California Legislature Passes Law Banning "Stay-or-Pay" Provisions: How Employers Can Prepare

Insights
9.16.25

Last week, the California legislature passed a law that seeks to ban many "stay-or-pay" contracts, including training repayment agreements, as part of the state's continued emphasis on employee mobility. But the bill excludes from the prohibition some of the most common arrangements, like tuition reimbursement and retention bonus repayment, so long as employers stay within new statutory guardrails. Assuming the governor signs the bill into law (which we expect), the new prohibitions will apply to contracts entered on or after January 1, 2026 – and workers who feel aggrieved can file private lawsuits and seek civil penalties for violations. Here's what employers need to know to prepare.

What Agreements Does AB 692 Prohibit?

Recall that the previous General Counsel for the National Labor Relations Board tried to crack down on "stay-or-pay" provisions through an enforcement memorandum last year, but that memorandum was rescinded by the new acting GC in February.

The California legislature picked up where the previous NLRB GC left off. AB 692 will ban employers from requiring workers to execute, as a condition of employment or a work relationship, a contract that does any of the following:

- Requires a worker to pay an employer, training provider, or debt collector for a debt if the worker's employment or work relationship with a specific employer terminates;
- Authorizes the employer, training provider, or debt collector to resume or initiate collection of or end forbearance on a debt if the worker's employment or work relationship with a specific employer terminates; or
- Imposes any penalty, fee, or cost on a worker if the worker's employment or work relationship with a specific employer terminates.

The bill defines many of these key terms. For example, "worker" includes employees or prospective employees. Before lawmakers passed the bill, they removed references to independent contractors, freelance workers, externs, interns, apprentices, and sole proprietors, which appeared in earlier versions.

"Penalty, fee, or cost" is defined to include a replacement hire fee, retraining fee, replacement fee, quit fee, reimbursement for immigration or visa-related costs, liquidated damages, lost goodwill, and lost profit.

Exception for Tuition Reimbursement

Despite the general prohibition, the bill allows for contracts related to the repayment of the cost of tuition for a "transferable credential," so long as the following criteria are met:

- The contract is offered separately from any contract for employment.
- The contract does not require obtaining the transferable credential as a condition of employment.
- The contract specifies the repayment amount before the worker agrees to the contract, and the repayment amount does not exceed the cost to the employer of the transferable credential received by the worker.
- The contract provides for a prorated repayment amount during any required employment period that is proportional to the total repayment amount and the length of the required employment period and does not require an accelerated payment schedule if the worker separates from the employment.
- The contract does not require repayment to the employer by the worker if the worker is terminated, except if the worker is terminated for misconduct.

"Transferable credential" means a degree that is offered by a third-party institution that is accredited and authorized to operate in the state, is not required for a worker's current employment, and is transferable and useful for employment beyond the worker's current employer.

Exception for Retention Bonuses

Another key exception applies to sign-on bonuses with a built-in "stay" incentive, through which the employee would be required to pay back all or a portion of the bonus if they left before a specified period. These agreements are common in some industries to attract and retain talented workers.

Retention bonus arrangements would be permitted under the new law, so long as the following conditions are met:

- The terms of any repayment obligation are set forth in a separate agreement from the primary employment contract.
- The employee is notified that they have the right to consult an attorney regarding the agreement and provided with a reasonable time period of not less than five business days to obtain advice of counsel prior to executing the agreement.
- Any repayment obligation for early separation from employment is not subject to interest accrual and is prorated based on the remaining term of any retention period, which shall not exceed two

and is prorated based on the remaining term of any retention period, which shall not exceed two years from the receipt of payment.

- The worker has an option to defer receipt of the payment to the end of a fully served retention period without any repayment obligation.
- Separation from employment prior to the retention period was at the sole election of the employee, or at the election of the employer for misconduct.

What Are the Penalties for Violation?

Assuming that Governor Newsom signs it into law, AB 692 will begin to apply to all contracts entered into on or after January 1, 2026. AB 692's ban on stay-or-pay agreements will not apply to contracts that exist before that date.

The bill creates a private right of action authorizing a worker or worker representative who has been subjected to a violation of AB 692 to bring a civil action on behalf of that worker, other persons similarly situated, or both. Employers found liable for violations of AB 692 will be subject to monetary damages in the amount of the worker's actual damages or $5,000, whichever is greater. In addition, workers can seek injunctive relief and their reasonable attorneys' fees and costs incurred in bringing the lawsuit.

The bill makes clear that the rights, remedies, and penalties it establishes are not intended to supersede or limit other laws, including but not limited to Section 2802 of the California Labor Code and California's Unfair Competition Law.

What Should Employers Do to Prepare?

California employers should take proactive steps to ensure compliance and protect their business interests before AB 692 goes into effect on January 1, 2026.

- **Do not amend or revoke** existing agreements, even if they do not comply with AB 692. The bill applies prospectively to new agreements entered on or after January 1, 2026. If you have agreements in the works that do not comply with AB 692, have them signed before January 1, 2026.
- Work with counsel to **create new contracts** to be signed after January 1, 2026, that fit within the statutory exceptions to AB 692 for tuition reimbursement and retention bonuses.
- **Ensure you have other policies and contracts in place to protect your business interests.** With the state limiting the use of restrictive covenants, employers should review and audit policies meant to guard trade secrets and other important business interests in order to make sure that you are protecting your most valuable assets to the greatest extent possible.

Conclusion

AB 692 is only the latest development in California's limitations on restrictive covenants and other contract terms intended to protect businesses. Employers in the state need to ensure that they are prepared to comply with AB 692 by January 1, 2026, and have alternate means in place to safeguard their interests.

If you have questions, please contact the authors of this Insight, your Fisher Phillips attorney, any attorney in our California offices, or any attorney in our Employee Defection and Trade Secrets Practice Group. Make sure you are subscribed to Fisher Phillips' Insight System to gather the most up-to-date information directly to your inbox. We constantly monitor new cases, legislation, and regulatory developments to keep you at the cutting edge of the law, so check out Blue Pencil Box for our daily updates on restrictive covenant law.

Related People

Jonathan Crook
Partner
704.334.9313
Email

Matthew Sharon

Associate
404.240.4141
Email

Service Focus

Employee Defection and Trade Secrets

Related Offices

Irvine

Los Angeles

Sacramento

San Diego

San Francisco

Woodland Hills