

WILL CALIFORNIA EMPLOYEES SOON BE SAYING TGIT? THE 4-DAY WORKWEEK MAY BE HERE SOONER THAN YOU THINK

Insights

Apr 5, 2022

Will Californians across the state soon be saying “Thank God it’s Thursday” as they look forward to a mandated three-day weekend all year round? Efforts to reduce work time have regained steam with the California Legislature’s introduction of a bill to reduce the standard workweek to 32 hours – without sacrificing employee pay. On March 24, state lawmakers amended proposed bill AB 2932 with language that would require employers with more than 500 employees to limit the workweek to four days and 32 hours. What do you need to know about this seismic legislative proposal?

Details on AB 2932

The proposed bill seeks to amend California’s overtime pay law, codified as Labor Code section 510, by redefining a “workweek” for employers with more than 500 employees in California. The proposed bill would require these employers to compensate employees who work in excess of 32 hours per week at 1 ½ times the employee’s regular rate of pay.

For employers with no more than 500 employees, the proposed bill’s language remains the same, as it continues to define a “workweek” as a 40-hour week. For employees at these “smaller” businesses, any work in excess of 40 hours would still be considered overtime wages, to be compensated at a rate of at least 1 ½ times the employee’s regular rate of pay.

The proposed bill also continues to define a standard workday as eight hours of labor.

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How Many Businesses May Be Affected If AB 2932 Passes?

According to [California's Employment Development Department](#), there were 2,585 businesses with 500 or more employees in the state of California in Quarter 2 of 2021. These businesses employ approximately 3,641,522 employees.

Pros to a 32-Hour Workweek

[We offered a deep dive into the four-day workweek in an Insight published last year, which can be found here.](#) But for those unfamiliar, proponents advocate that the four-day workweek benefits employers and employees alike by promoting employee work-life balance and health, reducing healthcare premiums for employers, and lowering operational costs for businesses. A four-day workweek also offers a solution to a number of growing issues in the labor market that COVID-19 may have exacerbated including employee burnout and retention.

A four-day workweek may appeal to employees in a competitive labor market and help retain working parents or other employees who benefit from a flexible work schedule in the workforce. Further, a shorter workweek can provide employees with increased flexibility while benefitting employers through lower overhead costs such as office supplies and electricity usage.

Disadvantages to a 32-Hour Workweek

Significantly, for employers, compensating hourly employees for a 32-hour workweek will be expensive if AB 2932 passes. Large employers will be mandated to pay overtime wages to employees for any hours worked in excess of 32 hours per week versus current law, which requires overtime wages to be paid in excess of 40 hours per week. Practically speaking, large employers would be required to compensate employees the same amount of pay for fewer hours worked.

A four-day workweek may also have a negative impact on client service, since as employers would have to address issues of staffing and productivity. Further, a 32-hour workweek may not be feasible for hourly employees in all industries (i.e., teachers or other frontline workers). For employees, fewer hours in the workday mean less time to



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complete job duties and may actually lead to heightened stress levels by cramming five days of work into four.

Practical Implications of a 32-Hour Workweek

If employers are unable to or do not want to pay overtime wages, it opens the door to potentially more wage and hour claims in general. This is because of potential confusion regarding overtime wages, part-time hourly employees, and employers' sick leave accrual, paid time off, or vacation policies. And if employers did not already enforce strict wage-and-hour-law compliance, a shift to a 32-hour workweek will certainly demand employers take a close look at their policies and practices to minimize potential violations and to immediately remedy any inconsistencies.

Future Predictions

Although AB 2932, as drafted, would only apply to companies with 500 or more employees, it will likely only be a matter of time before an abbreviated workweek becomes the requirement for all California employers if this bill passes. So that leads to the million-dollar question: will this bill pass? Will it gain traction and potentially become law or merely serve as a theoretical conversation starter?

Similar proposals have been floated at the federal level but have served as little more than interesting conversation pieces or parlor games. Will the same hold true here? Or will the labor-dominated California Legislature actually pass AB 2932 and send it to Governor Newsom? And what would he do should the bill reach his desk?

It's probably too early to tell at this point, so this is one to watch closely. But keep in mind that ideas that only seem like pipe dreams often become reality in California first – and then spread elsewhere. If a four-day workweek is going to start somewhere, California is likely a safe bet as to where such a policy experiment could occur.

What's Next?

The legislature has until August 31 to pass measures, and Governor Newsom has until September 30 to sign or veto bills. We will monitor developments related to this legislative proposal and provide updates as warranted, so make sure that you are subscribed to [Fisher Phillips' Insights](#) to get the most up-to-date information direct to your inbox.

If you are considering implementing a four-day workweek at your organization regardless of the status of this bill, [we recommend you read our Insight here](#). If you have further questions on how to comply with any of these new laws, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in any one of [our six California offices](#).