

Minimum wage goes up

How new laws affect California employers **Interviewed by Jerry Roche**

An election and Gov. Arnold Schwarzenegger's continuing efforts to promote business development in California resulted in another year of modest legislative change for employers here, according to Thomas H. Reilly, a partner in the Newport Beach office of Newmeyer & Dillion LLP.

"The governor vetoed several bills that would have had an impact on employers, including bills that would have established a health care system funded by employer contributions," Reilly says. Other vetoed bills would have increased penalties for gender-based pay discrimination, provided unemployment compensation to employees who are locked out during labor disputes, and more.

"The governor has been a check-and-balance on a labor-friendly legislature, and that's been helpful to employers," Reilly says. "In his recent state of the state address, however, the governor proposed a universal health care system funded partially by employer contributions. Employers may not be as fortunate in the current legislative session."

Smart Business asked Reilly to sum up the four new pieces of California legislation already in the books.

What is Assembly Bill (A.B.) 1835?

A.B. 1835 increased the state minimum wage. On Jan. 1, 2007, the minimum wage in California increased from \$6.75 per hour to \$7.50 per hour. Effective Jan. 1, 2008, the minimum wage in California will again increase from \$7.50 per hour to \$8.00 per hour. Employers are required to post amended wage orders reflecting these changes.

Moreover, as a result of these changes, the minimum salary that may be paid to exempt employees (executive, administrative or professional) increased to \$31,200 per year (\$2,600 per month) on Jan. 1, 2007, and will increase further to \$33,280 per year (\$2,773.33 per month) on Jan. 1, 2008.

In a limited number of industries and occupations employing unskilled workers, the minimum wage hike may have a significant impact. In most industries, however,



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employers have long been unable to pay minimum wages and attract or retain competent employees. The bill will not have a significant impact on most California employers, who were already paying substantially more than the minimum wage.

What is A.B. 2095?

This bill clarifies that California's mandated sexual harassment training requirements, which became effective in 2005, apply only to supervisors working in California. California law does not require employers to train supervisors working outside of the state.

Notwithstanding the clarification in A.B. 2095, we recommend that employers train all supervisors in preventing sexual harassment, regardless of their work location. Federal law and other states' discrimination laws also prohibit sexual harassment. If an employer chooses not to train supervisors in another state and a harassment claim arises in that state, the claimant's attorney will use the absence of training to demonstrate the employer's indifference toward protecting its employees.

This bill also amends Labor Code section 204 to allow overtime paid in the next consecutive pay period to be itemized on that

period's pay stub, provided that the pay stub lists the dates of the pay period for which the employer is correcting its initial report of hours worked.

What about the two other pieces of legislation?

A.B. 1806 requires that the California Department of Fair Employment and Housing post its employment discrimination posters and sexual harassment information sheets online. Employers can download these required posters and information sheets at the department's Web site, www.dfeh.ca.gov.

Senate Bill (S.B.) 144 provides comprehensive regulation of health and sanitation standards at retail food facilities. S.B. 144 will have a substantial impact on employers in the retail food service industry, but not on other employers.

Finally, don't California employers have to remove Social Security numbers from pay stubs now?

Not yet. S.B. 101, which passed in 2005, requires that employers remove Social Security numbers from pay stubs by Jan. 1, 2008. In their place, employers may use the last four digits of the employee's Social Security number or an identification number other than the employee's Social Security number. Employers should implement changes necessary to comply with this law during 2007.

S.B. 101 was intended to combat identity theft and allows substantial penalties against employers that continue to use Social Security numbers on pay stubs after Jan. 1, 2008. Employees who are damaged from a 'knowing and intentional' failure to comply can recover their actual damages or penalties of up to \$4,000, whichever is greater, plus attorneys' fees.

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