



2024 California Employment Legislative Update

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Agenda



- 1** | 2024 Legislative Dates & Numbers
- 2** | FEHA Protected Categories
- 3** | Time Off and Leaves
- 4** | Other Worker Protections
- 5** | PAGA (already and newly-signed)
- 6** | Industry-Specific
- 7** | Vetoes & Other Notable Failed 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
December 2, 2024:	2025-26 Legislative Session Convenes

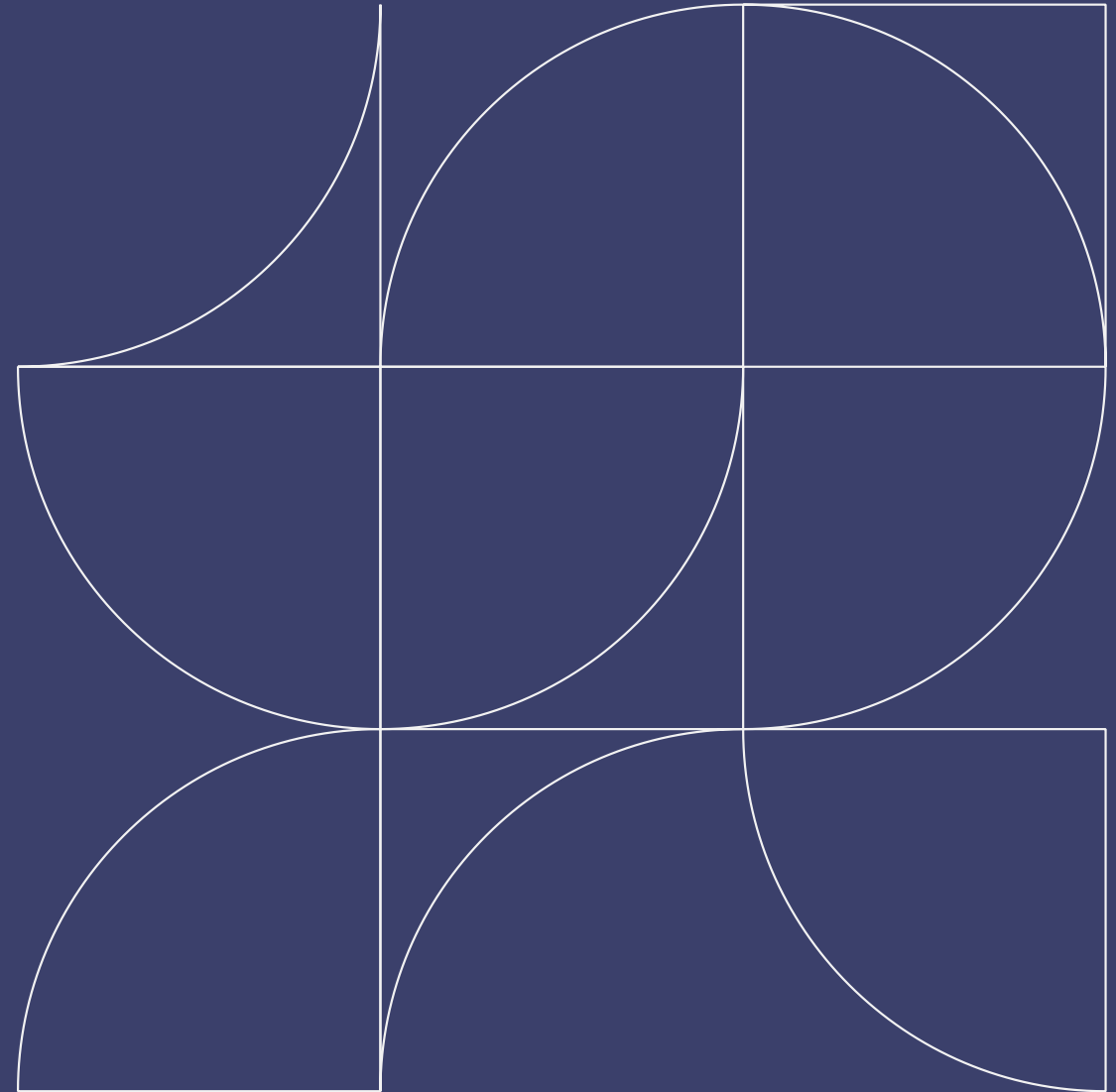
The Statistics

2024 Legislation By The Numbers

- 2,124 bills were introduced this year between the Assembly and Senate.
 - In comparison, last year the State legislature introduced more than 2,600 bills (the most in a decade).
- As of his 2024 signing deadline, Governor Newsom took action on **1,206 bills**.
 - The highest number of bills to reach his desk during his tenure as Governor.
- He **signed 1,017 bills** and vetoed 189 bills.
 - This is largely on par with his historical veto rate of 15%.

s(Credit: Chris Micheli, LinkedIn Posts)

Soon-To-Be New Laws



SB 1137

Protected Characteristics: Intersectionality

AB 1815

Race Discrimination – Hairstyles

- **SB 1137**
 - Adds “intersectionality” to the Unruh Civil Rights Act and FEHA’s enumerated list of characteristics protected from discrimination.
 - Intersectionality is defined as the “combination of two or more protected bases.”
 - California is the first jurisdiction to explicitly adopt this concept and clarify how courts should assess overlapping claims involving protected characteristics.
- **AB 1815**
 - Expands the definition of “race” under FEHA by removing the term “historically” and including traits associated with race beyond hair texture and protective hairstyles.
 - The law also adds definitions for “race” and “protective hairstyle” to the Unruh Civil Rights Act.

SB 1340

Discrimination – Local Enforcement

SB 1100

Discrimination – Drivers License

- **SB 1340**
 - Specifies that nothing in FEHA limits or restricts efforts by a city, county, or other state political subdivision to enforce local anti-discrimination laws.
 - Local laws can be enforced when an employment complaint has been filed with the CRD, after the CRD issues a right to sue notice and before the expiration of the time to file a civil action stated in the notice.
 - The local law to be enforced must be at least as protective as FEHA.
- **SB 1100**
 - Prohibits statements in employment materials (job advertisement, posting, or application) that an applicant must have a driver's license.
 - Exception – If the employer reasonably expects the position's duties to require driving and an alt form of transportation would not be comparable in travel time/cost to the employer.
 - Alt transportation may include taxis, carpooling, bicycling, walking, or ride hailing services.

AB 2499

“Victims” Time Off

- Expands and recasts jury, court, and victim time off provisions as unlawful practices under FEHA.
 - Previously addressed in the Labor Code.
 - By recasting them under FEHA, they are now subject to the CRD’s enforcement authority.
- Prohibits discrimination, retaliation, or terminating employees 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
- Expands eligibility for reasonable accommodations to include employees who are victims/have family members who are victims of a qualifying act of violence.
- Allows employees to use vacation, personal, PSL and runs concurrently with CFRA/FMLA.
- Employers must inform employees of their rights in writing.

AB 2123

Paid Family Leave

- This law removes the option for employers to require employees to use two weeks of accrued vacation time before accessing PFL benefits.
- Applies to disabilities commencing on or after January 1, 2025.

AB 2049

Summary Judgment Filing Deadlines

- Changes the deadline for a party to file an MSJ or MSA and related briefing deadlines.

Task	Current Deadline	New Deadline
File MSJ/MSA	75 days before the hearing	81 days before the hearing
File Opposition	14 days	20 days
File Reply Brief	5 days	11 days

- Prohibits a party from filing more than one MSJ against one adverse party without leave of court.
 - Multiple MSAs are permitted.
- Prohibits introduction of new facts in a Reply Brief.

SB 399

Captive Meetings Ban

- Enacts the California Worker Freedom From Employer Intimidation Act.
- Prohibits an employer from subjecting/threatening to subject employees to discrimination or adverse action against an employee who:
 - declines to attend an employer-sponsored meeting regarding the employer's opinion on religious or political matters; or
 - affirmatively declines to participate in, receive or listen to an employer-sponsored communication on the same topics.
- Employers must continue paying employees who refuse to attend such meetings.
- The law imposes a \$500 civil penalty per employee for each violation in addition to other remedies.

AB 1888

DOJ Labor Trafficking Unit

AB 3234

Social Compliance Audit

- **AB 1888**
 - Establishes the Labor Trafficking Unit in the Department of Justice.
 - The LTU will receive labor trafficking reports from law enforcement agencies and other entities and refer the reports to appropriate agencies for investigation/prosecution/other remedies.
- **AB 3234**
 - An employer who voluntarily subjects itself to a “social compliance audit,” to post a clear and conspicuous link on its website to a report detailing the findings of its compliance with child labor laws.
 - Requirement applies whether the audit is conducted in whole or in part to determine if child labor is involved in the employer’s operations/practices.
 - “Social compliance audit” means a voluntary, nongovernment inspection/assessment of an employer’s operations/practices to evaluate whether the operations/practices comply with state and federal labor law.
 - The report must include, in part, if whether the employer did or did not engage in, or support the use of, child labor and a copy of any written policies/procedures regarding child employees.

AB 2299

Whistleblower Protections Posting

- Requires the Labor Commissioner to develop, and an employer to post, a model list of employees' rights and responsibilities under whistleblower laws.
- An employer can comply with the posting requirements by posting the model list.

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.

AB 2288 & SB 92

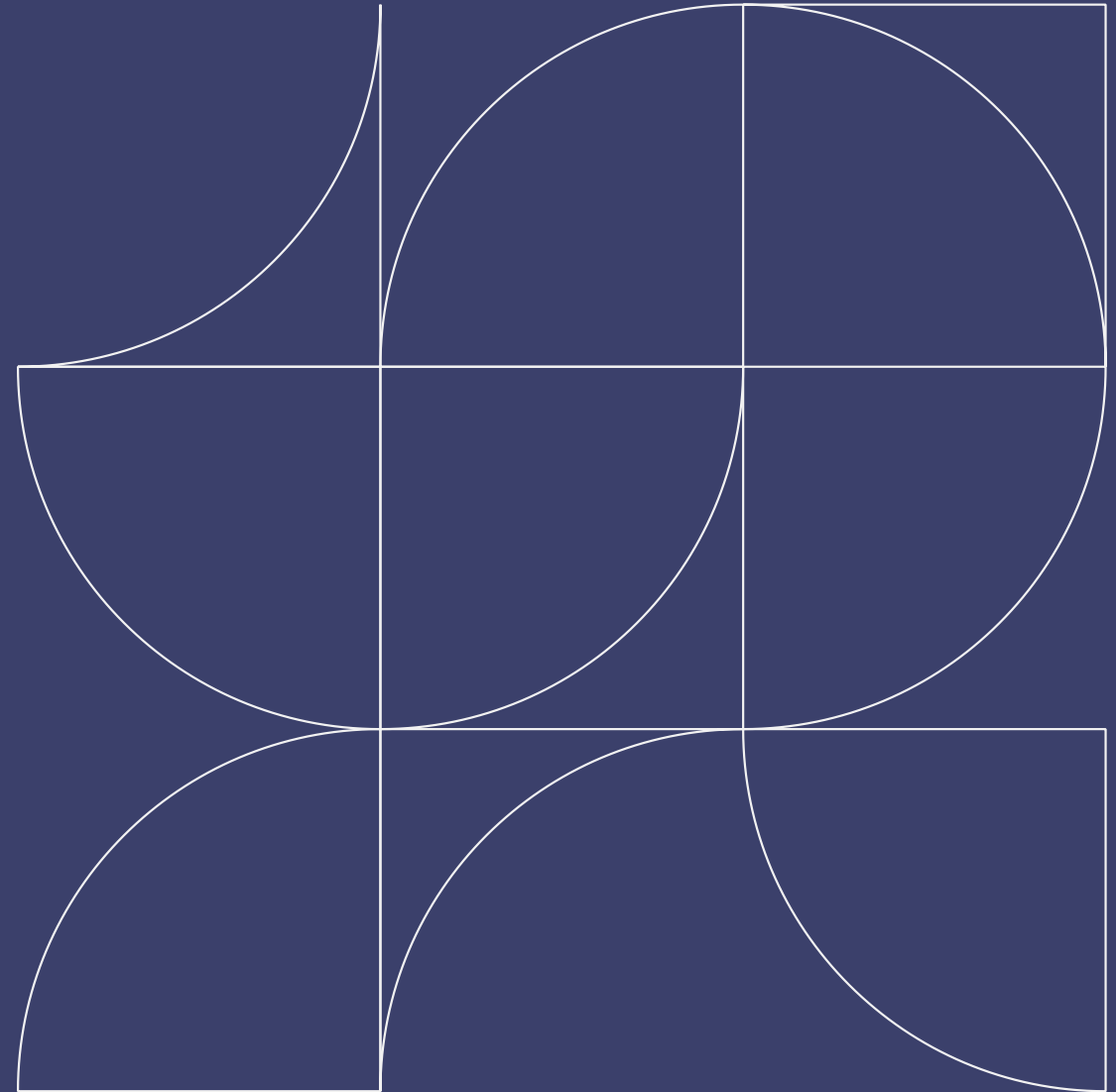
PAGA Compromise

- AB 2288 and SB 92 reform existing Labor Code section 2698 et seq., otherwise known as PAGA.
 - First substantive changes to PAGA since it was enacted in 2004
 - Effective to LWDA + court filings after June 19, 2024
- Deal between California labor and business groups and Governor Newsom that will keep an initiative seeking to repeal PAGA off the November ballot.
- The revised PAGA statute includes numerous pro-employer provision which seek to address longstanding concerns and abuse by plaintiffs' counsel.

PAGA Reform Changes

1. Caps on penalties
2. Penalties for employers who pay on a weekly basis are halved, so no unfairness compared to bi-weekly paying employers
3. *Estrada* is codified – court can limit evidence and/or scope so a PAGA claim can be manageably tried
4. Plaintiff must personally experience the Labor Code violation within the statute of limitations
5. No more derivative penalties
6. Now 65% of penalties go to LWDA and \$35% to employees (instead of 75/25)
7. New and expanded cure provisions through the LWDA to reduce litigation costs
8. Option to stay litigation and have Early Neutral Evaluation Conference

Industry-Specific Bills



AB 1034

PAGA Exemption – Construction Industry Employees

- Employees in the construction industry covered by a CBA who meet certain criteria are exempt from PAGA.
- This law extends the current exemption from January 1, 2028 to January 1, 2038.
- The required criteria for the exemption includes that the work must be performed under a CBA in effect before January 1, 2025. This date is extended to January 1, 2028.

AB 2738

Labor Code Enforcement & Entertainment Events Vendor Contracts OSHA Training Requirement

- Intended to address worker injuries and fatalities at concert festivals.
- Entertainment events vendor contracts must state that the vendor will furnish to the contracting entity, upon hire for a live event, information about its own and subcontractors' employees and the US and Cal/OSHA trainings they have completed.
- Authorizes public prosecutors who bring actions to enforce Labor Code violations to recover all remedies available under the Labor Code.
 - To workers for unpaid wages, damages, or penalties.
 - Remainder to the General Fund.
 - Also authorizes recovery of fees and costs to the prevailing plaintiff in such an action.

AB 2754

Port Drayage Motor Carriers Contracts – Liability

AB 2364

Property Service Worker (Janitorial) Protections

- **AB 2754**
 - Extends existing Labor Code provisions to port drayage motor carriers which prohibit a person or entity from entering into contracts for labor or services with certain types of contractors if they know or should have known that the contract does not include sufficient funds to allow the contractor to comply with all applicable employment laws.
 - Imposes joint and several liability arising out of the motor carrier's misclassification of the driver as an independent contractor upon customers of port drayage motor carriers.
- **AB 2364**
 - Increases the payment provided to qualified organizations that provide mandatory sexual violence and harassment prevention training to janitors.
 - From \$65 per participant to \$200 per participant for training sessions having fewer than 10 participants, and \$80 per participant for training sessions with 10 or more participants
 - These rate hikes will be in effect until January 1, 2026, and then increase each year after.
 - Requires the DIR to contract with the UCLA Labor Center to study opportunities to improve janitorial industry worker safety and rights.



SCAN ME

CLE: NEW PROCESS

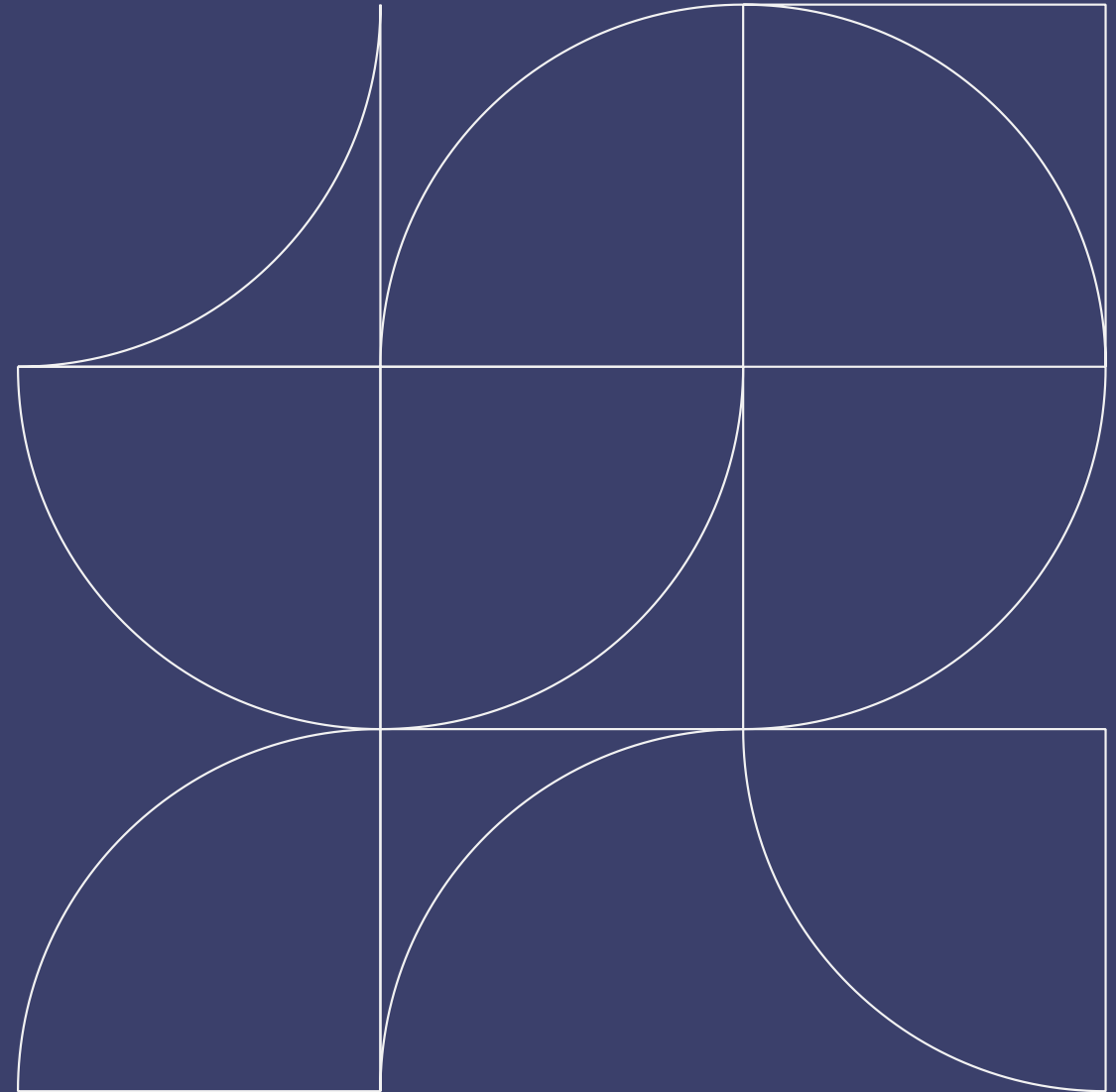
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Vetoed / Failed Bills



Vetoed Bills

- **SB 1022 – CRD Group/Class Civil Action Filing Extension:**
 - Would have changed FEHA tolling rules and extended of the deadline for the Civil Rights Department (CRD) Director to file a group or class complaint to within seven years from the date of the alleged violation.
 - Governor Newsom vetoed the bill because it would have tacked years onto the CRD’s current time limits to bring systemic complaints, while encouraging the Legislature to try again next year with a more reasonable period for CRD to initiate a group or class complaint.
- **AB 1832 – CRD Human Trafficking Task Force:**
 - Would have established within a CRD Labor Trafficking Task Force, “tasked” with taking various actions, and working with various state agencies, to combat labor trafficking.
 - Governor Newsom vetoed the bill as redundant of AB 1888.

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.

An Extra Note on Hot Topic of AI

The California Legislature was active in considering AI legislation this term, including but not limited to bills:

- Prohibiting some uses of AI-generated content, including “deepfakes” (e.g. CA SB 942 (watermarking), CA SB 926 (deepfakes));
- Requiring AI safety testing of the most-advanced AI models (e.g. California SB 1047, **vetoed** by Governor Newsom on 9/29/2024 in a 4-page veto message showing the keen interest in this topic); and
- Regulating the state’s own use of AI.

**thank
you**

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