



First, The Good News: California Bills to Expand Paid Sick Days and Require Employers to Accommodate Medical Marijuana Fail to Advance

Insights

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It's not often that we get to report good news on this blog. But last week, two significant bills that would have imposed new requirements on California employers failed to advance past the Assembly Appropriations Committee.

On May 25, the Assembly Appropriations Committee met and considered hundreds of bills on the committee's "suspense file" – bills that would have a fiscal impact to the state of \$150,000 or greater. In the span of about an hour, the committee announced which bills would advance to the Assembly Floor, and which bills would be "held under submission" (essentially dead for the year).

Expansion of Paid Sick Days Dead – For Now

One of the more significant (and burdensome) requirements enacted in recent years was AB 1522 from 2014, also known as the "Healthy Workplaces, Healthy Families Act of 2014." AB 1522 requires employers to provide three days (or 24 hours) of paid sick leave to covered California employees.

However, three days is apparently not enough. This year, Assemblywoman Lorena Gonzalez Fletcher (the author of the original AB 1522) introduced [AB 2841](#) to expand this requirement to five days (or 40 hours) of paid sick leave. The author indicated that the proposal was intended to ensure California will keep pace with the growing number of local jurisdictions – including San Francisco, Oakland, Emeryville, Santa Monica, San Diego, Los Angeles, and Berkeley – that have passed ordinances granting workers more expansive paid sick leave than that required under the state law.

Business groups opposed the expansion of the paid sick days requirement, arguing that California should refrain from increasing the requirement given the cumulative costs of existing protected leaves of absence with which California employers are already struggling.

However, as noted above, AB 2841 was "held under submission" last week, meaning the bill will not move forward this year. This is perhaps surprising because the bill's author, Assemblywoman Lorena Gonzalez Fletcher is also Chair of the Assembly Appropriations Committee, and has the final say on which bills advance and which are held on the suspense file. It's difficult to predict why she would hold her own bill in committee, but there is speculation that Governor Brown sent a signal that he was not interested in signing legislation to expand the paid sick leave requirement.

Nevertheless, employers should prepare for this bill to return next year. In fact, following the hearing, the author tweeted, “I’m glad we raised the issue this year and look forward to fighting for more paid leave next year.”

Breathe Easy – Medical Marijuana Accommodation Bill Halted

Another problematic proposal for California employers was AB 2069 by Assemblyman Rob Bonta. This measure would have required California employers to “reasonably accommodate” the medical use of cannabis by a qualified patient. This proposal directly contravened a 2008 decision of the California Supreme Court in *Ross v. RagingWire Telecommunications*, which held that California employers are not required to accommodate medical marijuana users.

AB 2069 provided that it did not prohibit an employer from terminating or taking adverse action against an employee who is “impaired” at the worksite or during the hours of employment because of the use of cannabis. However, because there is not readily-available technology to measure “impairment,” this exception was largely illusory and would have left employers struggling to determine when a given employee was impaired or not.

Employer groups opposed the proposal, arguing that the language was too broad and threatened workplace safety and their statutory authority to maintain a drug-free workplace.

Thankfully, the Assembly Appropriations Committee decided to hold this bill for the year. However, as more and more states legalize both the medical and recreational use of marijuana, it is likely that proposals such as AB 2069 will continue to be brought forward. This likely isn’t the end of this discussion in California.

So What’s the Bad News?!?

California employers should take a moment to celebrate this rare victory – the stopping of two legislative proposals that would have imposed significant new requirements and obligations upon them.

But that moment should be brief. This is still California, after all. And next time, we’ll blog about the plethora of California employment bills that are still making their way through the Legislature and appear likely to may their way to the Governor’s desk.

But we thought it would be nice to give you some good news first.

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