

WORKERS' COMPENSATION COMPLIANCE

# Summary of legislative and regulatory changes

*September 2023*

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# California

The California State Legislature adjourned on Sept. 14. The governor must sign or veto bills passed during this session by Oct. 14.

## *Assembly Bill 1140*

On Sept. 22, Gov. Gavin Newsom signed [Assembly Bill 1140](#), the annual omnibus bill sponsored by the California Department of Insurance on Sept. 22. This bill, in part, deletes from the insurance code the notification requirement when an insurer or licensed rating organization reasonably believes that a fraudulent act was not reported to an authorized governmental agency.

The insurer or licensed rating organization must still notify the local district attorney's office and the fraud division of the Department of Insurance when the insurer or licensed rating organization knows or reasonably believes it knows the identity of a person or entity that committed a fraudulent act relating to a workers' compensation insurance claim or policy.

This legislation takes effect Jan. 1, 2024.

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# New York

## *Senate Bill 1161/Assembly Bill 2034*

On Sept. 6, Gov. Kathy Hochul signed [Senate Bill 1161/Assembly Bill 2034](#), which gradually increases the minimum weekly workers' compensation benefit amount for permanent or temporary partial disability, or for permanent or temporary total disability due to an accident or an occupational disease as follows:

- For injuries between Jan. 1, 2024, and Jan. 1, 2025, the minimum award would be \$275 per week;
- For injuries between Jan. 1, 2025, and Jan. 1, 2026, the minimum award would be \$325 per week; and
- For injuries on or after Jan. 1, 2026, the minimum award would be one-fifth of the New York State average weekly wage (SAWW) the same metric used to determine the maximum weekly benefit.

In a case in which the claimant's wages are less than or equal to the minimum rate, the injured worker will continue to receive his or her full wages as compensation for a covered injury.

The current minimum weekly benefit of \$150 was last increased in May 2013. Interestingly, previous versions of this bill were introduced in 2017-2018 and 2019-2020. During the 2021-2022 session, A7178-A/SB 8271A that would have increased the minimum benefit to one-fifth of the SAWW passed the House and Senate was vetoed.

## *Senate Bill 2946/Assembly Bill 75*

On Sept. 11, Gov. Kathy Hochul signed [Senate Bill 2946/Assembly Bill 75](#), the 9/11 Notice Act. This bill requires the Department of Economic Development, in consultation with the Department of Labor and any other state or municipal entity to develop rules and regulations necessary to promote awareness and notification to any past or present businesses and their employees which operated within the New York City disaster area during Sept. 11, 2001, to July 31, 2002, of their potential eligibility under the September 11th Victim Compensation Fund and the World Trade Center Health Program.

## *Assembly Bill 5609/Senate Bill 6096*

Gov. Kathy Hochul signed [Assembly Bill 5609/Senate Bill 6096](#) into law on Sept. 15. This legislation aligns provisions of the workers' compensation law requiring document translation and language access services with the requirements of the Executive Law to ensure consistency.

The board's language access plan will be published on the board's website. A language access coordinator will be designated to work with the office of general services to ensure compliance.

According to the justification for this bill, 13% of New York state residents have limited English proficiency (LEP) and half of all New York City residents speak a language other than English at home.

## *Senate Bill 6410A/Assembly Bill 52B*

On Sept. 15, Gov. Kathy Hochul signed [Senate Bill 6410/Assembly Bill 52](#), which amends the insurance law, workers' compensation law, volunteer firefighters' benefit law, volunteer ambulance workers' benefit law and general municipal law in relation to public group self-insurers.

Key changes include:

- Transfers regulatory authority to authorize public group self-insurance groups to offer deductible programs from the superintendent of financial services to the workers' compensation board. Under current law, public group self-insurance groups are regulated by the workers' compensation board, but the authority to allow a public group self-insurer the ability to provide deductible coverage rests with the superintendent of financial services. This will streamline the regulatory process.
- Substitutes the term "public group self-insurers" for "group self-insurer for municipal corporation."
- Defines public group self-insurers and allows any group consisting exclusively of public corporations and any other public entity to adopt a plan for self-insurance as a group for the payment of workers' compensation for their employees.
- Requires the public group self-insurer to turn over its assets to the chair of the workers' compensation board within 30 days of the chair determining that the public group self-insurer is insolvent.
- Specifies that a public group self-insurer is insolvent when the value of assets is less than the total costs of the workers' compensation liabilities that it is anticipated the public group self-insurer will be required to pay within the succeeding six months or that the compensation provided may be unpaid by reason of the default of a public group self-insurer.
- Authorizes the chair of the workers' compensation board to assume the administration and cost of the claims of the public group self-insurer for a period not to exceed one year while the responsibility for those claims is transferred back to the claimant's employer if it is determined that a public group self-insurer has become insolvent.
- Outlines requirements for a public group self-insurer to offer a deductible program.
- Allows a county plan of self-insurance subject to the approval of the board of supervisors to join a public group self-insurer on behalf of the plan. To be approved, a method by which to apportion the costs of membership among the participants in the plan.

This bill became effective upon signing.

The information contained within this document is intended to provide summary level information on proposed or enacted laws related to family and medical leave. It is not intended to provide guidance on the application of these legal requirements or as an update to your company's attendance and/or leave policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to company policy.

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