

Labor and Employment Updates for 2022

November 9, 2021



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Welcome

Jaime Welcher
Education Program Manager
California Hospital Association



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Continuing Education



Continuing education credits are offered for this program for compliance, health care executives, legal and nursing.

Full attendance and completion of the online evaluation and attestation of attendance are required to receive CEs for this webinar.

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Questions



Submit your questions through the Q&A box. (Usually located at the bottom of your screen.)

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Gideon Baum
Vice President of Policy
California Hospital Association

Gideon L. Baum, Vice President of Policy, was hired earlier this year to assist the Association on labor and human resources issues. Prior to CHA, Gideon served as Staff Director for the Senate Committee on Labor, Public Employment and Retirement and served as a Committee Consultant with the State Senate for nearly 15 years.

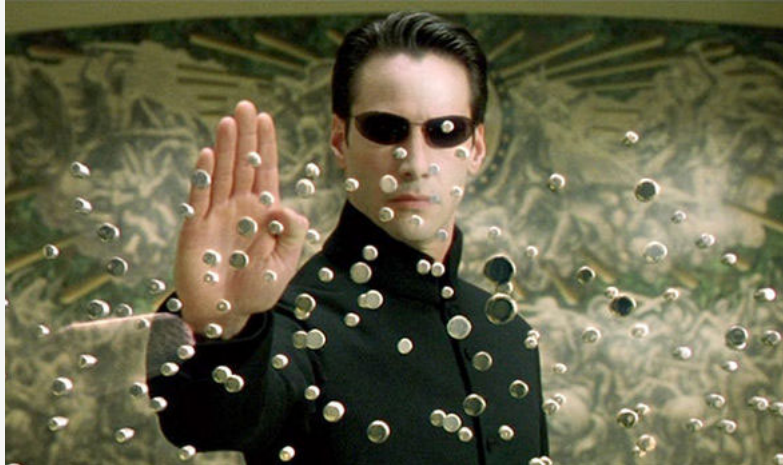
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- Legislation that Failed
- Legislation that Became Law
- Looking to the Future: Legislation and Regulations in 2022
- Q&A
- Conclusions

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Bills That Didn't Make It: Stopping Bullets



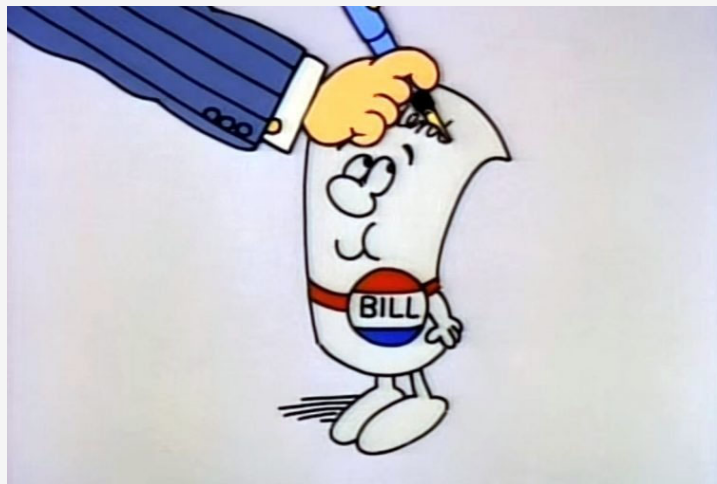
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Legislation That Failed (For Now)

- AB 650 (Muratsuchi): Hazard Pay
- SB 213 (Cortese): Workers' Compensation Presumptions
- AB 1105 (Rodriguez): Undermines CDPH Rulemaking
- AB 858 (Jones Sawyer): Treatment Decisions and PAGA

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Legislation
that Became
Law



AB 1003 (Gonzalez): Wage Theft



- Adds Penal Code Section 487m
- "... the intentional theft of wages in an amount greater than nine hundred fifty dollars (\$950) from any one employee, or two thousand three hundred fifty dollars (\$2,350) in the aggregate from two or more employees ... may be punished as grand theft."
- From Penal Code 487: "Grand theft is ... [w]hen the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950)

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AB 237 (Gray): Public Employment and Health Coverage



- In 2019, General Motors cut health care coverage for workers during a strike – for about 10 days (9/16-9/26).
- Decision to cut coverage was widely panned by academics and was frequently mentioned by then Presidential Candidate Senator Bernie Sanders.
- No evidence that any public employer has done the same in California but did send out COBRA notices during strikes as per federal law.
- **TAKE HOME MESSAGE:** During a work stoppage or strike, do not fail/refuse to maintain medical coverage for employees and their covered family members.

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AB 229 (Holden): Security Services and Use of Force



- Use of Force policies are under increased scrutiny.
- This bill PROHIBITS private security guard from carrying batons or firearms UNLESS the guard is an employee of a private patrol operator (PPO) and has been trained in the appropriate use of force and the exercise of the power to arrest.
- **TAKE HOME MESSAGES:**
 - ✓ If you have an in-house security team that carries either a baton or firearm, you will need to secure a PPO license.
 - ✓ If you have a contract with a PPO, you should inquire how the PPO will comply with this law.

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AB 654 (Reyes): COVID-19: Exposure: Notification



- Follow-up to COVID-19 reporting bill AB 685, which requires employers to notify potentially exposed employees within one business day.
- AB 654 limits reporting to employees who were at the same place of work, not just potentially exposed.
- AB 654 also exempts clinics from the requirement to report an outbreak to a public health officer – already required to do so elsewhere.
- **TAKE HOME MESSAGE:** Have your compliance folks look to see if you can take advantage of the simplified reporting requirements.

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SB 646 (Hertzberg): PAGA: Janitorial Employees



- In 2018, the Legislature exempted union construction workers from PAGA.
- SB 646 extends the same exemption to union represented janitorial workers if:
 - 30%+ on state minimum wage
 - Binding arbitration of grievances
 - Permits arbiter to any remedies in Labor Code
 - EXPLICITLY waives PAGA
 - **Sunsets July 1, 2028**
- **TAKE HOME MESSAGE:** PLEASE remember this bill when negotiating janitorial contracts!

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SB 331 (Leyva): Settlement Agreements



- In 2017, the “me too” movement shook the halls of power.
- In 2018, the Legislature responded by prohibiting non-disparagement agreements focused on sexual harassment and discrimination.
- SB 331 prohibits NDAs for factual info related to **all** FEHA violations or unlawful acts *prospectively*.
- **TAKE HOME MESSAGE:** Make sure your compliance officers and labor counsel CAREFULLY review all potential NDAs.

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SB 606 (Leyva): Enterprise-wide Violations & Egregious Violations

- First bill: Requires Cal/OSHA to cite employers who have engaged in an egregious violation of the law – see 1990 Fed/OSHA regulation.
- Second bill: Creates a rebuttable presumption that a violation is present in multiple workplaces (enterprise wide) if:
 - ✓ The employer has a written policy or procedure that violates any standard, rule, order, or regulation established by law or by division.
 - ✓ The division has evidence of a pattern or practice of the same violation or violations committed by that employer involving more than one of the employer's worksites
- **TAKE HOME MESSAGE: REVIEW YOUR POLICIES AND PROCEDURES**

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FUTURE ISSUES

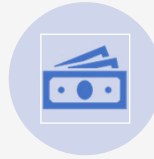


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A Look Towards 2022



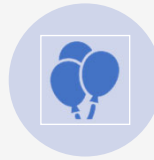
COVID, COVID, COVID



Workers' Compensation



Workforce and Employee
Retention



Election Year?

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Questions?



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Contact Information



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Thank You



Thank you for participating in today's webinar.
An online evaluation will be sent to you shortly.

For education questions, contact:
education@calhospital.org

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