

California Legislative Summary

**2017-2018 End Of Session
Legislative Summary**

November 2018

CALIFORNIA LEGISLATIVE SUMMARY 2017-2018 END OF SESSION

The California Legislature completed its 2017-2018 session on August 31st and Governor Jerry Brown has signed or vetoed all of the legislation on his desk. The focus of the Legislature's attention this year reflected the broad issues that focused Americans' attention in 2018. The #MeToo and Times Up movements influenced the passage of legislation pertaining to sexual harassment and sexual assault. The national opioid crisis and focus on prescription drug pricing led to a number of new laws attempting to address those issues. And California has taken a lead in passing data privacy legislation that is widely seen as a harbinger of what other states are likely to do in coming years.

Through the course of the year, Keenan monitored more than three hundred bills affecting California joint powers authorities (JPAs), schools, community colleges and other public agencies. Summarized below are the bills we watched that the Governor signed into law this year. All of them will go into effect on January 1, 2019, unless otherwise noted.

This summary has been formatted so that you may click on any of the links below and be taken directly to the legislation concerning that subject. In that way, we hope that this Briefing can be useful to many in your agency.

Please contact your Keenan Account Manager, Claims Analyst or Risk Management Analyst if you would like more information on any of the legislation described below.

- Bullying/Cyber Threats/Pupil Trauma
- Charter Schools
- Criminal History Checks
- Data Privacy/Cyber Security
- Day Care Facilities
- Dental, Vision and Specialized Health Plans
- Employment Discrimination
- Environmental Exposures
- Family/Sick/Other Leaves
- First Aid/AEDs
- Free Public Education/School Fees
- Health Insurance Benefits
- Immigration Enforcement
- Individual and Small Group Health Insurance
- Insurance Claims Intercept
- Knox-Keene Health Care Service Plans
- Lactation Accommodations

- Life Insurance
- Long Term Care and Disability Insurance
- Mental Health
- Opioids
- Peace Officers
- Pharmacy Benefits
- Public Employees
- Public Employees - Retirement
- Public Investments
- Public Works
- School Facilities
- School Safety
- School Safety - Buses
- Schools - Classified Service
- Sexual Assault
- Sexual Harassment
- Special Districts
- Special Education
- Worker Injury Data
- Workers' Compensation - Disability Indemnity Payments
- Workers' Compensation - Fraud

Please contact your Keenan Account Manager, Claims Analyst or Risk Management Analyst if you would like more information on any of the legislation described in this *Briefing*.

Keenan & Associates is not a law firm and no opinion, suggestion, or recommendation of the firm or its employees shall constitute legal advice. Clients are advised to consult with their own attorney for a determination of their legal rights, responsibilities and liabilities, including the interpretation of any statute or regulation, or its application to the clients' business activities.

TABLE OF CONTENTS

BULLYING/CYBER THREATS/PUPIL TRAUMA	1
AB 2291 – SCHOOL SAFETY: BULLYING	1
AB 1861 – HUMAN TRAFFICKING: SOCIAL MEDIA AND MOBILE DEVICES	1
AB 1868 – SEXUAL HEALTH EDUCATION	1
CHARTER SCHOOLS.....	1
AB 406 – CHARTER SCHOOLS: OPERATION	1
CRIMINAL HISTORY CHECKS	2
SB 1412 – APPLICANTS FOR EMPLOYMENT: CRIMINAL HISTORY	2
DATA PRIVACY/CYBER SECURITY.....	2
AB 375 – PRIVACY: PERSONAL INFORMATION: BUSINESSES	2
SB 1036 – DIRECTORY AND PERSONAL INFORMATION OF PUPILS AND PARENTS	2
SB 1121 – CALIFORNIA CONSUMER PRIVACY ACT OF 2018	2
DAY CARE FACILITIES	3
AB 605 – CHILD DAY CARE FACILITIES: INFANT TO SCHOOL-AGE LICENSE.....	3
AB 2370 – LEAD EXPOSURE: CHILD DAY CARE FACILITIES.....	3
DENTAL, VISION, AND SPECIALIZED HEALTH PLANS	3
AB 1092 – HEALTH CARE SERVICE PLANS: VISION CARE SERVICES: FRAUD	3
AB 2499 – HEALTH CARE COVERAGE: MEDICAL LOSS RATIOS	3
SB 1008 – HEALTH INSURANCE: DENTAL SERVICES: REPORTING AND DISCLOSURES	4
EMPLOYMENT DISCRIMINATION	4
AB 2282 – SALARY HISTORY INFORMATION	4
ENVIRONMENTAL EXPOSURES.....	4
AB 2453 – AIR POLLUTION: SCHOOLS.....	4
AB 2816 – PESTICIDES: SCHOOL SITES: REPORT	4
FAMILY/SICK LEAVE/OTHER LEAVES	5
AB 2012 – SCHOOL AND COMMUNITY COLLEGE EMPLOYEES: PARENTAL LEAVE	5
AB 2289 – PUPIL RIGHTS: PREGNANT AND PARENTING PUPILS.....	5
AB 2587 – DISABILITY COMPENSATION: PAID FAMILY LEAVE	5

SB 1085 – PUBLIC EMPLOYEES: LEAVES OF ABSENCE.....	5
SB 1123 – DISABILITY COMPENSATION: PAID FAMILY LEAVE.....	6
FIRST AID/AEDS.....	6
AB 2009 – ATHLETIC PROGRAMS: WRITTEN EMERGENCY ACTION PLANS	6
AB 2800 – SCHOOL ATHLETICS: COACHING EDUCATION/TRAINING: HEAT ILLNESS	6
FREE PUBLIC EDUCATION/SCHOOL FEES	7
AB 1974 – PUPILS: COLLECTION OF DEBT.....	7
HEALTH INSURANCE BENEFITS	7
AB 1860 – HEALTH CARE COVERAGE: CANCER TREATMENT	7
AB 2941 – HEALTH CARE COVERAGE: STATE OF EMERGENCY.....	7
IMMIGRATION ENFORCEMENT	7
SB 183 – EDUCATIONAL EQUITY: IMMIGRATION STATUS	7
INDIVIDUAL AND SMALL GROUP HEALTH INSURANCE.....	8
AB 2472 – HEALTH CARE COVERAGE.....	8
SB 910 – CALWORKS: WELFARE-TO-WORK ACTIVITIES: HOURS.....	8
INSURANCE CLAIMS	8
AB 2802 – INSURANCE PAYMENTS: INTERCEPTION.....	8
KNOX-KEENE HEALTH CARE SERVICE PLANS.....	8
AB 2674 – HEALTH CARE SERVICE PLANS: DISCIPLINARY ACTIONS	8
SB 997 – HEALTH CARE SERVICE PLANS: PHYSICIAN TO ENROLLEE RATIOS.....	8
LACTATION ACCOMMODATIONS	9
AB 1976 – EMPLOYMENT: LACTATION ACCOMMODATION	9
AB 2785 – STUDENT SERVICES: LACTATION ACCOMMODATIONS.....	9
LIFE INSURANCE.....	9
AB 1373 – INSURANCE	9
AB 2634 – LIFE INSURANCE	9
LONG TERM CARE AND DISABILITY INSURANCE	10
AB 2180 – LONG-TERM CARE AND DISABILITY INSURANCE	10

SB 1046 – INSURANCE: LONG-TERM CARE	10
MENTAL HEALTH.....	10
AB 2193 – MATERNAL MENTAL HEALTH	10
AB 2315 – PUPIL HEALTH: MENTAL AND BEHAVIORAL HEALTH SERVICES.....	10
AB 2639 – PUPIL SUICIDE PREVENTION POLICIES	11
SB 972 – STUDENT HEALTH: ID CARDS: SUICIDE PREVENTION HOTLINE NUMBER	11
OPIOIDS	11
AB 1751 – CONTROLLED SUBSTANCES: CURES DATABASE	11
AB 1753 – CONTROLLED SUBSTANCES: CURES DATABASE	11
AB 2086 – CONTROLLED SUBSTANCES: CURES DATABASE	12
AB 2487 – PHYSICIANS/ SURGEONS: OPIATE-DEPENDENT PATIENT.....	12
SB 1109 – CONTROLLED SUBSTANCES: SCHEDULE II DRUGS: OPIOIDS.....	12
PEACE OFFICERS.....	12
AB 1749 – WORKERS’ COMPENSATION: OFF-DUTY PEACE OFFICER	12
SB 1086 – WORKERS’ COMPENSATION: FIREFIGHTERS AND PEACE OFFICERS	13
PHARMACY BENEFITS	13
AB 315 – PHARMACY BENEFIT MANAGEMENT	13
AB 2863 – HEALTH CARE COVERAGE: PRESCRIPTIONS.....	13
SB 1021 – PRESCRIPTION DRUGS	13
PUBLIC EMPLOYEES.....	14
SB 846 – EMPLOYMENT.....	14
PUBLIC EMPLOYEES RETIREMENT.....	14
AB 2696 – LIMITED TERM APPOINTMENTS	14
SB 1165 – STATE TEACHERS’ RETIREMENT	14
PUBLIC INVESTMENTS.....	14
AB 1770 – LOCAL GOVERNMENT: INVESTMENTS.....	14
PUBLIC WORKS	15
AB 1565 – LABOR-RELATED LIABILITIES: DIRECT CONTRACTOR.....	15
AB 2249 – PUBLIC CONTRACTS: LOCAL AGENCIES: ALTERNATIVE PROCEDURE	15
AB 3018 – STATE CONTRACTS: SKILLED AND TRAINED WORKFORCE	15
AB 3231 – EMPLOYMENT: PUBLIC WORKS: APPRENTICESHIP.....	15

SB 877 – STATE GOVERNMENT	15
SCHOOL FACILITIES.....	16
AB 2540 – VOTE CENTERS AND POLLING PLACES.....	16
AB 1406 – SCHOOL FACILITIES: LEASES OF REAL PROPERTY	16
AB 2031 – SCHOOL FACILITY PROJECTS: BIDDING REQUIREMENTS.....	16
AB 3058 – SCHOOL FACILITIES: INSPECTIONS: EXAMINATION AND EVALUATION	16
AB 3186 – PUBLIC POSTSECONDARY EDUCATION: COMPETITIVE BIDDING	16
AB 3205 – SCHOOL FACILITIES: MODERNIZATION PROJECTS: DOOR LOCKS	17
SCHOOL SAFETY.....	17
AB 1747 – SCHOOL SAFETY PLANS.....	17
SCHOOL SAFETY—BUSES	17
AB 1798 – SCHOOLBUSES: PASSENGER RESTRAINT SYSTEMS.....	17
AB 1840 – EDUCATION FINANCE.....	17
SCHOOLS—CLASSIFIED SERVICE.....	18
AB 2160 – CLASSIFIED EMPLOYEES: PART-TIME PLAYGROUND POSITIONS.....	18
AB 2261 – SCHOOL EMPLOYEES: MERIT SYSTEM: COMMUNITY REPRESENTATIVES	18
SEXUAL ASSAULT	18
AB 1896 – SEXUAL ASSAULT COUNSELOR-VICTIM PRIVILEGE.....	18
AB 2128 – SCHOOL EMPLOYEES: DISMISSAL OR SUSPENSION.....	18
AB 2302 – CHILD ABUSE/SEXUAL ASSAULT: MANDATED REPORTERS: STATUTE OF LIMITATIONS.....	19
AB 3109 – CONTRACTS: WAIVER OF RIGHT OF PETITION OR FREE SPEECH	19
SB 820 – SETTLEMENT AGREEMENTS: CONFIDENTIALITY.....	19
SB 1053 – PRESENTATION OF CLAIMS: CHILDHOOD SEXUAL ABUSE	19
SEXUAL HARASSMENT	20
AB 2770 – PRIVILEGED COMMUNICATIONS: BY FORMER EMPLOYER	20
SB 1300 – UNLAWFUL EMPLOYMENT PRACTICES	20
SB 1343 – EMPLOYERS: SEXUAL HARASSMENT TRAINING.....	20
SB 224 – PERSONAL RIGHTS: CIVIL LIABILITY AND ENFORCEMENT	20
SPECIAL DISTRICTS.....	21
SB 929 – SPECIAL DISTRICTS: INTERNET WEB SITES	21
SPECIAL EDUCATION/DISABLED STUDENTS.....	21

AB 2109 – PUPILS WITH A TEMPORARY DISABILITY 21
AB 2657 – PUPIL DISCIPLINE: RESTRAINT AND SECLUSION 21

WORKER INJURY DATA 21

AB 2334 – OCCUPATIONAL INJURIES AND ILLNESS: EMPLOYER REPORTING
REQUIREMENTS 21

WORKERS’ COMPENSATION—DISABILITY INDEMNITY PAYMENTS 22

SB 880 – WORKERS’ COMPENSATION 22

WORKERS’ COMPENSATION FRAUD 22

AB 2046 – WORKERS’ COMPENSATION INSURANCE FRAUD REPORTING 22

BULLYING/CYBER THREATS/PUPIL TRAUMA

The task of training kids to deal with bullying, cyber threats and other threats continues to fall to K-12 schools. All of the new laws below add to existing requirements to provide information to employees, pupils and parents regarding these issues.

AB 2291 – School Safety: Bullying

This bill requires local educational agencies (LEAs) to adopt procedures for preventing acts of bullying and requires the California Department of Education (CDE) to post on its Web site the online training module relating to bullying and cyberbullying that the CDE is currently developing. It also requires schools make this online training available school employees.

AB 1861 – Human Trafficking: Social Media and Mobile Devices

The California Healthy Youth Act requires school districts to ensure that all pupils in grades 7 to 12 receive comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education which includes, among other things, information about human trafficking. AB 1861 will require the information about human trafficking to also include information on how social media and mobile device applications are used for human trafficking.

AB 1868 – Sexual Health Education

This bill will explicitly authorize a school district to provide optional instruction, as part of comprehensive sexual health education and HIV prevention education, regarding the potential risks and consequences of creating and sharing sexually suggestive or sexually explicit materials through cellular telephones, social networking Internet Web sites, computer networks, or other digital media.

SB 1104 - This bill requires school districts to work with the schools in the district serving students in any of grades 6-12 to identify methods of informing parents of human trafficking prevention resources and requires schools to implement those methods by January 1, 2020.

CHARTER SCHOOLS

AB 406 – Charter Schools: Operation

The Charter Schools Act of 1992 provides for the establishment and operation of a charter school and authorizes a charter school to elect to operate as, or be operated by, a nonprofit public benefit corporation. This bill prohibits a petitioner that submits a charter petition for the establishment of a charter school or a charter school that submits a charter renewal or material revision application on or after July 1, 2019 from operating as, or being operated by a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization. This legislation reflected the skepticism of many in the Legislature regarding the transparency and accountability of for-profit charter schools.

CRIMINAL HISTORY CHECKS

SB 1412 – Applicants For Employment: Criminal History

Current law prohibits an employer, whether a public agency or private individual or corporation, from asking an applicant for employment to disclose, from seeking from any source, or from utilizing as a factor in determining any condition of employment, information concerning participating in a pretrial or post trial diversion program or concerning a conviction that has been judicially dismissed or ordered sealed. This bill will clarify that these provisions do not prohibit an employer from asking an applicant about, or seeking from any source, information regarding a particular conviction of the applicant where conviction of a crime would legally prohibit someone from holding that job. This modification of California’s “ban the box” legislation should allow public employers to ask the questions they need to enable them to comply with other state laws in hiring employees for whom a prior criminal conviction is relevant.

DATA PRIVACY/CYBER SECURITY

This year, California enacted, and then promptly amended, a major consumer privacy bill which is likely to influence legislation in other states in the coming years. Most employers are still digesting the impact of AB 375 and SB 1121, both of which go into effect in 2020. There has been a renewed focus on pupil privacy as well. Schools should ensure that they are able to comply with SB 1036 after January 1, 2019.

AB 375 – Privacy: Personal Information: Businesses

This bill enacts the California Consumer Privacy Act of 2018. Beginning January 1, 2020, the bill will grant a consumer a right to request a business to disclose the categories and specific pieces of personal information that it collects about the consumer, the categories of sources from which that information is collected, the business purposes for collecting or selling the information, and the categories of 3rd parties with which the information is shared. The bill also allows a consumer to request that a business delete his or her personal information. It will also require businesses to make disclosures about the information and the purposes for which it is used.

SB 1036 – Directory and Personal Information of Pupils and Parents

Current law authorizes school districts to release pupil directory information and defines directory information to include a pupil’s name, address, telephone number, and date of birth. This bill will prohibit the inclusion of directory information and personal information of a pupil or his or her parents in the minutes of a meeting of the governing body of a local educational agency, if the pupil or parent or guardian has provided a written request to the secretary or clerk of the governing body to exclude his or her personal information.

SB 1121 – California Consumer Privacy Act of 2018

SB 1121, the California Consumer Privacy Act of 2018 described above, under AB 375, requires, among other provisions, a business that collects personal information about a consumer to disclose the consumer’s right to delete personal information described above on its Internet Web site or in its online privacy policy or policies. This bill modifies that requirement by requiring a business that collects personal information

about a consumer to disclose the consumer's right to delete personal information in a form that is reasonably accessible to consumers and in accordance with a specified process.

DAY CARE FACILITIES

Many community colleges and other public agencies operate child day care centers onsite for their employees. The new laws below impose new requirements on those facilities.

AB 605 – Child Day Care Facilities: Infant To School-age License

This bill requires all day care centers to become licensed as child care centers by January 21, 2024. It requires the State Department of Social Services, in consultation with stakeholders, to adopt regulations on or before January 1, 2021, to create a child care center license to serve infant, toddler, preschool, and school age children. These regulations must include components for infant, toddler, preschool, and school age children, health and safety standards for children in care, and enhanced ability to transition children from one age group to the next.

AB 2370 – Lead Exposure: Child Day Care Facilities

This legislation requires a licensed child day care center located in a building constructed prior to 2010 to have its drinking water tested for lead contamination and notify parents of the results. It requires the facility to immediately make inoperable and cease using the affected fountains if the tests indicate elevated lead levels. It requires the State Water Resources Control Board (SWRCB) to post all test results received on its Web site. It also requires the California Department of Social Services (CDSS) to work in consultation with the SWRCB to adopt regulations for the testing of drinking water at licensed child care centers to ensure that the drinking water is lead free.

DENTAL, VISION, AND SPECIALIZED HEALTH PLANS

AB 1092 – Health Care Service Plans: Vision Care Services: Fraud

Annually, Vision Service Plan (VSP) reviews claims from more than 38,000 doctors nationwide serving nearly 80 million patients (over 18 million in California alone) using statistical extrapolation to identify potentially fraudulent claims. This bill allows VSP to continue to use statistical extrapolation and remain compliant with existing law, by requiring vision plans to use a statistically reliable method to investigate suspected fraud and recover overpayments, subject to oversight by the Division of Managed Health Care (DMHC).

AB 2499 – Health Care Coverage: Medical Loss Ratios

Current law in California requires every health plan to provide an annual rebate to each insured if the ratio of the amount of premium revenue expended by the plan on clinical services to the adjusted amount of premium revenue is less than 85% (80% for small group or individual plans.) Under existing law, all specialized health plans are exempt from this requirement. AB 2499 revises these rebate rules in California so that the exemption for specialized plans only applies to those that provide dental or vision services.

SB 1008 – Health Insurance: Dental Services: Reporting And Disclosures

This bill requires a health carrier that issues, sells, renews, or offers a health care service plan contract or insurance policy that covers dental services in California to utilize a uniform benefits and coverage disclosure matrix, with specified contents. The bill requires the Department of Managed Health Care (DMHC) and the California Department of Insurance (CDI) to develop the uniform benefits and disclosure matrix in consultation with stakeholders. Once this benefits and disclosure matrix format is established, Keenan will update clients on what their employees can expect the new matrix to look like.

EMPLOYMENT DISCRIMINATION

AB 2282 – Salary History Information

In recent years, California and other states have begun limiting employers' ability to ask applicants about their salary history. The reasoning behind this move is that basing salary on past history can effectively perpetuate salary differentials that are based on factors other than experience or job performance. California law prohibits an employer from relying on the salary history information of an applicant for employment as a factor in determining whether to offer an applicant employment or what salary to offer an applicant, except in specific circumstances. An employer is required by law to provide the pay scale for a position to a job applicant, upon request. AB 2282 defines "pay scale," "reasonable request," and "applicant" for purposes of these provisions and specifies that these provisions do not prohibit an employer from asking about an applicant for employment's salary expectation for the position being applied for. This bill also authorizes an employer to make a compensation decision based on an employee's current salary as long as any wage differential resulting from that compensation decision is justified by one or more specified factors, including a seniority system or a merit system.

ENVIRONMENTAL EXPOSURES

AB 2453 – Air Pollution: Schools

AB 2453 authorizes a grant for school facility modernization to be used to limit pupil exposure to harmful air pollutants by updating air filtration systems. The bill also authorizes schools located in communities with facilities identified under the Air Toxics "Hot Spots" Information and Assessment Act of 1987 as a source of toxic air contaminants to work with air districts to identify school sites for air quality adaptation efforts. It authorizes schools located near a facility designated by an air district as a high priority category to be eligible for a grant as part of a community emissions reduction program to implement air quality mitigation efforts.

AB 2816 – Pesticides: School Sites: Report

This legislation requires the Department of Pesticide Regulation (DPR) to submit a report to the Legislature that evaluates the implementation, and the effect of the implementation, of the provisions of the Healthy Schools Act of 2000 on or before January 1, 2021.

FAMILY/SICK LEAVE/OTHER LEAVES

AB 2012 – School and Community College Employees: Parental Leave

Existing state law authorizes certificated employees of schools and academic employees of community colleges to use sick leave for purposes of parental leave for a period of up to 12 workweeks. After that, current law requires schools and community colleges to choose to pay differential pay to all employees for the remainder of their 12 workweeks of leave or pay at least 50% of their salary for that time. This bill provides that, regardless of the type of differential pay system used by a school district or community college district, certificated and academic employees must receive at least 50% of their regular salary for the remaining portion of the 12-workweek period of parental leave, after exhausting sick leave. This bill effectively creates a “floor” for differential pay equal to half of the employee’s salary, irrespective of the cost of a substitute for that employee.

AB 2289 – Pupil Rights: Pregnant and Parenting Pupils

Current law requires a pupil to be excused from school for specified types of absences and prohibits those excused absences from generating state apportionment payments by deeming them as absences in computing average daily attendance (ADA). This bill will include as another type of excused absence, four (4) absences per school year to care for a sick child, for which the school is prohibited from requiring a note from a doctor. The bill will require a school of a school district or county office of education and a charter school to allow a parenting pupil who gives or expects to give birth eight (8) weeks of parental leave.

AB 2587 – Disability Compensation: Paid Family Leave

Existing law, before January 1, 2018, deemed an individual to be eligible for family temporary disability benefits if, among other things, the individual was unable to perform his or her regular or customary work for a 7-day waiting period during each disability benefit period and prohibited payments for benefits during this waiting period. Existing law, on and after January 1, 2018, removes the 7-day waiting period for these benefits. Existing law authorizes an employer to require an employee to take up to two (2) weeks of earned but unused vacation before, and as a condition of, the employee’s initial receipt of these benefits during any 12-month period in which the employee is eligible for these benefits. Existing law specifies that if an employer so requires an employee to take vacation leave, that portion of the vacation leave that does not exceed one (1) week is to be applied to the waiting period. This bill deletes that application of vacation leave to the waiting period, consistent with the removal of the 7-day waiting period for these benefits on and after January 1, 2018.

SB 1085 – Public Employees: Leaves Of Absence

SB 1085 requires public employers to provide “lost time” to employee union representatives, to allow employees to serve as stewards or officers of the employee representative or its state or national affiliates, among other provisions.

SB 1123 – Disability Compensation: Paid Family Leave

This legislation, which does not become effective until January 1, 2021, will expand the scope of the family temporary disability insurance (FTDI) program to allow paid time off to participate in a qualifying emergency related to the covered active duty or call to covered active duty of the individual’s spouse, domestic partner, child or parent in the Armed Forces of the United States. This legislation will bring California in line with Washington and New York states in providing paid family leave for qualifying exigency military leaves under the Family Medical Leave Act (FMLA).

FIRST AID/AEDS

AB 2009 – Athletic Programs: Written Emergency Action Plans

If a school district elects to offer any interscholastic athletic program, this bill requires the school district to do the following: (1) ensure that there is a written emergency action plan in place (and posted) that describes the procedures to be followed in the event of medical emergencies related to the athletic program’s practices, conditioning exercises, and competitions; (2) acquire, commencing July 1, 2019, at least one automatic external defibrillator (AED) for each school within the district or charter school to be available on campus; (3) encourage that the AED or AEDs are available for the purpose of rendering emergency care or treatment, as specified; (4) ensure that the AED or AEDs are available to athletic trainers and coaches and authorized persons at the athletic program’s on-campus activities or events; (5) ensure that the AED or AEDs are maintained and regularly tested. The bill expressly states that an employee of a school district or charter school is not liable for civil damages resulting from certain uses, attempted uses, or nonuses of an AED in the rendering of emergency care or treatment pursuant to the bill’s provisions (except in cases of gross negligence or willful or wanton misconduct). The bill also expressly states that a public school, school district, or charter school that complies with certain requirements related to an AED is not liable for any civil damages resulting from any act or omission in the rendering of emergency care or treatment pursuant to the bill’s provisions, except as provided. The American Heart Association and other advocates have lobbied hard for years to require California schools to acquire AEDs for use in emergencies. This law will require most schools to acquire at least one AED that is available for use in the 2019-2020 school year.

AB 2800 – School Athletics: Coaching Education/Training: Heat Illness

Current law states the intent of the Legislature to establish a California High School Coaching Education and Training Program, administered by school districts, that emphasizes specified components, including, among other things, training, which is described as certification in cardiopulmonary resuscitation and first aid, including, but not limited to, a basic understanding of the signs and symptoms of concussions and the appropriate response to concussions. Current law authorizes concussion training to be fulfilled through entities offering free, online, or other types of training courses. This bill includes within the description of that training a basic understanding of the signs and symptoms of heat illness, and the appropriate response to heat illness.

FREE PUBLIC EDUCATION/SCHOOL FEES

AB 1974 – Pupils: Collection of Debt

AB 1974 enacts the Primary Education Fair Debt Collection Act, which provides that a pupil, unless emancipated, can never owe or be billed for a debt by a public school or school district, county office of education, or state special school. The act prohibits those educational entities from, among other things, withholding grades or transcripts, denying or withholding a diploma, or in any other way taking action against a pupil or former pupil because their parent or guardian owes money to the educational entity. The bill provides that these provisions do not apply to debt owed as a result of vandalism or to cover the replacement cost of public school or school district books, supplies, or property loaned to a pupil that the pupil fails to return or that is willfully cut, defaced, or otherwise injured, and it authorizes a public school or school district to request alternative, nonmonetary forms of compensation to settle such debt.

HEALTH INSURANCE BENEFITS

AB 1860 – Health Care Coverage: Cancer Treatment

Current law prohibits an individual or fully insured group health plan that provides coverage for prescribed, orally administered anticancer medications used to kill or slow the growth of cancerous cells from requiring an enrollee or insured to pay a total amount of copayments and coinsurance that exceeds \$200 for an individual prescription of up to a 30-day supply of a prescribed orally administered anticancer medication. Current law authorizes health care service plans to adjust that \$200 limit on January 1 of each year, to the extent that the adjustment does not exceed the percentage increase in the Consumer Price Index for that year. This bill extends the duration of this prohibition until January 1, 2024.

AB 2941 – Health Care Coverage: State of Emergency

This bill requires a fully insured health plan to provide its insureds who have been displaced by a state of emergency with access to medically necessary health care services. The bill requires a carrier, within 48 hours of a declaration of emergency by the Governor that displaces or has the immediate potential to displace enrollees or insureds, to file a notification with the appropriate department, containing specified information regarding how the plan or insurer is addressing the needs of its insureds during the state of emergency.

IMMIGRATION ENFORCEMENT

SB 183 – Educational Equity: Immigration Status

This legislation clarifies that, under the Equity in Higher Education Act, all persons in postsecondary educational institutions are entitled to equal rights and freedom from discrimination on the basis of their immigration status. As a practical matter, discrimination based on immigration status is already illegal. The bill also clarifies that nothing in the Act shall be construed to require a postsecondary institution to offer admission or student financial aid to certain nonimmigrant foreign students, as defined by reference to specified provisions of the federal Immigration and Nationality Act.

INDIVIDUAL AND SMALL GROUP HEALTH INSURANCE

While public agencies offer group health coverage, changes in the individual health insurance marketplace can still have an impact on the group health market. Changes to the individual market can impact whether an employee opts to obtain coverage through Covered California.

AB 2472 – Health Care Coverage

This bill requires the Council on Health Care Delivery Systems to prepare an analysis and evaluation to determine the feasibility of a public health insurance plan option as a way of offering more choices in the individual market.

SB 910 – CalWORKs: Welfare-To-Work Activities: Hours

This bill prohibits a health insurer from issuing, selling, renewing or offering a short-term limited duration health insurance policy for health care coverage in California. This bill will keep out what policymakers in Sacramento see as substandard coverage that undermines California's efforts to provide comprehensive coverage through Covered California. In enacting this law, California is moving in the opposite direction of the federal government, which has expanded the maximum time period of limited duration coverage so that it can compete directly with more expensive regular coverage.

INSURANCE CLAIMS

AB 2802 – Insurance Payments: Interception

This bill requires insurers to participate in a program to "intercept" insurance payments to parents that have unpaid child support obligations. Effective January 1, 2020, it will require insurers (but not self-insured plans) to identify and report claims for payment of at least \$1,000 for an economic benefit under a life insurance policy, disability income insurance policy, annuity, property and casualty insurance policy. This legislation does not apply to claims for benefits under a workers' compensation policy, which is already subject to information sharing obligations under Section 138.5 of the Labor Code.

KNOX-KEENE HEALTH CARE SERVICE PLANS

AB 2674 – Health Care Service Plans: Disciplinary Actions

AB 2674 requires the Department of Managed Health Care (DMHC) to review complaints of unfair payment patterns filed against Knox-Keene health care service plans by July 1, 2019, and at least annually thereafter. Sponsored by the California Medical Association (CMA), the intent of this legislation is to deter health plans from purposefully underpaying providers.

SB 997 – Health Care Service Plans: Physician to Enrollee Ratios

Current law requires a health care service plan to ensure that there is at least one full-time equivalent primary care physician for every 2,000 enrollees and authorizes the assignment of up to an additional 1,000 enrollees to a primary care physician for each full-time equivalent nonphysician medical practitioner supervised by that physician. This law was originally introduced to make California law consistent with

the ACA definition of primary care physician and to assist with California's primary care provider workforce shortage. Under current law, these provisions were due to sunset on January 1, 2019. This bill deletes the repeal date, thereby continuing operation of these provisions indefinitely. This will help ensure the adequate access to primary care providers under health plans.

LACTATION ACCOMMODATIONS

In the last ten years, both the federal government and the state of California have enacted provisions to ensure that nursing mothers are provided with reasonable accommodations to express breast milk at work, if they wish to. California passed two bills this year to expand those requirements.

AB 1976 – Employment: Lactation Accommodation

Existing law requires every employer to provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child and requires an employer to make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area for the employee to express milk in private. This bill instead requires an employer to make reasonable efforts to provide an employee with use of a room or other location, other than a bathroom, for these purposes. The bill deems an employer to follow the requirement of providing a lactation location if it makes available a temporary lactation location that meets specified conditions, including that the temporary lactation location be used only for lactation purposes. These changes align California law with protections for nursing mothers under federal law. Employers will need to ascertain and ensure that they are complying with this new standard.

AB 2785 – Student Services: Lactation Accommodations

This legislation requires California Community Colleges (CCCs) and California State Universities (CSUs), and encourages the University of California (UC) to provide reasonable accommodations (including access to a private and secure non-restroom to express milk or feed an infant) to a lactating student on their respective campuses.

LIFE INSURANCE

AB 1373 – Insurance

This bill provides that an employer-provided group life policy can include classes of former employees, including retirees, within the definition of "employees" eligible for coverage. This provision is intended to make California employer-provided group life coverage "portable," in alignment with the model act adopted by the National Association of Insurance Commissioners (NAIC).

AB 2634 – Life Insurance

AB 2634 requires an insurer to provide a 90-day notice to the owner of a flexible premium life insurance policy prior to an increase in the cost of insurance or administrative charge and to provide an illustration or illustrations showing the impact on the policy values and necessary premium payments before and after the increase.

LONG TERM CARE AND DISABILITY INSURANCE

AB 2180 – Long-Term Care And Disability Insurance

This legislation clarifies the existing statutes governing long-term care insurance policies and life insurance policies that include an accelerated death benefit (ADB) feature. It provides that the insurer, at the insured's request, must provide a medical assessment to determine if the insured has a chronic illness and is eligible for benefits under a tax-qualified long-term care or life insurance ADB triggered by a chronic illness. It also sets forth the types of underwriting questions an insurer may ask when an applicant applies for ADB. Lastly, it updates the policies regarding the threshold for establishing eligibility for home care benefits and the provision of an alternate plan of care.

SB 1046 – Insurance: Long-Term Care

Existing law requires a policy or certificate to include a provision that gives the policyholder or certificate holder certain specified rights to reduce coverage and lower premiums. This bill provides that if a premium increases, a policyholder or certificate holder has a right to retain a policy or certificate while reducing coverage and lowering the premium and specifies options and information that an insurer would be required to provide under those circumstances. This bill enacts a provision from the model regulation adopted by the National Association of Insurance Commissioners (NAIC) and it is intended to protect the value of a policyholder's benefits.

MENTAL HEALTH

AB 2193 – Maternal Mental Health

AB 2193 mandates that fully-insured health plans develop a maternal mental health (MMH) program to address mental health and behavioral issues by July 1, 2019. It also requires a licensed health care practitioner who provides prenatal or postpartum care for a patient to ensure the mother is offered screening or is appropriately screened for MMH conditions. According to a recent report, up to 20% of new or expectant mothers will experience a mental health disorder during pregnancy or the first year following childbirth, including depression, anxiety, and postpartum psychosis. Depression affects more than 16 million adults each year and maternal depression is the most common complication of pregnancy in the U.S.

AB 2315 – Pupil Health: Mental and Behavioral Health Services

This bill requires the State Department of Education, in consultation with the State Department of Health Care Services and appropriate stakeholders, to develop guidelines for the use of telehealth technology in public schools, including charter schools, to provide mental health and behavioral health services to pupils on school campuses. The bill requires the State Department of Education to post the guidelines on its Internet Web site on or before July 1, 2020.

AB 2639 – Pupil Suicide Prevention Policies

AB 2639 requires the governing board or body of a local educational agency (LEA) that serves pupils in grades 7 to 12, inclusive, to review, at minimum every 5th year, its policy on pupil suicide prevention and, if necessary, update its policy.

SB 972 – Student Health: ID Cards: Suicide Prevention Hotline Number

This bill will require a public school, including a charter school, or a private school, that serves pupils in grades 7 to 12 and that issues pupil identification cards to have printed on either side of the cards the telephone number for the National Suicide Prevention Lifeline and would authorize those schools to have printed on either side of the pupil identification cards the Crisis Text Line and a local suicide prevention hotline telephone number. The bill requires a public or private institution of higher education that issues student identification cards to have printed on either side of the student identification cards the telephone number for the National Suicide Prevention Lifeline and would authorize the institution to have printed on either side of the student identification cards the Crisis Text Line, the campus police or security telephone number, or the local nonemergency telephone number, as provided, and a local suicide prevention hotline telephone number.

OPIOIDS

Opioid abuse not only ruins lives, but it raises health care and workers' compensation costs to employers. This year, California enacted a series of bills intended to curb the opioid epidemic in the state.

AB 1751 – Controlled Substances: CURES Database

The California Department of Justice (DOJ) maintains the Controlled Substance Utilization Review and Evaluation System (CURES) database for prescribers to consult prior to prescribing a Schedule II-IV controlled substance. Use of the database is has been mandated under existing law since October 2, 2018. This bill requires the DOJ to adopt regulations by July 1, 2020 regarding the access and use of the information within CURES. The bill authorizes the DOJ to enter into an agreement with any entity operating an interstate data sharing hub, or any agency operating a prescription drug monitoring program in another state, for purposes of interstate data sharing of prescription drug monitoring program information, while ensuring that all access to data obtained from CURES complies with California law and meets the same patient privacy, audit, and data security standards employed and required for direct access to CURES.

AB 1753 – Controlled Substances: CURES Database

This legislation allows the Department of Justice (DOJ) to cap the number of security printers approved to manufacture regulated prescription pads and reduce the current number by regulation to no fewer than three. The bill also requires that all prescription pads be uniquely serialized, and that the DOJ link prescription pad serial numbers to corresponding records in the CURES prescription drug monitoring database when available.

AB 2086 – Controlled Substances: CURES Database

This bill will allow prescribers to access the CURES database for a list of patients for whom that prescriber is listed as a prescriber in the CURES database. This is intended to allow the prescriber to ascertain whether a stolen prescription pad was used to fraudulently write prescriptions.

AB 2487 – Physicians/ Surgeons: Opiate-Dependent Patient

AB 2487 authorizes a doctor to complete a one-time continuing education course of 12 credit hours in the subjects of treatment and management of opiate-dependent patients, including eight hours of training in buprenorphine treatment, or other similar medicinal treatment, for opioid use disorders as an alternative to the required CE course on pain management and the treatment of terminally ill and dying patients. Under federal law, doctors are only allowed to write prescriptions for buprenorphine if they have had at least eight hours of training for the treatment and management of patients with opioid use disorders and then applied for a waiver through the Drug Enforcement Administration (DEA). The DEA caps the number of patients a doctor with such a waiver can treat. This legislation is intended to raise the number of doctors who are eligible for such waivers, to increase the number of doctors who can use medicinal treatment for opioid use disorders.

SB 1109 – Controlled Substances: Schedule II Drugs: Opioids

This legislation requires warning labels for opioid prescription drug containers. It requires that the Opioid Factsheet for Patients be provided to athletes engaged in after-school youth sports and requires that prescribers discuss the dangers of opioid abuse and addiction with a minor patient or their parent or guardian prior to prescribing an opioid. It also requires that existing trainings for prescribers related to pain management include addiction risks associated with Schedule II drugs.

PEACE OFFICERS

There are special rules under California’s workers’ compensation laws which allow additional benefits for peace officers. California enacted two bills this year that would expand those benefits.

AB 1749 – Workers’ Compensation: Off-Duty Peace Officer

This bill arises out of the October 1, 2017 mass shooting in Las Vegas, Nevada. It states that an employer, at its discretion or in accordance with specified policies, is not precluded from accepting liability for compensation for an injury sustained by a peace officer by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace, outside the state of California, but who was not at the time acting under the immediate direction of his or her employer. For purposes of worker’s compensation claims filed for injuries sustained during the October 1, 2017, mass shooting in Las Vegas, Nevada, the bill deems the date of injury as the operative date of these provisions. The bill provided that acceptance of liability shall not affect the determination of whether or not the peace officer acted within the scope of his or her employment for any other purpose. In light of this change in the law, employers of peace officers should examine whether to enact policies regarding such claims.

SB 1086 – Workers’ Compensation: Firefighters and Peace Officers

SB 1086 deletes the sunset on a law that provides an extended statute of limitations for workers’ compensation death benefits payable to the survivors of public safety officers who die as a result of cancer, tuberculosis and bloodborne diseases that are presumed to be work-related. Under this bill the statute of limitations for those claims will remain 420 weeks.

PHARMACY BENEFITS

According to polling conducted by the Kaiser Family Foundation, 80% of Americans say the cost of prescription drugs is unreasonable. California enacted three bills this year intended to address the cost of prescription drugs.

AB 315 – Pharmacy Benefit Management

This bill requires a pharmacy to inform a customer at the point of sale for a covered prescription drug whether the retail price is lower than the applicable cost-sharing amount for the prescription drug, unless the pharmacy automatically charges the customer the lower price. If the customer pays the retail price, the bill would require the pharmacy to submit the claim to the plan or insurer in the same manner as if the customer had purchased the prescription drug by paying the cost-sharing amount when submitted by the network pharmacy. The bill also provides that the payment rendered by an enrollee would constitute the applicable cost sharing under the plan. The bill imposes a duty of good faith and fair dealing on pharmacy benefit managers (PBMs) and requires PBMs to register with and report certain information to the Department of Managed Health Care (DMHC).

AB 2863 – Health Care Coverage: Prescriptions

AB 2863 limits the amount a fully-insured health plan may require an insured to pay at the point of sale for a covered prescription to either the lesser of the applicable cost-sharing amount or the retail price. The bill prohibits a fully-insured health plan from requiring a pharmacy to charge or collect a cost-sharing amount from an insured that exceeds the total retail price for the prescription drug and provides that the payment rendered by an insured would constitute the applicable cost sharing.

SB 1021 – Prescription Drugs

Current law prohibits the formulary or formularies for outpatient prescription drugs maintained by a health insurance carrier from discouraging the enrollment of individuals with health conditions and from reducing the generosity of the benefit for insureds with a particular condition. Current law, until January 1, 2020, provides that the copayment, coinsurance, or any other form of cost sharing for a covered outpatient prescription drug for an individual prescription shall not exceed \$250 for a supply of up to 30 days. Current law also requires a nongrandfathered individual or small group plan contract or policy to use specified definitions for each tier of a drug formulary. This bill will extend those provisions until January 1, 2024.

PUBLIC EMPLOYEES

SB 846 – Employment

This bill prohibits a public employer, an employee organization, or any of their employees or agents, from being liable under state law for any claims or actions under California law for requiring, deducting, receiving, or retaining agency or fair share fees from public employees, and would deny standing to current or former public employees to pursue these claims or actions, if the fees were permitted at the time and paid prior to June 27, 2018. The intent of this legislation is to prevent public agencies to being subject to lawsuits for back payment of fair share deductions the wake of the U.S. Supreme Court’s decision in *Janus v. AFSCME*.

PUBLIC EMPLOYEES RETIREMENT

AB 2696 – Limited Term Appointments

This legislation clarifies the calculation of employer penalties to be paid to the California Public Employees' Retirement System (CalPERS) for violating the 960-hour/year limit on out-of-class appointments. Specifically, this bill provides that the penalty to be paid is three times the difference between the compensation paid for the out-of-class appointment and the compensation that would have been paid and reported to CalPERS had the position not been vacant, and in accordance with a publicly available pay schedule for the position, for the entire period or periods in which the member serves in an out-of-class appointment. The intent of AB 2696 is to address ambiguities in an employer circular recently released by CalPERS relating to the calculation of the penalty.

SB 1165 – State Teachers’ Retirement

This technical corrections bill, among other things, clarifies that CalSTRS members must elect to have their service in each position subject to coverage under CalSTRS and excluded from coverage by another public retirement system when changing positions. It also extends the submission deadline for retirement system election and permissive membership election forms from 30 calendar days to 60 calendar days after the employee’s signature date and allows an employer to establish membership for a new member who makes a permissive election as early as the first day of the pay period in which the election is made.

PUBLIC INVESTMENTS

AB 1770 – Local Government: Investments

AB 1770 deletes the requirement that the issuer of an asset-based security must be rated in a rating category of A or above to be eligible for investment of surplus local agency funds. It also revises the maximum 5-year maturity requirement to instead require that the securities have a maximum remaining security of five (5) years or less. This clarification of the law should allow local governments to invest in a wider array of asset-backed securities.

PUBLIC WORKS

AB 1565 – Labor-Related Liabilities: Direct Contractor

This bill makes clarifying changes to the joint liability provisions for construction contractors and subcontractors contained in last year's AB 1701. AB 1565 strikes the provision in AB 1701 that the joint liability described in the bill is in addition to any obligations and remedies otherwise provided by law. It is intended to ensure that a construction employer will not pay twice for the same violation. This bill was passed and signed into law as urgency legislation, effective immediately upon signing.

AB 2249 – Public Contracts: Local Agencies: Alternative Procedure

The Uniform Public Construction Cost Accounting Act (UPCCAA) is a voluntary program that allows public agencies to perform certain projects with the agency's force account, by negotiated contract, by purchase order, or by informal bidding procedure. AB 2249 increases several of the bid limits for public agencies participating in the UPCCAA.

AB 3018 – State Contracts: Skilled and Trained Workforce

This bill imposes a fine on a contractor or subcontractor that fails to use a skilled and trained workforce, as defined, for a contract that is required to utilize a skilled and trained workforce and prevents an entity that is found to be noncompliant with skilled and trained workforce requirements from bidding or participating on public works projects for 1 to 3 years.

AB 3231 – Employment: Public Works: Apprenticeship

This legislation authorizes a joint labor-management committee to bring an action against an employer who fails to provide payroll records under the same state law provisions available for bringing an action against an employer for failure to pay prevailing wage.

SB 877 – State Government

Among other provisions, this state government budget trailer bill requires any employee of an unregistered contractor or subcontractor on a public works project affected by a work stoppage order issued by the Labor Commissioner to be paid by their employer at the prevailing wage rate for any hours the employee would have worked but for the work stoppage, not to exceed 10 days. It also allows a state agency, local agency, school district and/or community college awarding a public works contract under an emergency no-bid procedure to notify the Department of Industrial Relations of the award within 30 days of the award of the contract, or by the last day on which a contractor is employed under the contract, whichever is sooner.

SCHOOL FACILITIES

AB 2540 – Vote Centers and Polling Places

This bill authorizes school buildings or other public buildings to be used as vote centers beginning up to ten days before the election and continuing through election day. The bill requires an elections official requesting the use of a public building to include a list of the buildings from which the use of a building for polling places or vote centers is needed and would require that request to be made sufficiently before election day for the governing body to adequately plan for the public building's use as a polling place or vote center. The bill defines "public building" as a building owned or controlled by a city, county, or other local governmental agency.

AB 1406 – School Facilities: Leases of Real Property

This legislation increases the maximum terms of a lease or agreement for real property and buildings to be used by a school district to 99 years.

AB 2031 – School Facility Projects: Bidding Requirements

This bill removes the January 1, 2019 sunset date on the requirement for general contractors and specified subcontractors to complete and submit a prequalification questionnaire and financial statement prior to bidding on school construction projects. For some districts, using a prequalification process can save them money in the long term because they are likely to engage more qualified contractors who produce higher quality work and have fewer change orders, but it can also create additional work and upfront costs for schools seeking construction funding. To the extent that the universe of bidders is narrowed by the process, schools may end up paying more in state and local bond funds for construction projects. It can also lead to situations where a contractor presents a low bid and then issues change orders after the project has begun, which can drive increased costs and lead to delays in completion.

AB 3058 – School Facilities: Inspections: Examination and Evaluation

This legislation revises the requirements for testing and evaluating school construction project inspectors. It requires the Department of General Services (DGS) to revise the examination for school construction project inspectors no later than 36 months after the last revision. It also requires the reevaluation of inspectors no later than 48 months and removes the prohibition to reevaluate no earlier than 36 months. Furthermore, it strikes the requirement for the inspector to pass the initial exam for reevaluation and instead requires the evaluation and reevaluation to include meeting education and training requirements determined by DGS. Supporters of this change argued that existing law prohibited the Division of State Architect from ensuring that inspectors are aware of and inspecting construction projects based on the latest advancements to the building code and the construction industry.

AB 3186 – Public Postsecondary Education: Competitive Bidding

Current law requires the governing board of any community college district to let specified contracts involving an expenditure of more than \$50,000 to the lowest responsible bidder meeting certain specifications, or else reject all bids. Existing law, until January 1, 2019, provides that the bid evaluation

and selection for these contracts may be determined by the best value for the community college district. AB 3186 deletes the January 1, 2019, repeal date applicable to best value procurement authority, thereby extending operation of these provisions indefinitely.

AB 3205 – School Facilities: Modernization Projects: Door Locks

This bill requires school districts with modernization projects under the state School Facility Program, for school facilities constructed before January 1, 2012, to include interior locks as part of the project. This legislation was enacted in response to the school shooting at Marjory Stoneman Douglas High School in Florida. It is hoped that allowing teachers to lock a classroom door from the inside can save lives.

SCHOOL SAFETY

AB 3205, described in the paragraph above, is as much of a school safety bill as it is a school facilities bill. In addition to AB 3205, California enacted one other school safety bill this year.

AB 1747 – School Safety Plans

AB 1747 requires comprehensive school safety plans to include procedures for conducting tactical responses to criminal incidents. It also requires school site councils to consult with the fire department and other first responder entities in the writing and development of the comprehensive school safety plan. Furthermore, it requires charter schools develop a school safety plan and procedures for conducting tactical responses to criminal incidents.

SCHOOL SAFETY—BUSES

Keenan has issued a detailed Briefing on the two school bus safety bills below. Please see that Briefing for additional details.

AB 1798 – Schoolbuses: Passenger Restraint Systems

This legislation requires that, on or before July 1, 2035, all school buses in use in California be equipped with a passenger restraint system.

AB 1840 – Education Finance

This bill provides an extension for the installation of operational child safety alert systems by local education agencies (LEAs) in school buses and other specified vehicles that transport children until on or before March 1, 2019. While LEAs were required by existing law to install these devices in qualifying vehicles by the beginning of the 2018-2019 school year, many LEAs have not been able to install the devices in time to meet the current deadline. The bill also provides for an additional six-month extension for LEAs with enrollment under 4,000.

SCHOOLS—CLASSIFIED SERVICE

Being part of the classified service entitles school employees to certain rights and benefits, such as seniority, paid holidays, sick leave rollover, and paid leave time. It also impacts how those employees receive workers' compensation benefits if they are injured while working.

AB 2160 – Classified Employees: Part-Time Playground Positions

This bill ends the exemption of part-time playground positions, often referred to as “noon duty aides,” from the classified service at all K-12 and community college districts. Keenan has issued a separate Briefing on AB 2160. Please see that Briefing for additional details.

AB 2261 – School Employees: Merit System: Community Representatives

This legislation repeals the exemption for community representatives from the classified service.

SEXUAL ASSAULT

In the wake of the #MeToo movement, the Larry Nasser sexual assault trial, and new revelations of past sexual abuse by clergy, California enacted a host of new laws to make it easier for victims of sexual assault to present claims and to testify in criminal proceedings.

AB 1896 – Sexual Assault Counselor-Victim Privilege

Current law establishes a privilege for a victim of a sexual assault to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor. This bill specifically includes within the definition of “sexual assault counselor” for these purposes a person who is engaged in a program on the campus of a public institution of higher education, with the same primary purpose of rendering advice or assistance to victims of sexual assault and the same qualifications.

AB 2128 – School Employees: Dismissal or Suspension

Existing law prohibits, for certain dismissal or suspension proceedings, testimony or evidence relating to matters that occurred more than four (4) years before the date of the filing of the notice of the governing board of the school district to an employee of its intention to dismiss or suspend him or her. Existing law also prohibits a decision relating to the dismissal or suspension of an employee to be made based on charges or evidence of any nature relating to matters occurring more than four (4) years before the filing of the notice. Existing law exempts from these provisions, allegations of a sex offense or an act of child abuse or neglect. AB 2128 exempts from the prohibition allegations of inappropriate physical contact, an inappropriate verbal remark, sending a sexually suggestive or inappropriate communication to a pupil, or an act of sexual harassment.

AB 2302 – Child Abuse/Sexual Assault: Mandated Reporters: Statute of Limitations

This legislation will allow a case involving a mandated reporter’s failure to report a known or reasonably suspected incident of sexual assault to be filed at any time within five (5) years from the date of occurrence of the offense. This is an expansion of the statute of limitations for this misdemeanor violation, which had previously been one year.

AB 3109 – Contracts: Waiver of Right of Petition or Free Speech

AB 3109 provides that a provision in a contract or settlement agreement entered into on or after January 1, 2019, that waives a party’s right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of the other party to the contract or settlement agreement, or on the part of the agents or employees of the other party, when the party has been required or requested to attend the proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the Legislature, is void and unenforceable. While this bill will not outlaw non-disclosure agreements, it will limit their scope so that victims and witnesses cannot be prevented from testifying in legal or legislative proceedings when asked to do so.

SB 820 – Settlement Agreements: Confidentiality

This bill prohibits a provision in a settlement agreement that prevents the disclosure of factual information relating to certain claims of sexual assault, sexual harassment, or harassment or discrimination based on sex, that are filed in a civil or administrative action. The bill will make a provision in a settlement agreement that prevents the disclosure of factual information related to the claim, as described in the bill, entered into on or after January 1, 2019, void as a matter of law and against public policy. The bill also provides that a court may consider the pleadings and other papers in the record or any other findings of the court in determining the factual foundation of the causes of action specified in these provisions. Similar to AB 3109, this bill limits the ability of a defendant to require a non-disclosure clause as part of the settlement of a civil suit. However, the scope of SB 820 is broader than AB 3109, applying to sex-based discrimination in addition to assault and harassment. Furthermore, it applies to all disclosures of factual information, not just testimony in a legal or legislative proceeding.

SB 1053 – Presentation of Claims: Childhood Sexual Abuse

The Government Claims Act sets forth the general procedure for the presentation of claims as a prerequisite to commencement of civil actions against local public entities. The act exempts certain claims against local public entities from the presentation procedures of the act, including, but not limited to, claims made pursuant to a specific provision of the Code of Civil Procedure for the recovery of damages suffered as a result of childhood sexual abuse and arising out of conduct occurring on or after January 1, 2009. Under the act, claims against a local public entity for money or damages that are exempted and that are not governed by any other statutes or regulations are authorized to be governed by an enactment adopted by the local public entity. This bill specifically exempts from that authorization procedure for civil claims against a local public entity for the recovery of damages suffered as a result of childhood sexual abuse.

SEXUAL HARASSMENT

AB 2770 – Privileged Communications: By Former Employer

Current law makes certain publications and communications privileged and, therefore, protected from civil action, including certain communications concerning the job performance or qualifications of an applicant for employment that are made without malice by a current or former employer to a prospective employer. This bill will include among those privileged communications complaints of sexual harassment by an employee to an employer based on credible evidence and communications by the employer to interested persons and witnesses regarding a complaint of sexual harassment during an investigation and it authorizes an employer to answer whether or not a decision to not rehire a person is based on the employer's determination that the former employee engaged in sexual harassment. This bill is intended to free employers from the fear of a lawsuit if they share information regarding credible sexual harassment complaints made against a former employee.

SB 1300 – Unlawful Employment Practices

SB 1300 amends the anti-harassment provisions of the Fair Employment and Housing Act (FEHA) to expand potential employer liability to all forms of harassment by nonemployees. It allows (but does not require) employers to provide bystander training to employees. It also prohibits an employer, in exchange for a raise or bonus, or as a condition of continued employment, from requiring the execution of a release of a claim or right under FEHA or from requiring an employee to sign a nondisparagement agreement or other document that purports to deny the employee the right to disclose information about unlawful acts in the workplace, including sexual harassment. The bill would provide that an agreement or document in violation of either of those prohibitions is contrary to public policy and unenforceable. Finally, SB 1300 provides that a prevailing defendant is prohibited from being awarded fees and costs unless the court finds the action was frivolous, unreasonable, or groundless.

SB 1343 – Employers: Sexual Harassment Training

This legislation is the first major harassment training legislation since AB 1825. Effective January 1, 2020, it will require an employer who employs five (5) or more employees to provide at least two (2) hours of sexual harassment training to all supervisory employees and at least one (1) hour of sexual harassment training to all nonsupervisory employees once every two (2) years. The bill requires the Department of Fair Employment and Housing to develop or obtain 1-hour and 2-hour video training courses on the prevention of sexual harassment in the workplace and to post them on the department's Internet Web site.

SB 224 – Personal Rights: Civil Liability and Enforcement

This bill gives additional examples of the types of business, professional, and service relationships (including elected officials and lobbyists) that may give rise to liability under Civil Code Section 51.9 for sexual harassment. It also removes the requirement in existing law for a plaintiff, in order to bring a cause of action under Civil Code Section 51.9, to prove that there is an inability by the plaintiff to easily terminate the relationship. This would have implications for elected officials at all levels of government, including school boards and municipalities.

SPECIAL DISTRICTS

SB 929 – Special Districts: Internet Web Sites

Beginning on January 1, 2020, SB 929 will require every independent special district to maintain an Internet Web site that clearly lists contact information for the special district. Under this law, an “independent special district” is defined to include any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms.

SPECIAL EDUCATION/DISABLED STUDENTS

AB 2109 – Pupils with a Temporary Disability

AB 2109 authorizes a student with a temporary disability to remain enrolled in a school district or charter school while receiving individual instruction in a hospital or other residential health facility and requires such student to be allowed to return to the same school that the student attended immediately prior to receiving individual instruction or to a school in the district of residence. According to the California Department of Education, for the 2016-2017 school year, there were a total of 99,681 distinct students who were reported as either enrolled in a home/hospital school or taking courses with a home/hospital instructional strategy. The bill is intended to end the practice of disenrolling hospital students.

AB 2657 – Pupil Discipline: Restraint and Seclusion

This bill prohibits the use of restraint or seclusion on any student, except in specified circumstances, and establishes parameters and procedures for situations in which restraint or seclusion may be used.

WORKER INJURY DATA

AB 2334 – Occupational Injuries and Illness: Employer Reporting Requirements

This legislation requires that, in the event the U.S. Occupational Safety and Health Administration (OSHA) eliminates the requirement for electronic submission of workplace injury and illness data, then the California Division of Occupational Safety and Health (Cal/OSHA) shall adopt regulations requiring employer electronic submission of this information to the Division. It also provides that the Office of Self-Insurance Plans (OSIP) of the Department of Industrial Relations (DIR) may use individually identifiable information as necessary to carry out its duties, including evaluating the costs of administration, workers’ compensation benefit expenditures, and solvency and performance of the public self-insured employers’ workers’ compensation programs. It also provides that OSIP may make public the identity of claims administrators, joint powers authorities, and individual public self-insured employers provided that individually identifiable claimant information or any portion of excess insurance coverage information that contains any individually identifiable claimant information is not made public. It allows the Director of DIR to release or make available to the public information regarding the costs of administration, workers’ compensation benefit expenditures, and solvency and performance of public self-insured

employers' workers' compensation programs, including, but not limited to, information aggregated by industry or business type, and data identifying individual public self-insured filers, their third-party administrators, and their joint powers authorities, as long as the information does not include any individually identifiable claimant information. According to OSIP, this legislation was necessary to allow it to receive data collected from self-insured employers through the Workers' Compensation Information System (WCIS).

WORKERS' COMPENSATION—DISABILITY INDEMNITY PAYMENTS

SB 880 – Workers' Compensation

This bill will, until January 1, 2023, authorize an employer, with the written consent of the employee, to deposit disability indemnity payments for the employee in a prepaid card account that meets specified requirements, including, among other things, allowing the employee reasonable access to in-network automatic teller machines. The bill will require employers to provide all necessary aggregated data on their prepaid account programs to the Commission on Health and Safety and Workers' Compensation (CHSWC) upon request and will require the commission to issue a report on or before December 1, 2022, to the Legislature regarding payments made to those prepaid card accounts.

WORKERS' COMPENSATION FRAUD

AB 2046 – Workers' Compensation Insurance Fraud Reporting

The Workers' Compensation Insurance Fraud Reporting Act requires the Employment Development Department (EDD) to release, upon written request, to an authorized governmental agency, relevant information that the EDD may possess relating to any specific workers' compensation insurance fraud investigation. The act authorizes an authorized governmental agency that is provided with information pursuant to those provisions to release or provide that information in a confidential manner to any other authorized governmental agency for purposes of investigation, prosecution, or prevention of insurance fraud or workers' compensation fraud. AB 2046 will require the authorized governmental agency that is provided with information pursuant to those provisions to release or provide that information upon request, unless it would violate federal law or otherwise compromise an investigation.