports and authorize the use of consumer credit reports for employment purposes, pursuant to specified requirements. The FCRA provides that it does not preempt state law, except as specifically provided or to the extent that state laws are inconsistent with its provisions. This bill would prohibit an employer or prospective employer, with the exception of certain financial institutions, from obtaining a consumer credit report, as defined, for employment purposes unless the position of the person for whom the report is sought is (1) a position in the state Department of Justice, (2) a managerial position, as defined, (3) that of a sworn peace officer or other law enforcement position, (4) a position for which the information contained in the report is required by law to be disclosed or obtained, (5) a position that involves regular access to specified personal information for any purpose other than the routine solicitation and processing of credit card applications in a retail establishment, (6) a position in which the person is or would be a named signatory on the employer's bank or credit card account, or authorized to transfer money or enter into financial contracts on the employer's behalf, (7) a position that involves access to confidential or proprietary information, as specified, or (8) a position that involves regular access to \$10,000 or more of cash, as specified. This bill contains other related provisions and other existing laws.

### **AB 240 (Bonilla D) Compensation recovery actions: liquidated damages.**

**Chapter Number:** 272

**Summary:** Existing law authorizes the Labor Commissioner, who is the Chief of the Division of Labor Standards Enforcement, to investigate employee complaints and to provide for a hearing in any action to recover wages, penalties, and other demands for compensation properly before the commissioner or the division and to determine all matters arising under his or her jurisdiction. This bill would permit an employee to recover liquidated damages pursuant to a complaint brought before the Labor Commissioner alleging payment of less than the minimum wage fixed by an order of the Industrial Welfare Commission or by statute. This bill contains other related provisions and other existing laws.

### **AB 243 (Alejo D) Labor contractors.**

**Chapter Number:** 671

**Summary:** Existing law requires an employer to furnish each employee with an accurate itemized statement showing, among other things, the name and address of the legal entity that is the employer. Existing law provides that a knowing and intentional violation of this provision is a misdemeanor. This bill would require an employer who is a farm labor contractor, as defined, to disclose in the itemized statement the name and address of the legal entity that secured the employer's services. This bill contains other related provisions and other existing laws.

### **AB 378 (Solorio D) Workers' compensation: pharmacy products.**

**Chapter Number:** 545

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. This bill would add pharmacy goods, as defined, to the list of medical goods or services for which it is unlawful for a physician to refer a person under this provision, except in prescribed circumstances. By creating a new crime, this bill would impose a statemandated local program. This bill contains other related provisions and other existing laws.

### **AB 436 (Solorio D) Public works: labor compliance.**

**Chapter Number:** 378

**Summary:** Existing law authorizes the awarding body for a public works project to not require the payment of the general prevailing rate of per diem wages on public works projects of specified sizes and types of work, if the awarding body elects to initiate and enforce a labor compliance program containing specified requirements for every public works project under the authority of the awarding body or the awarding body elects to meet certain requirements with regard to any public works project under its authority, including payment of a fee to the Department of Industrial Relations for the enforcement of prevailing wage obligations, as specified, which may be waived under specified circumstances, determined by the department and deposited in the State Public Works Enforcement Fund. This bill would make revisions regarding the method by which the Department of Industrial

Relations sets reimbursement rates for its costs of performing prevailing wage monitoring and enforcement on the specified public works projects described above, when the reimbursement to the department may be waived, and would exempt from the above-described requirements those public works projects financed in any part by the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002. This bill would also provide that, upon an order of the Director of Finance, a loan in an amount not to exceed \$4,300,000 shall be made from the Uninsured Employers Benefit Trust Fund to the State Public Works Enforcement Fund, thereby depositing additional moneys into a continuously appropriated fund. This bill contains other existing laws.

**AB 469 (Swanson D) Employees: wages.**

**Chapter Number:** 655

**Summary:** Existing law authorizes the Labor Commissioner to investigate and enforce statutes and orders of the Industrial Welfare Commission that, among other things, specify the requirements for the payment of wages by employers. Existing law provides for criminal and civil penalties for violations of statutes and orders of the commission regarding payment of wages. This bill would provide that in addition to being subject to a civil penalty, any employer who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to paying restitution of wages to the employee. This bill contains other related provisions and other existing laws.

**AB 514 (Hernández, Roger D) Public works: prevailing wage: hauling refuse.**

**Chapter Number:** 676

**Summary:** Existing law includes, for the purposes of public works contracts, in the definition of "public works" the hauling of refuse from a public works site to an outside disposal location, as specified. Existing law generally requires all workers employed on public works to be paid not less than the prevailing rate of per diem wages. This bill would include in the definition of "hauling of refuse" the hauling of specified materials other than certain recyclable metals, thereby expanding the definition of "public works" and thus requiring the payment of prevailing wages for that activity. This bill contains other related provisions and other existing laws.

**AB 551 (Campos D) Public contracts: prevailing wage requirements: violations.**

**Chapter Number:** 677

**Summary:** Existing law generally requires that not less than the general prevailing rate of per diem wages, as specified, be paid to workers employed on a public work, as defined. Existing law requires a contractor or subcontractor to submit, to the state or political subdivision on whose behalf a public work is being performed, a penalty of not more than \$50 per calendar day, and not less than \$10 per calendar day except in certain cases of a good faith mistake, as provided and determined by the Labor Commissioner, for violations of these prevailing wage provisions. This bill would increase that maximum penalty to \$200 for each calendar day and would increase the minimum penalty except in certain cases of a good faith mistake to no less than \$40 for each calendar day. The bill would also increase the penalty assessed to contractors and subcontractors with prior violations from \$20 to \$80, and from \$30 to \$120 for willful violations. This bill contains other related provisions and other existing laws.

**AB 585 (Fong D) Workers' compensation: cancer presumption.**

**Chapter Number:** 550

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law provides that in the case of active firefighting members of certain fire departments and in the case of certain peace officers, a compensable injury includes cancer that develops or manifests itself during the period when the firefighter or peace officer demonstrates that he or she was exposed while in the service of the public agency to a known carcinogen, as defined. Existing law establishes a presumption that the cancer in these cases arose out of, and in the course of, employment, unless the presumption is controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer. This bill would extend this presumption to active firefighting members of a fire department serving a National Aeronautics and Space Administration installation who adhere to specified training standards.

**AB 587 (Gordon D) Public works: volunteers.**

**Chapter Number:** 219

**Summary:** Existing law defines "public works," for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work that is performed under contract and paid for in whole or in part out of public funds. Pursuant to existing law, all workers employed on public works projects are required to be paid not less than the general prevailing rate of per diem wages for work, except as specified. This bill would extend that repeal date to January 1, 2017, and make technical, nonsubstantive changes to that provision. This bill contains other related provisions and other existing laws.

**AB 766 (Monning D) Public works: payroll records.**

**Chapter Number:** 481

**Summary:** Existing law requires each contractor and subcontractor on a public works project to keep payroll records regarding his or her employees, and requires that these records contain information specified by the Division of Labor Standards Enforcement. Existing law requires certain personal identification information, as specified, to be removed when certified payroll records are made available for inspection to the public or to a public agency. This bill would require nonredacted copies of certified payroll records to be provided, upon request, to any agency included in, and for the purposes of, the Joint Enforcement Strike Force on the Underground Economy, or to any law enforcement agency, but would require any copies of records or certified payroll made available for inspection and furnished upon request to the public by these agencies to be marked or redacted to prevent disclosure of an individual's name, address, and social security number. The bill would also provide that an employer is not liable in a civil action for any reasonable act or omission taken in good faith in compliance with these requirements. This bill contains other related provisions.

**AB 1136 (Swanson D) Employment safety: health facilities.**

**Chapter Number:** 554

**Summary:** Existing law regulates the operation of health facilities. This bill would make findings and declarations concerning the lifting, repositioning, and transfer of patients in acute care hospitals and resulting injuries to hospital personnel. This bill contains other related provisions and other existing laws.

**AB 1168 (Pan D) Workers' compensation: vocational expert fee schedule.**

**Chapter Number:** 555

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the administrative director, after public hearings, to adopt and revise periodically official fee schedules that establish reasonable maximum fees paid for, among other things, medical services, medicines, and medical supplies. Existing law authorizes the Workers' Compensation Appeals Board to determine and allow certain expenses as liens against any award of compensation. This bill would require, on or before January 1, 2013, the administrative director to adopt, after public hearings, a fee schedule that establishes reasonable hourly fees paid for services provided by vocational experts. This bill would prohibit a vocational expert from being paid, and prohibit the appeals board from allowing, vocational expert fees in excess of those that are reasonable, actual, and necessary.

**AB 1236 (Fong D) Employment: hiring practices: electronic employment verification.**

**Chapter Number:** 691

**Summary:** The E-Verify Program of the United States Department of Homeland Security, in partnership with the United States Social Security Administration, enables participating employers to use the program, on a voluntary basis, to verify that the employees they hire are authorized to work in the United States. The bill would prohibit the state, or a city, county, city and county, or special district, from requiring an employer other than one of those government entities to use an electronic employment verification system except when required by federal law or as a condition of receiving federal funds.

**AB 1396 (Committee on Labor and Employment) Employment contract requirements.**

**Chapter Number:** 556

**Summary:** Existing statutory law, which has been held invalid by existing case law, requires an employer who has no permanent and fixed place of business in the state and who enters into a contract of employment involving commissions as a method of payment with an employee for services to be rendered within the state to put the contract in writing and to set forth the method by which the commissions are required to be computed and paid. An employer who does not comply with those requirements is liable to the employee in a civil action for triple damages. This bill would, by January 1,

2013, make this contract requirement applicable to all employers entering into a contract of employment involving commissions as a method of payment with an employee for services to be rendered in the state. In addition, the bill would repeal the provision making an employer who violates this requirement liable in a civil action for triple damages.

**AB 1398 (Chesbro D) Employment of minors: agricultural packing plants.**

**Chapter Number:** 489

**Summary:** Existing law prescribes limits on the hours of employment of minors, but authorizes the Labor Commissioner to grant an exemption to employers operating agricultural packing plants for the employment of 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. This bill would extend the operation of the exceptions pertaining to the employment of minors in Lake County until January 1, 2017. This bill would also change the written reporting requirements of affected employers to require a written report regarding payroll to be filed annually on or before October 1. This bill would also change the requirements for the Labor Commission to issue instead of an annual report, a single written report on the working conditions of minors employed in the agricultural packing industry, which would be filed by November 1, 2016, and cover the previous 51/2 year period from March 1, 2011, to October 1, 2016. This bill contains other existing laws.

**AB 1401 (Committee on Arts, Entertainment, Sports, Tourism,) Employment: minors.**

**Chapter Number:** 557

**Summary:** Existing law regulates the employment of minors in the entertainment industry and requires the written consent of the Labor Commissioner for a minor under the age of 16 to take part in certain types of employment. This bill would establish a program to be administered by the Labor Commissioner that would enable a minor's parent or guardian, prior to the first employment of a minor performer and under specified conditions, to obtain a temporary permit for the employment of a minor. This bill would also create the Entertainment Work Permit Fund into which would be deposited an application fee, set by the Labor Commissioner, that would be required for the issuance of a temporary permit. Upon appropriation by the Legislature, the proceeds from this fund would be used to pay the costs of administering the temporary minor's entertainment work permit program. This bill contains other related provisions.

**SB 56 (Corbett D) Apprenticeship oversight.**

**Chapter Number:** 696

**Summary:** Existing law requires the Division of Apprenticeship Standards within the Department of Industrial Relations to randomly audit all apprenticeship programs during each 5-year period commencing January 1, 2000, to ensure compliance with specified requirements, including any industry-specific training criteria established by the California Apprenticeship Council. This bill would eliminate the requirement that the division conduct random audits during 5-year periods and would instead direct the division to conduct audits of apprenticeship programs generally. The bill would further require the division to audit a new or newly expanded building and construction trades apprenticeship program one year after its approval for creation or expansion, and would require the division to immediately conduct an investigation of an apprenticeship program of this type to determine whether an audit is necessary if the division finds evidence that the program has purposely misstated information provided to the division. In addition, the bill would require the division to schedule an audit of a program of this type within 3 months if the program has been the subject of 2 or more meritorious apprentice complaints within a 5-year period or if the program's annual apprentice completion rate is below 50% of the average completion rate for the applicable trade. This bill contains other related provisions and other existing laws.

**SB 136 (Yee D) Public contracts: prevailing wages.**

**Chapter Number:** 698

**Summary:** Existing law defines "public works," for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. Existing law further requires that, except as specified, not less than the general prevailing rate of per diem wages be paid to workers employed on public works and imposes misdemeanor penalties for a violation of this requirement. Existing law provides that for the purposes of provisions of law relating to the payment of prevailing wages, "public works" includes specified types of construction, alteration, demolition, installation, and repair work. This bill would expand the definition of "public works," for the purposes of provisions relating to the prevailing rate of per diem wages, to also include any construction, alteration, demolition, installation, or repair work done under private contract that satisfies specified conditions related to

energy, as prescribed. This bill contains other related provisions and other existing laws.

**SB 457 (Calderon D) Workers' compensation: liens.**

**Chapter Number:** 564

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law authorizes a medical provider to file a lien claim with the Workers' Compensation Appeals Board for certain expenses incurred by the provider. Under existing law, the board is required to allow a lien to the extent of benefits paid or services provided for reimbursement for self-procured medical costs for the effects of an injury or illness arising out of and in the course of employment. This bill would require the board to determine, on the basis of liens filed, reimbursement for benefits paid or services provided by a self-insured employee welfare benefit plan notwithstanding the official medical fee schedule when an award is made for reimbursement for self-procured medical costs for the effects of an injury or illness arising out of and in the course of employment. This bill would also state that its provisions do not modify in any way specified rights or obligations. This bill contains other existing laws.

**SB 459 (Corbett D) Employment: independent contractors.**

**Chapter Number:** 706

**Summary:** Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship. This bill would prohibit willful misclassification, as defined, of individuals as independent contractors. The bill also would prohibit charging individuals who have been mischaracterized as independent contractors a fee or making deductions from compensation, as specified, where those acts would have violated the law if the individuals had not been mischaracterized. The bill would authorize the Labor and Workforce Development Agency to assess specified civil penalties from, and would require the agency to take other specified disciplinary actions against, persons or employers violating these prohibitions. It would also require the agency to notify the Contractors' State License Board of a violator that is a licensed contractor, and require the board to initiate an action against the licensee. The bill would authorize an individual to file a complaint, as specified, to request the Labor Commissioner to issue a determination that a person or employer has violated these prohibitions with regard to the individual filing the complaint. The bill would authorize the Labor Commissioner to assess civil and liquidated damages against a person or employer based on a determination that the person or employer has violated these prohibitions. This bill contains other related provisions.

**SB 826 (Leno D) Workers' compensation: data reporting requirement: administrative penalties.**

**Chapter Number:** 568

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the administrative director to develop a cost-efficient workers' compensation information system and requires the administrative director to adopt regulations specifying the data elements to be collected by electronic data interchange. This bill would require the administrative director to assess an administrative penalty against a claims administrator for a violation of data reporting requirements. This bill would require the administrative director to promulgate a schedule of penalties providing for an assessment of no more than \$5,000 against a claims administrator in any single year, calculated by violation type and excluding threshold rates of violations, as prescribed. This bill would provide that any penalty is to be deposited in the Workers' Compensation Administration Revolving Fund. This bill contains other related provisions and other existing laws.