

## NEW EMPLOYMENT LAWS ARE SIGNED BY GOVERNOR BROWN



During the first half of the 2011-2012 session, a good amount of labor and employment-related bills were passed by the California state legislature. On October 9, 2011, California Governor Jerry Brown finally addressed what took place. It has been argued that Governor Brown vetoed many proposed bills based on his theories that they would potentially harm California businesses; however, some of the bills he did sign into law actually could harm California businesses when they become official on January 1, 2012. These new employment laws relate to various and diverse areas, with some addressing hiring practices, required leaves of absence, worker classification and health insurance. Here are some brief descriptions on significant new employment laws that Governor Brown signed: **AB 1236 – E-Verify:** This new law addresses local governments in California who require private employers to use the electronic employment verification system as part of their hiring practices. This law will maintain consistency throughout the state as it will be prohibiting employers from practicing this and will have the federal government control applicable regulations. **SB 559 – Discrimination Based on Genetic Information:** This new law is placed under the Unruh Civil Rights Act and the Fair Employment and Housing Act (FEHA). This law is simply an add-on to a list of prohibited bases for discrimination when hiring. Although the law is similar to the federal law regarding this issue, California's version expands the applicability to a broader range of employers. **AB 592 – Interference:** This new law adds language to the California Family Rights Act (CFRA) and the Pregnancy Disability Leave Law (PDL) that makes it unlawful to interfere with or in any way restrain the exercise of rights under these laws. **SB 299 – Health Coverage During Maternity Leave:** Under this law, employers can no longer refuse health insurance coverage for an employee who takes leave for pregnancy, childbirth or a related medical condition. Many employers are going to have to revise their existing policies to abide by this new law and the new law may be deemed to be preempted by ERISA or the Affordable Care Act. **AB 887 – Gender Identity:** This law refines the definitions of the words "sex" and "gender" (at least as they apply in several anti-discrimination laws, including the FEHA). These terms, as they are newly defined, now will encompass a person's gender identity and whether gender-related appearance and behavior stereotypically correspond with his or her sex at birth. **AB 22 – Credit Reports:** With this new law, the use of credit reports in order to obtain a job position will be forbidden. The only time when a credit report is of use is in the following circumstances:

- *Managerial position*
- *A law enforcement officer*
- *The position for which a credit report screening is required by law*
- *A position that requires regular access to confidential information*
- *A position in which the employee will be entitled to enter into financial transactions on the company's behalf*
- *A position that involves regular access to cash totaling \$10,000.00 or more*

**SB 459 – Independent Contractors:** This new law probably is the most significant of the bills signed by Governor Brown this Term. Specifically, it prohibits the "willful misclassification" of independent contractors and authorizes the Labor and Workforce Development Agency (LWDA) to assess severe civil penalties against employers who do so.