



Client Alerts

California Compliant: Are California's Wage Orders About to Be Re-Written?

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California already grants employees significant protections with respect to their wages, eligibility for overtime, entitlements to meal and rest breaks, and working conditions. Believe it or not, it's possible that in 2024, the state will *expand* employees' rights by regulatory action alone, even without legislative action. If pending legislation is signed into law, the state will revive the defunct Industrial Welfare Commission (IWC), granting millions of dollars in funding for the IWC to re-write rules for employers.

Many of the specific wage and hour requirements that California employers must follow are set forth in industry-specific "Wage Orders." The current Wage Orders, which are available at <https://www.dir.ca.gov/iwc/wageorderindustries.htm>, were drafted more than 20 years ago by the IWC. The IWC, which was created by the Legislature as part of the Department of Industrial Relations (DIR), had the authority to regulate wages, hours, and working conditions in California. It hasn't been funded since 2004, however, so all new standards regulating employment required legislative enactments.

The IWC likely is coming back to life. California's Budget Act of 2023 (AB-102), as currently drafted, would provide \$3,000,000 in funding to the DIR for the IWC "to convene industry-specific wage boards and adopt orders specific to wages, hours, and working conditions in such industries." The Act would prohibit the IWC from including "any standards that are **less protective than existing state law**." If passed, the Act would require the IWC to convene by January 1, 2024, and to make final recommendations for "new wage orders" by October 1, 2024.

It's too soon to know what the IWC would change in the Wage Orders. Given the requirement that any new standards would have to be more protective than existing law, however, the playing field can only get worse for employers. The IWC could change, for example, rules relating to entitlements to meal and rest breaks, requirements for adopting an alternative workweek schedule, or conditions for classifying employees as exempt from overtime.

AB-102 also would increase staffing levels at the Division of Labor Standards and Enforcement (DLSE), which enforces the Wage Orders.

The bill was presented to Governor Newsom on June 27th. Unless vetoed, which seems unlikely, the IWC funding will go into effect next year. Employers should watch the IWC closely in 2024 to begin to prepare for any new requirements.

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