



Law Offices of Mary L. Topliff

Workplace Wave



## Summary of the State Council of SHRM's Legislative Action Conference

By: Mary L. Topliff, Esq.

On April 24 and 25, 2006, a group of over 100 human resource professionals, business owners and employment attorneys gathered in Sacramento for the State Council of the Society of Human Resource Management's annual Legislative Action Conference. As chair of the conference and the Government Affairs Director of State Council, I was heartened by our largest turnout for this important effort to influence state legislation and regulatory issues.

Michael Lotito, former President of SHRM and partner at Jackson Lewis, LLP, began the day with a bang. In his inimitable manner, he argued in favor of licensing requirements for human resource practitioners to garner more respect for the profession. He also challenged State Council and its chapter members to be more proactive and take positions on big policy issues.

Mark Leno and Greg Aghazarian, two members of the Assembly, from diametrically opposed positions, provided information on pending bills and the general state of the

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### Public Speaking

Ms. Topliff will be presenting a full-day workshop on Time Off, Leaves of Absence and Related Benefits for the Northern California Human Resource Association on June 14 in Santa Clara and on June 22 in San Francisco. For more information, contact Ms. Topliff at 415-398-9597.

legislature. One point of agreement is that there is little common ground, primarily due to differing views on appropriate sources of state revenue, i.e. taxes versus cuts in state programs.

Health care reform has been a major concern for several years and this legislative session has seen proposed bills again from various legislators. Alan Edelstein, a Sacramento lobbyist who has worked on legislative issues regarding HR for years, covered these different approaches. Senator Sheila Kuehl's proposed bill from last year, SB840, remains in the Assembly. It would implement a single-payer health care system. Senator Carol Migden has

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proposed a different approach that some call, "Get Wal-Mart," since it targets very large employers and requires a certain percentage of payroll to be spent on health care insurance coverage. Mr. Edelstein stated that labor unions have sponsored similar legislation in a number of states; Maryland recently passed such a bill. Other approaches would make smaller, incremental improvements in Medi-Cal, such as SB1448. Bills proposing tax credits to employers are seen as doomed due to continuing budget problems.

Who better to hear about wage and hour issues than the California Labor Commissioner? Robert Jones, Acting Labor Commissioner, was the luncheon speaker, introduced by his former boss, former Labor Commissioner, Donna Dell. Mr. Jones related some of the continuing challenges at the state agency he oversees, including the many opinion letters issued over time, some of which conflict with the DLSE's Enforcement Manual and the law. The agency continues to focus on enforcement to address the state-wide problems related to the underground economy.

Following lunch, Ann Noel, Executive and Legal Affairs Secretary of the Fair Employment and Housing Commission, summarized the recent public hearings on the Commission's proposed regulations of AB1825, the sexual harassment training requirement for managers. The bill's author, former Assemblywoman Reyes, served on the

committee drafting the regulations and confirmed that her intent was that the training should cover sexual harassment as well as all other forms of unlawful harassment. Ms. Noel praised all of those who submitted comments to the proposed regulations and highlighted the importance of HR in carrying out the intent of AB1825.

Carrie Nevans, Acting Administrative Director for the Workers' Compensation Division, in conversation with Steven Sion, legislative affairs committee chair for Professionals in Human Resources Association and a workers' compensation attorney, provided a comprehensive update. Ms. Nevans clarified and highlighted a variety of issues, including clarification of the procedures for State Panel Qualified Medical Evaluators and changes in the permanent impairment ratings system.

Doug Dexter, past President of the Northern California Human Resource Association and partner at Farella Braun & Martel, and I presented an update on recent case law developments and the pending bills. The article below provides a summary and update on these bills.

We were joined for dinner by John Myers, Sacramento Bureau Chief for KQED public radio. Mr. Myers provided the journalist's perspective on Governor Schwarzenegger's actions, the hot issues in the legislature and predictions on various political races. He also provided insight into how HR

can bring to life some of our important issues to gain media coverage.

Armed with all of this information, participants set off on Tuesday to make their voices heard with our legislators. However, influencing legislation takes more than one visit. It is an on-going process that requires regular contact throughout the year. And remember, you do have the power to influence your elected officials!

## **Update on 2006 California Proposed Legislation**

By: Mary L. Topliff, Esq.

### **Employer Financed Health Care**

SB1414 (Migden), in its current version as of May 11, requires employers with 10,000 or more employees in the state, who do not elect to contribute the difference between the amount the employer spent on health insurance costs and an amount equal to a specified percentage of the total wages paid to employees in the state in the immediately preceding calendar year, to spend an amount equal to that specified percentage on employee health insurance costs, as defined. For-profit organizations that spend less than the amount required shall pay to the Director of Industrial Relations an amount equal to the difference between the amount the employer spent on health insurance costs and an amount equal to 8% of the total wages paid to

employees in the state in the immediately preceding calendar year. It requires nonprofit organizations, with 10,000 or more employees in the state, who do not elect to contribute the difference in support of the Medi-Cal program, to spend at least 6% of the total wages paid to employees in the state in the immediately preceding calendar year on employee health insurance costs.

SB 1414 is modeled on a similar bill that was enacted in Maryland in January, 2006. This bill passed the Labor and Industrial Relations Committee on April 26 and was referred to the Appropriations Committee. A hearing is scheduled for May 25.

AB 1840 requires a report to be delivered to the Legislature identifying all employers who employ 25 or more persons who receive government health services. A similar bill was vetoed by Governor Schwarzenegger during the 2005 session.

### **Harassment Training and Itemized Paycheck Statements**

AB2095 (Niello) would limit the two-hour harassment training requirement to supervisors who are working in California. It continues to cover employers with 50 or more total employees (regardless of location). It would also authorize paycheck statements to reflect itemization of overtime hours worked on the statement accompanying the payment

of such time, rather than on the statement for the period in which the hours were worked. This bill passed the Assembly on May 11 and is now in the Senate.

### **Minimum Wage Increase**

AB1835 (Lieber) and SB 1162 (Cedillo), both of which would raise the minimum wage to \$7.25 per hour and would be automatically indexed thereafter.

AB1835 is pending in the Appropriations Committees and SB1162 will be heard May 25 in the Senate Appropriations Committee.

### **Gender Pay Equity**

AB2555 (Oropeza) would increase damages for gender pay discrimination claims. This bill passed the Assembly Labor & Employment Committee and

has been referred to the Appropriations Committee suspense file.

### **Workplace Safety**

AB1912 (Maze) would prohibit an employer from discharging or refusing to hire an employee or applicant on the basis that the employee or applicant legally stores a firearm in his or her vehicle at the worksite that is locked up and out of public view. This bill was withdrawn by the author on April 27.

### **Alternative Workweek Changes**

AB2217 (Villines) and SB 1254 (Ackerman) would allow nonexempt employees to request flexible work schedules. Both bills have failed passage in their respective committees.