



A period prone to mischief

LEGISLATURE’S SESSION NEARS ITS END AND MANY BILLS ARE STILL PENDING

The California Legislature will close out this legislative year by September 14. In the final sprint to the deadline, the fate of many bills, including CAOC-sponsored Senate Bill 365 (Wiener), will be determined. It is also a period prone to mischief. Our legislative team is hyper vigilant, keen to any surprise amendments that could potentially limit legal rights.

This is also the recommended time for any proponent of an initiative to submit its proposal to the Secretary of State to commence the journey to the ballot. In California, statewide initiatives that require signatures to qualify no longer appear on the primary ballot; those measures all coincide with the General Election in November.

One initiative that directly impacts legal rights is the proposed California Fair Pay and Employer Accountability Act of 2024, which has already qualified for the November 2024 ballot. It would completely repeal the Private Attorneys General Act (PAGA). Instead, to remedy labor law violations, employees would have to file wage claims with the Labor Commissioner’s Office or file traditional lawsuits against their employer in court. Each worker would need to file a claim individually. Workers could not combine their claims into a class action, making wage enforcement incredibly difficult for individual workers.

The proponents, officially the California Chamber of Commerce, California New Car Dealers Association, and Western Growers Association, have not raised any money this year. However, they have noted in some legal press that they had been awaiting the California Supreme Court decision in the *Adolph v. Uber Technologies* case. It did not go their way, with the ruling that individuals who bring claims under PAGA composed of individual and non-individual claims can arbitrate their individual claims if compelled to do so, but still have standing to litigate non-individual claims on behalf of other employees in court. Based upon their loss in court, the proponents now claim to be re-engaging in the initiative fight.

We are also keeping our eyes and ears open for any resurgence of a fee-cap initiative. Below is the recommended timeline for submitting measures for next November’s ballot; while this is recommended, we have seen initiatives filed as late as Christmas Eve. The only barrier is money. The later an initiative is filed, the more the proponents will need to spend to qualify. Signature-gathering is growing increasingly expensive, which argues for earlier filing as it keeps the costs down.

The June 27 deadline is increasingly important, as initiatives are now often filed with the specific intent to force a legislative compromise. We have long believed that the proponents of the PAGA measure have as their true goal a legislative compromise. That means we are carefully watching this last month of the legislative session for any sudden moves by the California Chamber of Commerce on PAGA.

Aug. 18, 2023	Initiative submitted (assumes that proponents take full 180 days for circulation).
Sept. 18, 2023	Final day for Attorney General public review (30 calendar days).
Sept. 25, 2023	Last day to submit initiative amendments to Attorney General.
Oct. 9, 2023	Last day for the Department of Finance and the Legislative Analyst to deliver fiscal estimate to Attorney General.
Oct. 24, 2023	Attorney General issues title and summary.
Oct. 24, 2023 to Apr. 22, 2024	Begin circulation for signature collection (allows 180 calendar days for signature collection).
Variable	Immediately upon collecting 25% of signatures required to qualify, submit certification under penalty of perjury to Secretary of State.
Apr. 22, 2024	Last day for submission of initiative petition. Counties begin raw count (8 business days for counties to conduct raw count). (Assumes that counties take full time allotted for raw count and random sample and includes additional time for the Secretary of State’s office to process raw count and random sample.)
May 2, 2024	County elections officials to send raw count verification to Secretary of State.
May 6, 2024	Secretary of State directs counties to begin random sample (30 business days for counties to conduct random sample).
June 18, 2024	County elections officials to submit results of random sample.
June 27, 2024	(Before 5 p.m.) Last day proponent can withdraw initiative. (Note that Elec. Code, § 9604 permits withdrawal prior to certification, so theoretically the measure could be withdrawn, if the Secretary of State receives the withdrawal before certification on July 27, 2024.)
June 27, 2024	Last day for Secretary of State to determine whether initiative measure qualifies for the ballot (131 days before election day). Last day for legislature to hold joint public hearing on subject of measure (hearing triggered by certification that proponents have collected 25% of signatures required to qualify).