



How Will The New California Governor Impact The Gig Economy?

Insights

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By: The Editor

One of our firm's most prolific writers and most astute analysts of all things related to workplace law in California, [Ben Ebbink \(Sacramento\)](#), wrote a recent post-election entry for the firm's [California Employers Blog](#) entitled "[What Will A Governor Newsom Mean For California Employers?](#)" The entire post is worthy of your review, but two portions of his blog entry particular focus on the gig economy. Here are those two excerpts:

It's All About Dynamex

By far the most significant and pressing concern Governor Newsom will have to deal with is the continued fallout from the blockbuster decision by the California Supreme Court in the Dynamex case, where the court adopted an entirely new test for determining whether an individual is an employee or an independent contractor. This new legal standard, known as the "ABC Test," makes it more difficult for businesses to utilize independent contractors and threatens to upend entire industries in our state.

There was an attempt late in the year by the business community to come up with a legislative solution to some of the difficulties created by this new standard, but that effort fizzled when legislative leadership announced there would be no discussion of the issue. But this issue has not gone away.

If anything, in fact, the angst and concern in the employer community has only intensified in recent months. Therefore, it's likely that the number one issue from the business community will be to seek to address the impact of the Dynamex decision. There are likely to be numerous bills on the matter – from industry-specific bills to more comprehensive solutions. All of this means Governor Newsom will be forced to deal with Dynamex one way or another in 2019, "whether he likes it or not!"

Gig Economy and the Future of Work

One of the more fascinating issues to watch will be Governor-elect Newsom's approach to the "gig economy" and the ever-popular topic of the "future of work." Hailing from San Francisco (and its nearby Silicon Valley), Newsom has groomed his image as someone who is hip and appreciates

innovation and new technology. That may put him at odds with his friends in labor who are increasingly ramping up efforts to minimize potential job loss and other changes to the workplace.

Newsom had an extended section of his campaign website dedicated to the “future of work” which stated:

“We are living in a hinge moment — with globalization and technology detonating at the same time, displacing workers and entire industries. It’s not an easy subject to talk about but we need to have a serious conversation about the future of work because if we don’t prepare ourselves, our rising levels of wealth inequality will only widen. There is no silver bullet that will wholly solve the displacement from future technology, but implementing the right solutions can help ease the transition and protect the workers most vulnerable and susceptible to automation.

- **Wage Insurance:** The federal government offers reemployment insurance to folks who lose their jobs to foreign workers, but no one is offering this critical protection for those who fall victim to automation. If a hard working Californian who did everything right loses a job, takes the time to train for a new one, and then ultimately lands a position that doesn’t pay as much, we ought to offer wage insurance to help pay the bills.
- **Portable Benefits:** Our benefits system of retirement, vacation and sick leave are designed for a different era. Meanwhile, there are anywhere between one and two million gig workers in California, folks who depend on independent contracting to make ends meet. We like the innovation of the gig economy but that doesn’t mean we should reduce our worker standards. As Governor, Gavin is committed to protecting the workers of the contingent economy by establishing a system of portable benefits, so that earned benefits are not tied to one company or industry. California can be a leader in pioneering the benefits of the future.
- **Expand the Earned Income Tax Credit:** Finally, we need to expand our statewide Earned Income Tax Credit for low-income earners and for those out of work – a program that rewards work and allows families to keep more of their hard-earned money. An expansion of the Earned Income Tax Credit will support hard-working Californians and alleviate poverty.”

Issues like “portable benefits” and “wage insurance” are hot buzzwords. Whether they translate into public policy proposals that the new governor actually gets behind and delivers remains to be seen.