



2024 Cal-Peculiarities: How California Employment Law is Different

California Legislative Hot Topics

Seyfarth Shaw LLP

"Seyfarth Shaw" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).
©2024 Seyfarth Shaw LLP. All rights reserved. Private and Confidential



Legal Disclaimer

This presentation has been prepared by Seyfarth Shaw LLP for informational purposes only. The material discussed during this webinar should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.

Seyfarth Shaw LLP

“Seyfarth” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).

©2024 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

Speakers



Kristina Launey
Partner
Sacramento



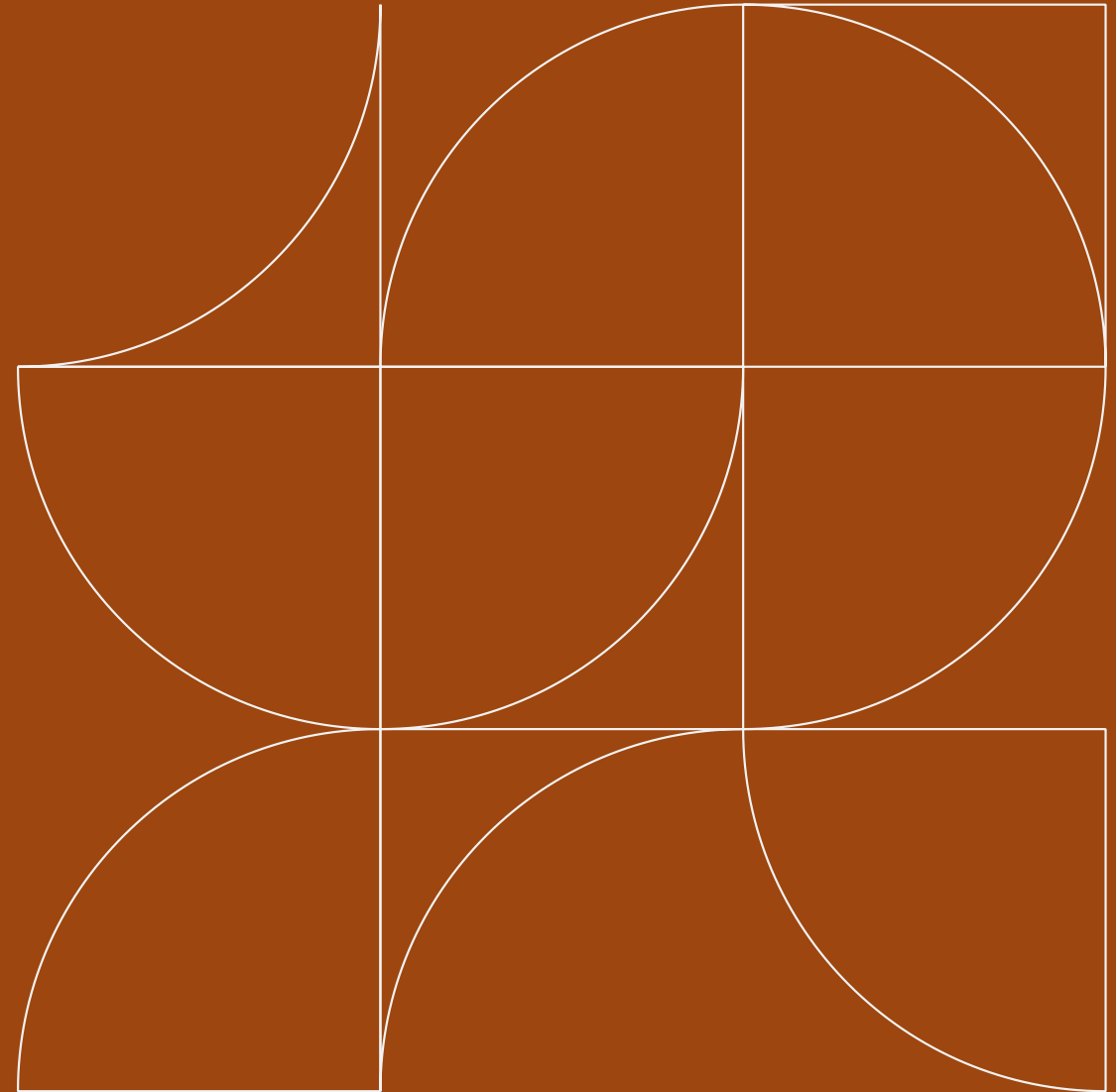
Catherine Feldman
Associate
Century City



AGENDA

- Most Significant 2023 Employment Law Changes
- Preview of Pending 2024 Bills

Notable 2023 CA L&E Legislation



SB 699 AB 1076 Non-Compete Agreements

*Amended Sections 16600.5 of
and added Sections 16600.1
and 16600.5 to the Business
and Professions Code*

- Any contract that is void as a restraint on trade (including non-competes) is now unenforceable regardless of where and when the employee signed the contract
 - No matter how narrowly tailored, with limited exceptions, even when the person restrained is not a party to the contract
- Employers prohibited from entering into contracts with current or prospective employees that contain non-compete provisions
 - Employers entering into these agreements or attempting to enforce them are liable for injunctive relief, damages, and attorneys' fees/costs under SB 699
- *Affirmative notice* to current & former employees that any noncompete clause/agreement previously signed is now void was required by 2/14/24
- States a violation constitutes an act of unfair competition under BPC 17200 *et seq.*

SB 616

Paid Sick Leave

*Amended Sections 245.5, 246,
and 246.5 of the Labor Code*

- Healthy Workplaces, Healthy Families Act of 2014
- Increased:
 - Number of days/hours an employee can accrue mandatory sick leave: ***from 24 hours or 3 days each year of employment to 40 hours or 5 days.***
 - Max accrual of PSL: from 48 hours to 80 hours.
- Anti-retaliation and procedural provisions extended to include those covered by a valid CBA, & expressly exclude railroad carrier employers/employees.
- Preempts certain provisions of local ordinances that are contrary to the state law relating to payout on separation, lending of leave, written notice of leave, and other administrative (not entitlement) issues.

SB 848

Leave Related to Reproductive Loss or Adoption

- Employees now entitled to with ***five days of unpaid leave*** after a miscarriage, unsuccessful assisted reproduction, failed adoption or surrogacy, or stillbirth.
- If an employee experiences more than one reproductive loss event in a 12-month period, the employee is entitled to ***no more than 20 days of leave***.
- Retaliation prohibited against an individual who uses this leave or shares information about it.

*Added Section 12945.6 to the
Government Code*

SB 428 Workplace Violence Restraining Orders: Harassment

*Amended, repealed and added
Section 527.8 to the Code of
Civil Procedure*

- Employers are now be able to seek TROs/injunctions against an individual who has harassed employees.
 - Previously, employers could seek TROs/injunctions against an individual who had engaged in workplace violence or threats of violence against employees.
- “Harassment” defined as:
 - A knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person and that serves no legitimate person.
 - The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress.
- Prohibits a court from issuing an order that would prohibit speech or activities protected by the NLRA.

SB 553 Workplace Violence Prevention Plans

Amend, repeal and add Section 527.8 to the Code of Civil Procedure, and amends Section 6401.7 and adds 6401.9 to the Labor Code

- Nearly all California employers required create, adopt, and implement written Workplace Violence Prevention Plans with limited exception by July 1, 2024.
- Written, easily accessible to employees, and include:
 - Procedures for implementation and training on the Plan and compliance with the Plan
 - Procedures for communicating with employees about how to report violent incidents, threats, or workplace violence concerns, and how concerns will be investigated and results communicated
 - Procedures for identifying and evaluating workplace violence hazards
 - Violent incident logs
- Five-year record retention requirement.

A Few More of Note

- **PAGA:**
 - Check out our PAGA webinar, which goes into depth on these changes
- **SB 497: Retaliation Rebuttable Presumption**
 - New rebuttable presumption of retaliation if an employer subjects an employee or applicant to an adverse action within 90 days of the individual making certain complaints
 - Penalties for whistleblowers expanded from a single \$10,000 penalty for a violation to a \$10,000 penalty *per employee*
 - *Amended Sections 98.6, 1102.5 and 1197.5 of the Labor Code*
- **AB 1355: Electronic Notices**
 - Employers permitted until 1/1/29 to provide required certain RTC and UIC notifications via email instead of through paper if an employee opts in
 - *Amended, repealed, and added Section 19853 of the Revenue and Taxation Code & Section 1089 of the Unemployment Insurance Code*

Industry- Specific Bills

- **SB 41 – Airline Cabin Crew Employees Meal and Rest Breaks**
 - *Added Section 512.2 to the Labor Code*
- **SB 723 – Right to Recall in Hospitality**
 - *Amended and repealed Section 2810.8 of the Labor Code*
- **AB 1228 – Fast Food-Industry Changes**
 - *Added Part 4.5.5 (commencing with Section 1474) to Division 2 of the Labor Code*
 - *Repealed Part 4.5.5 (commencing with section 1470) of Division 2 of the Labor Code*
- **AB 647 – Successor Grocery Employers**
 - *Amended Sections 2502, 2504, and 2512 of the Labor Code and added Sections 2509, 2510, and 2517 to the Labor Code*

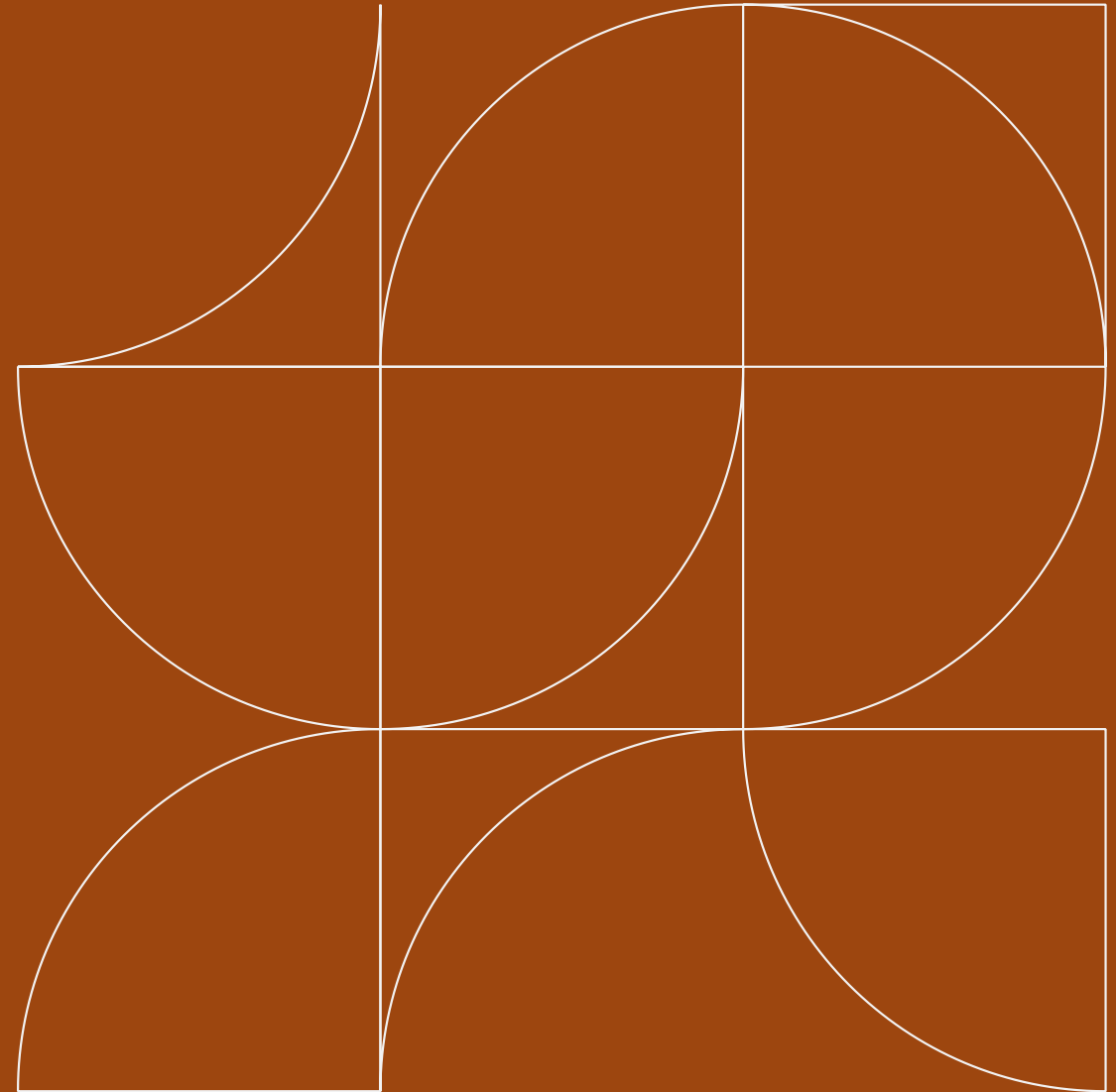
SB 525

Healthcare Employee Pay

*Adds Sections 1182.14 and
1182.15 to the Labor Code*

- Minimum wages for California health care workers were to increase to at least \$18/hour and up to \$23/hour beginning July 1, 2024
 - Governor Newsom delayed implementation of this law by one month, including all subsequent adjustments
- Broad definition of “Covered Health Care Employers”
- Raised minimum wages for California health care workers
- Five separate minimum wage schedules for covered health care employees depending on the nature, size, and structure of the employer’s business
 - The same minimum wage rates apply to two of the five schedules, with the remaining three having distinct wage rates
 - Each schedule provides for annual wage increases
 - Minimum wage increases also impact exempt Health Care employees
- Prohibits local jurisdictions from enacting competing wage requirements

Notable 2024 Employment Bills



California 2024 Legislative Calendar - Key Dates

January 3, 2024:	Legislative Session Reconvened
February 16, 2024:	Last day for bills to be introduced
March 21 - April 1, 2024:	Spring Recess
May 24, 2024:	Last day to pass bills introduced in house of origin
July 3 - August 5, 2024:	Summer Recess
August 31, 2024:	Last date for each house to pass bills
September 30, 2024:	Last day for Governor to sign or veto bills passed by Legislature before September 1, 2023
January 1, 2025:	Non-Urgency Statutes take effect

FEHA

SB 1137

Protected Traits: Intersectionality

SB 1022

Enforcement

- **SB 1137 – Intersectionality of Characteristics**
 - Include within the classes protected from discrimination by FEHA the **intersection or any combination** of those characteristics.
- **SB 1022 – Enforcement**
 - Would extend the deadline for the CRD to file a Director's group or class complaint to **SEVEN** years from the alleged violation.

SB 399

Employer Communication: Intimidation

- **SB 399 – Captive Audience Meetings Ban**
 - Would prohibit discrimination or adverse action against any employee who declines to attend or participate in, receive, or listen to an employer-sponsored meeting or communications regarding employer's opinion about religious or political matters.
 - Would require an employee who refuses to attend a meeting as described to continue to be paid.
 - \$500 Civil penalty.

SB 1100

Discrimination: Driver's License

- **SB 1100 – Discrimination: driver's license**
 - Would prohibit statements in employment materials that an applicant must have a driver's license
 - Unless the employer reasonably expects the duties of the position to require driving
 - And the employer reasonably believes that satisfying that job function using an alternative form of transportation would not be comparable in travel time or cost to the employer.

AB 2499

Qualifying Time Off For “Victims”

- AB 2499– “Victims” Time Off
 - Expands and recasts jury, court, and victim time off provisions as unlawful practices under FEHA/CRD enforcement.
 - Prohibits discrimination/retaliation/discharge against an employee who:
 - takes time off for jury service, with reasonable notice
 - takes time off to appear in court as a witness under court order
 - is a victim and takes time off to obtain relief for their/their child’s health, safety, welfare, with reasonable notice unless not feasible
 - (For employers with 25 or more employees) is a victim/has a family member who takes time off to assist the family member for various reasons related to **a qualifying act of violence** (instead of crime/crime or abuse), with reasonable notice unless not feasible
 - Requires interactive process/reasonable accommodations for employees who is victim/has a family member who is a victim of a qualifying act of violence, upon request for safety of the employee at work.
 - Allows employee to use vacation, personal, paid sick leave.
 - Runs concurrently with CFRA/FMLA, and subject to limitations.
 - Employers must inform employees of their rights in writing.

AB 2123

Paid Family Leave

- **AB 2123 – Paid Family Leave**
 - Would eliminate employers' ability to require an employee to take up to 2 weeks of earned but unused vacation before the employee's initial receipt of these benefits during any 12-month period in which the employee is eligible for these benefits.

SB 988

Freelance Worker Protection Action Act

- **SB 988** – “Freelance Worker Protection Action Act”
 - Requires a “hiring party” to pay an Independent Contractor (“IC”) on the date specified by the contract, or if unspecified no later than 30 days after completion of the freelance worker’s services.
 - Prohibits as a condition of timely payment requiring that the freelance worker:
 - Accept less compensation than the amount of compensation specified by the contract; or
 - Provide more goods or services or grant more intellectual property rights than agreed to in the contract.
 - Written IC contract required
 - Must contain specified information
 - Hiring party must retain for no fewer than 4 years
 - Prohibits discrimination/adverse action against an IC for asserting/attempting to assert rights under these provisions.
 - Creates private right of action with damages, fees, costs available.

New Law: AB 2299

Posting - Whistleblower Protections

- **AB 2299** – **Posting Whistleblower Protections**
 - Requires the Labor Commissioner to develop, and, starting Jan. 1, 2025, an employer to post, a model list of employees' rights and responsibilities under the whistleblower laws.
 - Deems an employer in compliance with the posting requirement set forth in 1102.8 if the employer posts the model list.
 - Signed into law July 15, 2024
 - *Amended Section 1102.8 and adds Section 98.11 to the Labor Code.*

Notable Failed Bills

- **SB 1116 – Benefits for Striking Workers:** Would have made employees, after 2 weeks of an employee's absence due to a trade dispute or strike, eligible for unemployment benefits under the UIC.
- **AB-2494 – Employer Notification:** Would have required all employers, public or private, to provide employees with a written notice of coverage under COBRA, in-person and via email, following termination or reduction in hours, as specified.
- **AB 2930 – Automated Decision Systems:** Would have regulated the use of automated decision tools in employment pay, promotion, hiring, termination, or task allocation for purposes of determining employment terms or conditions.



SCAN ME

CLE: NEW PROCESS

Please scan the QR code and complete the digital attendance verification form to receive CLE credit for this program.

You will need:

1. **Title:** 2024 Cal-Peculiarities: How California Employment Law is Different Part 2: California Legislative Hot Topics
2. **Date Viewed:** September 5, 2024
3. **Attendance Verification Code:** SS6287

State-specific CLE credit information can be found in the form.

**thank
you**

For more information please visit

www.calpecs.com

Contact:

Kristina Launey

Email: klauney@seyfarth.com

Phone: (916) 498-7034

Catherine Feldman

Email: cfeldman@seyfarth.com

Phone: (310) 201-1540