

TO: **American Subcontractors Association of California (ASAC) GRC Members**

FROM: Naomi Padron, Partner, McHugh Koepke Padron (MKP) Government Relations

DATE: September 4, 2024

RE: End of Session Update

2024 Legislative Session

On Saturday, August 31st, the California State Legislature adjourned for the year.

With the Legislature now adjourned, the focus shifts to the Governor's office. Governor Gavin Newsom has until Monday, September 30th to act on the bills passed. If signed, most bills go into effect at the start of the new year, unless they have an urgency clause or specify otherwise.

Notably, the Legislature convenes in a two-year cycle and this year was the second year of the 2023-2024 Legislative session. The Legislature will reconvene on Thursday, January 2, 2025.

Legislation of Interest

In 2024, the California Legislature's count for new bills was 2,124. This figure does not include "two-year" measures that were introduced in 2023 and were still eligible for consideration this year.

On behalf of ASAC, MKP reviewed all bills and amendments to carefully compile a list of about 40 measures for the ASAC Government Relations Committee (GRC) to review. ASAC supported, opposed, offered amendments to, and closely monitored several bills of interest.

Below please find additional information regarding the measures that ASAC supported:

- **[AB 2677 \(Chen\)](#), **Sureties: liability**. Clarifies that license sureties' liability, including any attorney's fees or costs, is limited to the penal sum of the bond. *Pending on the Governor's desk.***
- We also conveyed support for resolutions that proclaim the week of March 3, 2024, to March 9, 2024, inclusive, as Women in Construction Week.

Below please find additional information regarding the 4 measures that ASAC opposes:

- **[AB 2705 \(Ortega\)](#), Labor Commissioner.** Provides that, for a violation of public works law, the statute of limitations (SOL) for the Labor Commissioner (LC) to enforce the liability on a payment bond shall be the same as the 18-month SOL for the LC to issue a civil wage and penalty assessment to the contractor or subcontractor on that project, or both. *Pending on the Governor's desk.*
- **[AB 1976 \(Haney\)](#), Occupational safety and health standards: first aid materials: opioid antagonists.** Requires the Division of Occupational Safety and Health (Cal/OSHA), before December 1, 2027, to submit a draft rulemaking proposal to revise standards to require first aid materials in a workplace to include naloxone hydrochloride or another opioid antagonist, as specified, to reverse opioid overdose and instructions for using the opioid antagonist. The Occupational Safety and Health Standards Board shall consider for adoption these revised standards on or before December 1, 2028. *Pending on the Governor's desk.*

*** ASAC has an "oppose unless amended" position, the amendment would specify this does not apply to first aid kits located at construction worksites.*

- **[SB 1162 \(Cortese\)](#), Public contracts: employment compliance reports: apprenticeship programs.** Requires a contractor, subcontractor, bidder, or other entity to include the full name of, and identify the apprenticeship program name, location, and graduation of, all workers in existing monthly compliance reports made to the public entity or other awarding body for projects with a skilled and trained workforce requirement. *Pending on the Governor's desk.*

For each of the measures that ASAC took a position on, MKP submitted a letter to the Legislature/Governor, met with the author, and advocated either in support, in opposition, or for amendments.

Please find a detailed bill list, that includes further detail, notes, and links to ASAC position letters, for your reference along with this memo.

There were a number of other measures that MKP engaged on for ASAC throughout the legislative process. Thanks again in part to ASAC's lobbying efforts, several measures that the GRC had concerns with stalled. Also, a couple of bills were amended favorably or in a way that addressed ASAC's opposition.

Some of these victories include:

- **[AB 2135 \(Schiavo\)](#), Public works contracts: wage and penalty assessment.** Extends, by six months, the time the Labor Commissioner has to issue a civil wage and penalty assessment against a contractor or subcontractor. *The ASAC GRC voted to OPPOSE. Bill was held on 8/15/2024 in the Senate Appropriations Committee on the Suspense File.*
- **[AB 2439 \(Quirk-Silva\)](#), Public works: prevailing wages: access to records.** Would have expanded the Public Records Act (PRA) to apply to private companies that work on public

works projects. This would have been unprecedented, and a huge disincentive for bidding on such projects. *The ASAC GRC voted to OPPOSE. ASAC joined a coalition which included the California Chamber of Commerce to oppose the bill noting that it would expose private companies to harassment and litigation risks, drive up the costs for public works projects, and serve no public purpose. The bill stalled in the Assembly Appropriations Committee.*

- **[AB 2622 \(Carrillo\)](#), Contractors: exemptions: work and advertisements.** As introduced, the bill would have expanded the licensing exemption and the advertisement authorization by increasing the maximum aggregate contract price from \$500 to \$5,000. *The ASAC GRC decided on a “Support if Amended” position and noted that the \$5,000 figure proposed was too high. To reflect inflation over the years, ASAC suggested amendments that would increase the “minor and inconsequential work” exemption from \$500 to \$1,500. The bill was ultimately amended to revise the contractor licensing exemption to allow a person without a contractor’s license to perform minor construction work if the total cost of the project is less than \$1,000 (rather than \$500). MKP also worked with the author on additional amendments to strike the language in the bill that would have required the Contractors State Licensing Board (CSLB) to annually adjust the minimum work exemption according to the California Consumer Price Index (CPI). This bill is currently pending on the Governor’s desk.*
- **[AB 3186 \(Petrie-Norris\)](#), Public works: prevailing wages: access to records.** Initially would have required contractors and subcontractors on public works projects to make specified records available to the Division of Labor Standards Enforcement, multi-employer Taft-Hartley trust funds, and joint labor-management committees. *The ASAC GRC voted to OPPOSE. On 5/20/24, the bill was amended to strike the reference to “contractors and subcontractors” and instead require owners and developers undertaking any public works project to make specified records available to the Division of Labor Standards Enforcement (DLSE), multi-employer Taft-Hartley trust funds, and to joint labor-management committees. Ultimately, the bill stalled in the Senate and did not move forward.*
- **[SB 830 \(Smallwood-Cuevas\)](#), Public works.** Would have expanded the definition of "public works," for the purpose of the payment of prevailing wages, for public works contracts advertised for bid or awarded on or after January 1, 2026, to also include custom fabrication of sheet metal ducts for heating, ventilation, and air conditioning (HVAC) systems produced offsite and solely and specifically designed and engineered for installation in a public works project. The bill also would have required, beginning January 1, 2026, wages or penalties due pursuant to a violation of prevailing wage requirements for offsite, custom fabrication of sheet metal ducts at an out of state fabrication facility to be assessed jointly and severally against the contractor and the subcontractor installing such ducts. *The ASAC GRC voted to OPPOSE. On 08/28/24, the bill was moved to the inactive file.*
- **[SB 1340 \(Smallwood-Cuevas\)](#), Discrimination.** Would have required that contractors and subcontractors report demographic information of employees to the California Civil Rights Department (CRD). *The ASAC GRC voted to OPPOSE. On 08/23/24, the bill was*

amended to remove the reporting requirements.

Cal/OSHA Regulations

On June 20, 2024, the Occupational Safety and Health Standards Board approved California Code of Regulations, Title 8, [section 3396](#), “Heat Illness Prevention in Indoor Places of Employment”. This standard applies to most workplaces where the indoor temperature reaches 82°F. It establishes required safety measures for indoor workplaces to prevent worker exposure to risk of heat illness. This standard went into effect on July 23, 2024.

In California, employers must take steps to protect workers from heat illness in both indoor and outdoor workplaces under the California Code of Regulations, Title 8 (T8CCR), sections [3395](#) and [3396](#). Employers may be covered under both the indoor and outdoor regulations if they have both indoor and outdoor workplaces.

PAGA Reform

The [Private Attorneys General Act \(PAGA\)](#) is a distinctive piece of legislation in California labor law. Enacted in 2004, PAGA allows employees to sue their employers for labor code violations on behalf of themselves, other employees, and the state of California. Unfortunately, because the law deputizes private attorneys to file lawsuits on behalf of those employees, PAGA has been abused. Attorneys have leveraged PAGA’s penalties to get big settlements even if the claims have no merit. The employer ends up paying a hefty sum with much of the money going to the attorneys and very little going to workers or the state. In sum, PAGA has significantly increased employment litigation in California yet has left unfulfilled its promise of improved compensation for employees for alleged harm.

This year, the [Fix PAGA coalition](#), representing non-profits, social justice advocates, family farmers, healthcare providers, and businesses worked to qualify a reform measure for the November 2024 ballot.

However, to avoid a contentious fight ballot campaign, Governor Gavin Newsom, in partnership with legislative leadership and business and labor groups, announced an agreement on needed reforms to the PAGA on June 18th.

By way of background, the core elements of the reform package include:

- **Employee Share of Penalty**
 - Increases share employees receive from any penalty from 25% to 35%.
- **Standing**
 - Requires the employee (plaintiff) to personally experience the alleged violations brought in a claim.
 - Alleged violations must have occurred within the last year (presently, there is no time limitation).
- **Penalty**
 - Caps Penalties: For employers who proactively take steps to comply with the Labor Code before receiving a notice, the maximum penalty that can be awarded is 15 percent of the applicable penalty amount.

- Caps Penalties: For employers who take steps to fix policies and practices after receiving a PAGA notice, the maximum penalty that can be awarded is 30 percent of the applicable penalty amount.
- Reduces the maximum penalty where the alleged violation was brief or where it is a wage statement violation that did not cause confusion or economic harm to the employee (i.e. misspelling of company name or forgetting to add “Inc.” on the pay statement).
- Levels the playing field for employers who pay weekly by ensuring a penalty is adjusted. Presently, such employers are penalized at twice the amount because the penalty accrues on a per pay period basis.
- Addresses derivative claims.
- Creates a new penalty (\$200 per pay period) if an employer acted maliciously, fraudulently, or oppressively.
- **Employer Right to Cure**
 - Expands which Labor Code sections can be cured, so employees are made whole quickly.
 - Protects small employers by providing a more robust right to cure process through the state labor department (Labor and Workforce Development Agency) to reduce litigation and costs.
 - Provides an opportunity for early resolution in court for employers.
- **Strengthening Enforcement Agency**
 - The Administration will pursue a trailer bill to give the California Department of Industrial Relations (DIR) the ability to expedite hiring and filling vacancies to improve and expedite enforcement of employee labor claims.
- **Judicial Discretion (Manageability)**
 - Codifies that a court may limit both the scope of claims and evidence presented at trial.
- **Injunctive Relief**
 - Allows for injunctive relief.

The two legislative bills encompassing the agreed-upon reforms to PAGA were voted on and approved by the Legislature on, June 27th. Taken together, the two bills reform PAGA to ensure workers retain a strong tool to resolve labor claims and receive fair compensation, while limiting the shakedown lawsuits that hurt employers and employees.

The bills – [SB 92 \(Umberg; D-Santa Ana\)](#) and [AB 2288 \(Kalra; D-San Jose\)](#) – were then signed into law by the Governor on Monday, July 1st.

November General Election

Looking ahead, the November General Election will impact the make-up of the California State Legislature. At least 24 California State Assembly and 11 State Senate seats will turn over. For context, that represents about 25 percent of each house.

Term limits account for most of the changes. However, some members are departing to run for Congressional seats.

The California State Senate will lose the following Senators at the end of 2024:

- Senator Brian Dahle – SD 1
- Senator Bill Dodd – SD 3
- Senator Susan Talamantes Eggman – SD 5
- Senator Steve Glazer – SD 7
- Senator Nancy Skinner – SD 19
- Senator Scott Wilk – SD 21
- Senator Anthony Portantino – SD 25
- Senator Richard Roth – SD 31
- Senator Steven Bradford – SD 35
- Senator Dave Min – SD 37
- Senator Toni Atkins – SD 39

In some instances, the vacant Senate seats are likely to be filled with current Assemblymembers. This includes:

- Assemblymember Megan Dahle in SD 1
- Assemblymember Tim Grayson in SD 9
- Assemblymember Eloise Gómez Reyes in SD 29
- Assemblymember Sabrina Cervantes in SD 31
- Assemblymember Akilah Weber in SD 39

It is also worth noting that 2024 is the first election for odd-numbered State Senate Districts under the newly redistricted maps. As a result, a few seats look substantially different.

The California State Assembly will lose the following Assembly Members at the end of 2024:

- Assemblymember Megan Dahle – AD 1
- Assemblymember Jim Wood – AD 2
- Assemblymember Kevin McCarty – AD 6
- Assemblymember Jim Patterson – AD 8
- Assemblymember Carlos Villapudua – AD 13
- Assemblymember Tim Grayson – AD 15
- Assemblymember Phil Ting – AD 19
- Assemblymember Evan Low – AD 26
- Assemblymember Vince Fong – AD 32
- Assemblymember Devon Mathis – AD 33
- Assemblymember Eduardo Garcia – AD 36
- Assemblymember Chris Holden – AD 41
- Assemblymember Luz Rivas – AD 43
- Assemblymember Laura Friedman – AD 44
- Assemblymember Eloise Gómez Reyes – AD 50
- Assemblymember Wendy Carrillo – AD 52
- Assemblymember Freddie Rodriguez – AD 53
- Assemblymember Miguel Santiago – AD 54
- Assemblymember Reginal Jones-Sawyer – AD 57
- Assemblymember Sabrina Cervantes – AD 58

- Assemblymember Anthony Rendon – AD 62
- Assemblymember Marie Waldron – AD 75
- Assemblymember Brian Maienschein – AD 76
- Assemblymember Akilah Weber – AD 79

In addition to the departing Legislators listed above, a couple of close contests are anticipated, the outcomes of which could lead to additional changes should the incumbents not win re-election.

New Legislative members will be sworn in during an organizational session on December 2nd. The changes in the Legislature will trigger new chairmanships and committee memberships. MKP will report on these changes as they are announced.

Looking Ahead – Sponsored Legislation

During the next few months, we understand that ASAC will be evaluating what, if any, bill the organization may wish to pursue. We would like to have our next meeting on October 1st at noon to further discuss any sponsored legislation and make the necessary decisions on whether to move forward with the proposal.