



California Association
of Nonprofits

Protecting, Strengthening & Promoting Nonprofits

NEW LAWS THAT MAY AFFECT YOU IN 2010...are you in compliance?

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Although the California government proposed plenty of employment bills for consideration in 2009, only a handful of them made it through the process. Here is a brief summary of laws that will or may affect you:

New Form I-9 (Employment Eligibility Verification) Revised August 7, 2009

All employers must complete and retain a Form I-9 for every person they hire. You should stop using all previous versions of the Form I-9 from now on—you do not need to redo the existing ones. The new form is approved for use through August 31, 2012. The revision date can be located on the lower right hand corner of the form.

Download your copy of Form I-9 (8/7/2009) here: <http://www.uscis.gov/files/form/i-9.pdf>. If you'd like more information about this form, please visit the Department of Homeland Security web site at <http://www.uscis.gov/i-9>.

California Personal Tax Withholding Increase (ABX 417)

A state withholding tax increase was implemented on November 1, 2009. Because it's open-ended, the legislature could call it off at any time, but don't look for that to happen given California's financial woes. Most noteworthy, employee withholdings increased by ten percent.

To keep up to date with the proper withholding rates, please go to http://www.edd.ca.gov/Payroll_Taxes/Rates_and_Withholding.htm

Alternative Workweek Schedules (AB 5) effective May 21, 2009

Subject to employer approval and a majority vote by the affected employees, groups of employees have been able to choose an "alternative work schedule" (AWS) for quite some time in California—without having to be paid overtime. For example: employees may choose a schedule of 40 hours in 10 days or 80 hours in 9 days. Because a typical 8-5 schedule was not allowed in the "alternate" choices, employees who wanted to keep the typical 8-5 schedule would traditionally, vote against the alternative one. Changes to this law mean, among other things, that an employee who wants a traditional 8-hour day may still vote for the alternative schedule.

To see all the changes, read the entire bill here: http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/abx2_5_bill_20090214_amended_asm_v98.pdf

The Genetic Information Nondiscrimination Act of 2008 (GINA) effective November 21, 2009

This act prohibits discrimination based on an employee's (or their family members') genetic information. With few exceptions, the act also prohibits you, the employer, from asking for or acquiring an employee's genetic information. The EEOC has issued a revised "EEO Is The Law" poster, incorporating the requirements of GINA. If you have 15 or more employees, you should already have the new poster, which was due in November, hanging on the wall.

The new poster is available at no cost on the EEOC website: http://www.eeoc.gov/employers/upload/eeoc_self_print_poster.pdf

For questions about GINA, go to: http://www.eeoc.gov/policy/docs/qanda_geneticinfo.html.

Americans with Disabilities Act Amendment Act (ADAAA) of 2008

Although this act became effective on January 1, 2009, rulings by the EEOC did not become final until November 23. While the amendment retains the basic definition of "disability", the definition has been expanded. The act now requires that courts focus on whether *discrimination* has occurred, rather than whether the individual has a *disability* that fits the ADA definition. The effect of these changes is that it will now be easier for an individual to establish that s/he has a disability under the act. Requests for accommodation as well as discrimination claims are expected to increase.

For questions about the ADAAA, please go to: <http://www.dol.gov/ofccp/regs/compliance/faqs/ADAFaqs.htm>

Workers' Compensation Uninsured Employer Penalty Increased 50%(SB 313)

Every employer is required to have workers' compensation insurance. If an organization is found to be uninsured, a stop order will be issued, requiring the agency to cease operating until insurance is obtained. A monetary penalty is imposed as well. This bill increases the monetary penalty from \$1,000 to \$1,500 for *each* uninsured employee.

To read the bill's entire text, go to:

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0301-0350/sb_313_bill_20091102_chaptered.pdf

Workers' Compensation Pre-designation (SB 186)

Two years ago, we reported that the right of employees to "pre-designate" a personal physician for worker's compensation treatment would expire on 12/31/09. Unbelievably, that time is here! However, this bill deletes that expiration date meaning your employees can still go to their own doctor if injured while at work.

For the complete text, see:

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0151-0200/sb_186_bill_20091011_chaptered.pdf

Out-of-State Marriages (SB 54)

California recognizes out-of-state marriages as legal in California if they are legal in the state where the marriage occurred. SB 54 provides that a same-sex marriage, valid in the state in which it was contracted, will receive the same rights in California as spouses, with the exception of the designation of "marriage."

For more information: http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0051-0100/sb_54_bill_20091011_chaptered.pdf