



Legislative Summary

Schools Association For Excess Risk Legislative Watch List for 2008 Session

October 2008

On September 30, 2008, the Governor completed his consideration of the bills sent to him by the Legislature this year. The Governor vetoed 415 bills this year, a record 35% of the legislation that made it to his desk. Below is a final round-up of the bills Keenan has been watching for our SAFER clients this year. Only three of the bills below were signed into law by the Governor.

Liability and Safety

AB 1593 (Blakeslee) School Volunteer Aides: Background Checks

Status: FAILED.

Summary: This bill would have required a school district that uses nonteaching volunteer aides to adopt a policy for screening persons who serve or request to serve as nonteaching volunteer aides. It would have required the screening policy to include, at a minimum, a criminal background check.

Comment: This bill was introduced last year and passed the Assembly, but was held in the Senate Appropriations committee, due to costs. It did not move at all during 2008.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1551-1600/ab_1593_bill_20070705_amended_sen_v97.pdf

AB 2130 (Hayashi) Automatic External Defibrillators: Health Studios

Status: FAILED.

Summary: Existing law currently requires health studios (as defined) to maintain automatic external defibrillators (AEDs) on premises. This bill would have exempted health studios that do not maintain personnel on the premises from some of the requirements of existing law relating to AEDs. The bill would have required those health studios that do not maintain personnel on the premises to have a telephone, as well as signs that warn of the potential health and safety risks of exercising alone and provide instruction on CPR and AED use.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2101-2150/ab_2130_bill_20080414_amended_asm_v96.pdf

AB 2165 (Karnette) Interscholastic and Intercollegiate Athletics

Status: FAILED. Gutted and amended on August 18th.

Summary: This bill would have required all schools to consider requiring pupils and students engaged in those sports to wear fitted mouth guards. It was gutted and amended in August to address tideland and submerged lands in the City of Long Beach.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2151-2200/ab_2165_bill_20080625_amended_sen_v97.pdf

AB 2320 (Niello) School Litigation

Status: FAILED.

Summary: This “spot” bill never advanced to a hearing or vote in the Assembly. Link to the bill:

http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2301-2350/ab_2320_bill_20080221_introduced.pdf

AB 2361 (Keene) Safe School Guarantee

Status: FAILED.

Summary: This bill would have enacted the Safe School Guarantee, under which a parent may remove a child from an unsafe school if a pupil at that school has been suspended for any of several specified violent and/or drug offenses. The bill would have required a school district to report a suspension for one of the specified offenses. It also would have required an unsafe school to take steps toward securing the school's campus.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2351-2400/ab_2361_bill_20080221_introduced.pdf

AB 2639 (Lieu) School Safety Plans

Status: FAILED.

Summary: This bill would have required each school district or county office of education to submit to the State Department of Education an annual report that states whether each school within its jurisdiction has complied with the requirement to develop a school safety plan. It would have encouraged schoolsite councils to consult with a local fire department representative at least once every two years in the development of their comprehensive school safety plans. Also included in this bill was a definition of "school" that encompasses the entire school campus up to and including the property boundaries. This definition would have applied to existing provisions regarding procedures for safe ingress and egress to and from school.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2601-2650/ab_2639_bill_20080804_amended_sen_v95.pdf

AB 2657 (Solorio) School Safety: Security and Police Officers

Status: FAILED.

Summary: This bill would have declared the intent of the Legislature to evaluate the safety needs of public comprehensive high schools and enact legislation to decrease the ratio of school security officers to pupils in those high schools. It never advanced to a hearing or vote in the Assembly.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2651-2700/ab_2657_bill_20080222_introduced.pdf

AB 2774 (Fuller) Education Technology: Internet Safety Policy

Status: FAILED.

Summary: This bill would have required school districts to have an Internet safety policy in place that includes a technology protection measure and to review Internet usage on their school computers. As originally written, it would also have required districts to establish consequences for violations of its Internet safety policy by adults and minors. The bill was amended on April 9, 2008, to remove that provision and replace it with one that would have required school districts to report each allegation of specified types of sexual misconduct by a credential holder to the Commission on Teacher Credentialing no later than 30 days after the district became aware of the allegation.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2751-2800/ab_2774_bill_20080409_amended_asm_v97.pdf

SB 1105 (Margett) Criminal Convictions

Status: **PASSED AND SIGNED.**

Summary: Effective January 1, 2009, this new law expands the current definition of “conviction” for purposes of the statutes that require the Commission on Teacher Credentialing and the county board of education to suspend, terminate the suspension of, or revoke a credential whenever the holder has been convicted of any sex offense or controlled substance offense. It will also change current law relating to criminal convictions and teacher credentialing to allow a credential holder to apply for reinstatement if certain criteria are met and the accusation leading to the suspension has been dismissed. It also requires the Legislature to convene a working group to study the provisions of the law relating to suspension and revocation of credentials for certain crimes and to report on its findings by December 1, 2009.

Link to the chaptered bill: http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1101-1150/sb_1105_bill_20080929_chaptered.pdf

Employment Liability Issues

AB 2874 (Furutani) Employment Damages

Status: VETOED.

Summary: Currently, the amount of damages that the Fair Employment and Housing Commission (FEHC) can assess against a respondent for violation of the Civil Rights Act of 2005 is \$150,000. This bill would have deleted that cap on damages, and instead allow the commission to compensate the complainant for the full amount of his or her actual damages.

Comment: There was no reported opposition to this bill, possibly because the Commission typically awards the full amount of \$150,000 in the most extreme cases. According to the bill’s author, in the last decade the Commission awarded actual damages in only eight cases, and it awarded the full amount only twice.

However, in his veto message, the Governor noted that existing law already allows victims whose actual damages exceed \$150,000 to go straight to court without compromising their claim before the FEHC.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2851-2900/ab_2874_bill_20080821_enrolled.pdf

AB 3062 (Labor and Employment Committee) Employment: Termination: Garnishment of Wages

Status: VETOED.

Summary: This bill would have prohibited an employer from terminating an employee because of threatened or actual garnishment of the employee’s wages.

Comment: In his veto message, the Governor stated that the bill would have caused confusion for employers by creating a state requirement different from federal law. Also, he stated that the bill would have required employers to coordinate burdensome administrative processes and costs of processing checks to pay multiple wage garnishments for a single employee.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_3051-3100/ab_3062_bill_20080806_enrolled.pdf

AB 3063 (Labor and Employment Committee) Employment: Criminal History

Status: VETOED.

Summary: This bill would have prohibited an employer from asking an applicant to disclose information concerning a criminal conviction that has been judicially ordered sealed, expunged or statutorily eradicated, or information concerning a misdemeanor conviction which has been discharged and judicially dismissed. It would also have prohibited an employer from using such information in an employment-related decision.

Comment: In his veto message, the Governor noted that existing regulations already prohibit the practices this bill sought to address.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_3051-3100/ab_3063_bill_20080822_enrolled.pdf

SB 1244 (Alquist) Employment Retaliation

Status: FAILED.

Summary: This bill would have prohibited an employer from discriminating against an employee or applicant because a coworker or immediate family member had; (1) filed a claim with or instituted a proceeding before the Labor Commissioner, (2) testified or would testify in that proceeding, or (3) exercised rights afforded to employees or applicants by the Labor Code.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1201-1250/sb_1244_bill_20080407_amended_sen_v98.pdf

SB 1370 (Yee) Education: Journalism Teacher Protection Act

Status: **PASSED AND SIGNED.**

Summary: Effective January 1, 2009, this new law will prohibit a school district or community college district from dismissing, suspending, disciplining, reassigning, transferring or otherwise retaliating against an employee solely for acting to protect a student's right to exercise freedom of speech and of the press. The law also clarifies that its provisions do not impair a district's ability to take actions to maintain instruction consistent with statewide academic standards.

Link to the chaptered bill: http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1351-1400/sb_1370_bill_20080928_chaptered.pdf

Civil Procedure

AB 1891 (Niello) Civil Procedure: Sanctions

Status: FAILED.

Summary: This bill would have required every trial court to order a party, a party's attorney, or both to pay reasonable expenses incurred by other parties as a result of any filing, action, or tactic that is frivolous, clearly unfinished, or otherwise substantially devoid of merit in view of the pertinent facts, the applicable law, and the cause or position asserted.

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1851-1900/ab_1891_bill_20080207_introduced.pdf

Brown Act

SB 1732 (Romero) Local Agencies

Status: **PASSED AND SIGNED.**

Summary: Effective January 1, 2009, this new law prohibits the majority of members of a legislative body of a local agency from using a series of communications of any kind to discuss, deliberate or take action on any item of business that is within the subject matter jurisdiction of the legislative body. It also provides that when the members of a legislative body of a local agency are authorized to access a writing of that body there shall be no discrimination as to access of that information.

Comment: For additional information on this new law, please see the Keenan *Briefing* on the subject at http://www.keenan.com/news/brief/2008/0716_brownamend.pdf.

Link to the chaptered bill: http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1701-1750/sb_1732_bill_20080703_chaptered.pdf

Joint Powers Associations

AB 1463 (Eng) Public School Employers: Joint Powers Agencies

Status: FAILED.

Summary: This bill would have expanded the definition of "public school employer" and "employer" to include joint powers agencies (JPAs) for purposes of collective bargaining protection under the Education Employment Relations Act.

Comment: This bill was introduced last year and never progressed past the Senate Appropriations Committee. The Senate staff estimated that, depending on the number of JPAs that engaged in collective bargaining, costs of this bill would reach between \$750,000 and \$1.5 million. Similar legislation, AB 91 (Hertzberg, 1999), was vetoed by then Governor Davis due to the potential increased costs of mandate reimbursement. Governor Wilson also vetoed similar legislation in 1997 (AB 134, Baca).

Link to the bill: http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1451-1500/sb_1463_bill_20080221_introduced.pdf