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JANUARY/FEBRUARY 2023

2023
NEW YEAR = NEW LABOR LAWS

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content

3 What’s Ahead?
While the future is one part uncertain, perhaps scary to some, it’s also one part potential. As is most often the case, it all depends on how you look at it—and realizing the best time to change and plan for change is before it’s necessary.
DENISE LiDUC
FROEMMING, CPA

7 CPE Tech
Like most things in the CPA profession, the way professionals take their required education is changing. Today, CPA professionals expect to take the courses they need wherever, whenever they want.
ADAM BLITZ, CPA

8 New Year = New Labor Laws
If it’s one thing employers can count on when the new year rolls around it’s new labor laws. With 2023 being no different, our expert provides a comprehensive rundown of what to expect and how to ensure businesses remain in compliance.

18 Exam Changes and Firms
There’s a unique opportunity for firms with upcoming Uniform CPA Exam changes to engage their candidates on staff and take the role of adviser in their CPA journey. Here are a few practical ways firms can provide the information and support prospective test-takers need.
DANA JARVIS, CPA

19 POA and FTB
To represent another person or entity before the FTB, a Power of Attorney is required. Here are some tips for having your POA submission accepted the first time.
ERIC COFFILL

17 A New Year of Advocacy

“...has morphed to offer career paths in IT consulting, artificial intelligence, forensics, cyber security, cryptocurrency and various other areas.”

Wouldn’t it be nice to know the future? Some of you may remember the Magic 8 Ball toy, where you would ask it a yes or no question, then turn it over to see your answer that would range from “It is certain” to “Don’t count on it” to “Ask again later.”

While the Magic 8 Ball is all for fun, it does represent something instinctual in us: There are times we wish we had a device that could really tell us or at least provide a clue as to what the future holds.

Who—or what—could have predicted we’d all be walking around with computers in our pockets, enabling us to work from almost anywhere. Or driving cars we plug in, like we do a lamp. Or we’d have a CPA profession that’s moved well-beyond spreadsheets and tracking debits and credits.

While the future is one part uncertain, perhaps scary to some, it’s also one part potential. As is most often the case, it all depends on how you look at it.

We all like our routines and processes. They make us feel comfortable and in control. Moving forward, though, often means tweaking or perhaps even abandoning those routines. Not because they were bad or wrong. They likely served us well—for a time.

Being visionary or future-focused is thinking about those routines and process in light of what’s ahead, anticipating opportunities and obstacles and planning accordingly. It’s keeping up to date with changes and developments, as well as responding to key trends.

We’ve certainly seen this in the CPA profession. Gone are the days of earning an accounting degree and building a career exclusively doing tax work. The profession has morphed to offer career paths in IT consulting, artificial intelligence, forensics, cyber security, cryptocurrency and various other areas.

And with that has come CPA Evolution and efforts to redesign the CPA Exam to take these professional changes into account and ensure future CPAs are prepared for today’s opportunities—and tomorrow’s that we don’t even know about—and that CPAs continue to be strategic advisors that support businesses and communities to thrive.

Being future-focused is also something we look to instill at CalCPA. Along with undergoing a major brand and website refresh, we’re taking a whole new look and approach to our strategic plan. Stay tuned for details on these and other initiatives we’re working on that will allow us to best serve our members and customers.

So, Magic 8 Ball, is the best time to change and plan for change before it’s necessary?

“It is certain.”
**With ongoing** concerns about inflation and a potential recession, it’s no surprise that business leaders are re-examining their growth strategies. But the ways they’re adjusting, including throttling back on mergers and acquisitions and scaling back on hiring, suggest that cash flow is a top priority, at least in the short term.

—Center for Audit Quality CEO  
Julie Bell Lindsay

$72,000
The average amount seniors lose to fraud.  
—North American Securities Administrators Association

90.6%
The conviction rate in FY 2022 for IRS Criminal Investigation.  
—IRS

$11.9B
The worth of the 70.4 million unclaimed properties in California.  
—California Controller’s Office

75%
The number of CFOs who say economic disruption is 2023’s biggest Challenge.  
—CFO

$1.3T
The estimated amount in forgotten or difficult-to-access 401(k) accounts.  
—Financial Planning

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**Survey Says:**

**Retirement Worries**

When asked about their retirement savings:

3 in 5 Americans are contributing the same or more than they were last year:

- **55%** said their retirement savings are not where they need to be
- **35%** said they’re “significantly behind”
- **20%** said they’re “somewhat behind” their goals

—Bankrate
CalSavers came about in 2016 when California Gov. Brown signed AB 1234, which requires employers to provide a retirement savings account to employees (they can opt out). The objective of the bill was to allow for every California worker to save for retirement. The law was phased in over time:

- Sept. 30, 2020, for employers with 100+ employees
- June 30, 2021, for employers with 50+ to 100 employees
- June 30, 2022, for employers with 5 to 50 employees

CalSavers is the state-run retirement savings program available to all businesses (including cannabis businesses) to comply with AB 1234. Highlights of the program are:

- No cost to the employer; costs paid by the employee
- Roth IRA is the default, employee can change to regular IRA
- No employer match is required
- Limited investment options
- Contributions subject to IRS limitation ($6,000 less than 50 year old, $7,000 if 50 years old or older)
- 5 percent of gross pay is auto deducted; employee can change

In August 2022, Gov. Newsom signed SB 1126 which further expanded the program to employers with one or more employees to offer retirement savings by Dec. 31, 2025.

Learn more at calsavers.com/home/frequently-asked-questions.html.

—Margaret E. Schopp, CPA
MEMBERS IN THE TOP 100

Congratulations to members David Cieslak, Denise LeDuc Froemming and Geni Whitehouse for being named to Accounting Today’s list of the Top 100 Most Influential People in Accounting. And to Christopher Vanover for being named among Accounting Today’s Ones to Watch list.

The listing identifies the thought leaders, change-makers, regulators and other leaders who are shaping the profession, and the issues that they face as they chart the future of accounting.

Cieslak is executive vice president and Chief Cloud Officer at RKL eSolutions; Froemming is president and CEO of CalCPA; Whitehouse is Countess of Communication with Even a Nerd Can be Heard; and Vanover is Founder and Chief Auditor with AuditClu.

Read more at accountingtoday.com/the-top-100-most-influential-people-in-accounting.

ANNOUNCEMENTS
KPMG named Lisa Daniels vice chair of growth and strategy.

ACCOMPLISHMENTS
The National Association of Estate Planners & Councils inducted Mary Kay Foss into the Estate Planning Hall of Fame and awarded her the Accredited Estate Planner (Distinguished) designation for 2022. Foss also received the Jonathan Horn Distinguished Service Award for her outstanding current contribution to the AICPA Tax Division … The Orange County Catholic honored Randy Redwitz with a Lifetime Legacy Issue.

FIRM NEWS
Windes opened a tax department office in the Philippines.

MEMBERS IN THE NEWS
The Tax Advisor published an article by Jason Borkes on Oct. 1 covering M&A transactions … Financial Advisor quoted Rob Seltzer in an Oct. 31 article on preparing wealthy clients for tax season. Seltzer also appeared in a Nov. 14 article on capital gains taxes … The Journal of Accountancy quoted Charles Rettig in a Nov. 1 article on the next IRS commissioner … MarketWatch quoted Larry Pon in a Nov. 23 article on the financial aspects of taking care of aging parents … BisNow quoted Blake Christian in a Nov. 27 article on opportunity zones … AccountingToday quoted Larry Pon and Rob Seltzer in a Dec. 1 article on staffing issues during tax season … AccountingToday quoted David Cieslak, Denise LeDuc Froemming and Geni Whitehouse in a Dec. 8 article whether they would choose accounting as a career if they could do it all over again … Journal of Accountancy interviewed David Cieslak in a Dec. 8 podcast about cybersecurity and CPA-centric holiday gifts … Blake Christian authored a Dec. 8 article for The Tax Advisor on tax strategies for lottery winners.

“THEIR RESOLUTIONS STARTED AT THE BEGINNING OF THE FISCAL YEAR...”

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This year I have the honor of being the chair of the CalCPA Education Foundation Board of Trustees. The Education Foundation is the vehicle that CalCPA uses to offer continuing education courses to CalCPA members as well as CPAs and financial professionals from around the country. While continuing education is a requirement for the CPA profession, continuing education is also about helping CPAs push the profession forward to be on the frontline of business trends and industry issues.

Times Change
The Education Foundation strives to provide the highest quality courses in an environment that stimulates accounting professionals to improve their individual and collective skills.

Since I started taking courses from CalCPA in 2004, the expectations of accounting professionals of how we consume our learning have changed significantly. In 2004, the expectation was that you take an eight-hour, in-person course and have the opportunity to meet and interact with other CPAs. As you are well aware, that is no longer the case.

My earliest experience with the Education Foundation led me to a place where I could meet other accountants. At the stimulating events, I would gain the opportunity to listen to the instructor and learn about specific subjects. With that being said, the best part of these events for me was the opportunity to discuss the topic with other accountants. To listen to how they applied accounting solutions to their clientele assisted me in growing as a professional and as a human. I was able to meet other like-minded professionals to grow my network and build future economic opportunities for myself and others.

Today, we expect to take the courses we need wherever, whenever and however we want. The eight-hour course has been replaced by the snippet of the specific issue we want to learn about to the tune of quick, specific on-demand courses. Despite the majority of our courses being taken individually in a silo of one’s office, the importance of building relationships and engaging with others around high-level content is one that must be maintained in the CPE environment.

Conference Technology
Despite the interest in high-quality, on-demand content, the Education Foundation continues to believe there’s an appetite for community style courses with interactivity and networking. Engaging with and bouncing ideas off each other is a critical part of how we learn. The question then becomes, how can the Education Foundation offer this unique opportunity to a consumer base that has stopped embracing in-person CPE?

The answer lies within the highest-level conference technology platform! What is a conference technology platform? This type of platform enables CalCPA to host virtual and hybrid conferences that will generate increased revenue, facilitate networking and provide high-quality streaming content. It will be flexible, personalized and scalable based on the conference requirements and integrated into existing CalCPA technology to ensure a seamless experience. Finally, it will offer attendees the ability to participate in virtual tradeshows and break out rooms to interact with speakers, other CPAs, vendors and sponsors. And it will offer branded technology that puts CalCPA in the spotlight.

The Education Foundation realizes that many professionals have Zoom fatigue. Zoom is great for meeting one on one or with a small team, or to engage with others to learn and build relationships. However it’s imperative to move away from a Zoom-like experience. Engaging with other accounting professionals is important. Having the ability to enter a breakout room from a conference center is something that we can easily do at an in-person conference; we must be able to do so in a virtual environment as well.

The challenges that weigh on accounting professionals are great. We are all busy. Managing our clients, our families, the growing expectations of the profession and the challenges of living in a world where our requirements are greater than what is right in front of us is challenging to say the least.

The expectation that accounting professionals return fully in person is highly doubtful. The vision of an Education Foundation catalog that is fully remote, teamed with a highly engaging conference platform is one that will allow for future success of the organization. It will allow for the organization to continue to engage the members of CalCPA and broaden our reach to new and burgeoning markets.

Adam Blitz, CPA is CalCPA Education Foundation board chair and founder of Streamline CPAs. You can reach him at adam@streamlinecpa.com.
[cover story]

NEW YEAR = NEW LABOR LAWS

California Employment Laws for 2023 Employers Need to Know
2023 saw more people engaged with in-person, positive community as COVID-19 infections and serious cases declined. Yet, last year in our state was also marked with difficult impacts of politics, social media, the economy, divergent weather, wildfires and water scarcity. And, almost as sure as the sun rises each day, regulation of California employers increased too. More than 580 bills introduced in the last California legislative session mention “employer,” compared to about 330 bills in 2021.

While most bills did not pass the Legislature, many were signed into law by Gov. Gavin Newsom, bringing more rules and risks for employers dealing with workplace safety, privacy, leaves of absence, anti-discrimination, wages, benefits and working conditions.

Elements of key state Assembly Bills (AB) and Senate Bills (SB) affecting private employers that became law Jan. 1, 2023 (unless otherwise noted) follow.

**COVID-19 & WORKPLACE SAFETY**

**COVID-19 Supplemental Paid Sick Leave**

**AB 152** extended the expiration of COVID-19 Supplemental Paid Sick Leave (SPSL) from Sept. 30 to Dec. 31, 2022. No further extension was in effect at the time this article went to press; but, employers should be on the lookout for that possibility.

This bill also established the California Small Business and Nonprofit COVID-19 Relief Grant Program within the Governor’s Office of Business and Economic Development (GO-Biz) to assist and provide grants to qualified small businesses or nonprofits that are incurring costs for SPSL through Dec. 31, 2023.

This bill makes several changes to the Government, Labor and the Revenue and Taxation codes.

**COVID-19 Exposure**

**AB 2693** provides that employers are no longer required to give notice to the local public health agency in the event of a COVID-19 outbreak. Likewise, the California Department of Public Health will no longer need to post workplace information received from local public health departments about COVID-19 cases and outbreaks.

Prior law required that an employer who received a notice of potential exposure to COVID-19 was required to take specified actions within one business day of the notice of potential exposure, including providing written notice to all employees on the premises at the same worksite that they may have been exposed to COVID-19. Until Jan. 1, 2024, AB 2693 changes the notification requirements and authorizes an employer to either provide written notification or prominently display a notice in all places where notices to employees concerning workplace rules or regulations are customarily posted and requires the notice to remain posted for 15 days. Employers also must keep a log of all the dates the notice was posted and allow the Labor Commissioner to access notice records.

This bill amends Labor Code Secs. 6325 and 6409.6.

**Illness & Wildfire Smoke**

Previously enacted law requires employers to comply with certain safety and health standards, including a heat illness standard for the prevention of heat-related illness of employees in an outdoor place of employment. There’s also an existing standard for workplace protection from wildfire smoke.

**AB 2243** requires the Division of Occupational Safety and Health (Cal/OSHA) and its related rule-making process—before Dec. 1, 2025—to consider (a) requiring employers to periodically distribute their Heat Illness Prevention Plans to employees, to train new hires...
accordingly, and to provide respiratory protective equipment to farmworkers subjected to certain levels of wildfire smoke; (b) developing additional regulatory protections related to acclimatization to higher temperatures, especially following an absence of a week or more from working in ultrahigh heat settings, including after an illness.

This bill amends Labor Code Sec. 6721.

Workers’ Rights in Emergencies

**SB 1044** prohibits an employer, in the event of an “emergency condition,” from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace or worksite within the affected area because the employee has a reasonable belief that the workplace or worksite is unsafe. This bill does not apply to 13 worker categories, such as first and emergency responders, patient care workers in a health care or residential facility, employees required by law to render aid or remain on the premises in case of an emergency, and those whose primary duties include assisting members of the public to evacuate in case of an emergency.

“Emergency condition” means (a) disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a crime, or (b) an order to evacuate a workplace, a worksite, a worker’s home or the school of a worker’s child due to natural disaster or a crime. “Emergency condition” does not include a health pandemic.

The bill requires an employee to notify their employer in advance of the emergency condition requiring them to leave or refuse to report to the workplace or worksite. When advance notice is not feasible, notice must be as soon as possible after leaving or refusing to report.

In the event of an emergency condition, the employer must not prevent any employee from accessing the employee’s mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation or communicating with a person to confirm their safety.

Finally, in the event a current or former employee brings an action that could be brought pursuant to the Labor Code Private Attorneys General Act (PAGA) for violations of these prohibitions, the bill gives employers certain rights to cure alleged violations.

This bill adds Labor Code Sec. 1139.

**Privacy Rights**

**Digital License Plates**

**AB 984** permits the use of digital license plates and vehicle location technology (such as GPS functionality) to track the employer’s fleet of vehicles. If employers use digital plates to monitor employees, the tracking must be “strictly necessary” to the employee’s duties and only done during work hours. The company must provide a detailed notice, such as how the data will be used, and the time and frequency of the monitoring, among many other things. Penalties for non-compliance are $250 per employee for the initial
violation. For subsequent violations, penalties are $1,000 for each employee, per day.

**California Privacy Rights & Enforcement Act**

The California Privacy Rights and Enforcement Act (CPRA), amends the California Consumer Privacy Act (CCPA), and eliminates the “employee” exception to certain rights that “consumers” already had under the CCPA. Employers now have new privacy-related obligations involving California applicants and workers’ data.

Among other things, covered employers must:

- Give requisite notice to applicants, employees, and contractors about the categories of personal information collected by the employer and its purposes, sharing of the information with third-parties and retention of the information;
- Honor certain employee requests to access, correct, or delete, or restrict the use or disclosure of certain categories of personal information; and
- Safeguard against unauthorized disclosure of personal information.

The CCPA and CPRA apply to companies with gross annual revenue of $25 million or more. They also apply to companies who buy, receive or sell certain high volumes of personal information of California residents or devices, or are in the business of selling consumers’ personal information.

The bill also establishes the California Privacy Protection Agency, which is responsible for implementing and enforcing the law, including issuing potential fines of $2,500 per violation and $7,500 per intentional violation. Although the CPRA took effect Jan. 1, any personal information about employees collected by employers dating back to Jan. 1, 2022, will be subject to compliance with the CPRA.

**LEAVES OF ABSENCE**

**More California Family Rights**

The California Family Rights Act (CFRA) allows employees up to 12 weeks leave of absence due to their own medical condition or to care for an immediate family member. Under previously enacted law, a “family member” for CFRA purposes already included: a spouse or a child, parent, legal guardian, sibling, grandparent, grandchild, registered domestic partner, and parent-in-law.

**AB 1041** now expands “family member” to include a designated person. The bill defines “designated person” as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The employee may identify the designated person at the time leave is requested. The employer may limit the employee to one designated person per 12-month period.

This bill also makes parallel changes to the Healthy Workplaces, Healthy Families Act of 2014. An employee can now use CA Paid Sick Leave to care for a “designated person” and designate that person at the time leave is requested, and employers can limit the employee to one designated person in a 12-month period.

This bill amends Secs. 12945.2 of the Government Code and 245.5 of the Labor Code.

**Bereavement Leave**

**AB 1949** creates a new CFRA right to as much as five days bereavement leave related to the death of a family member in addition to other CFRA leave rights. To be eligible, an employee must have been
employed for at least 30 days. The same CFRA definition of “family member” applies here, including a “designated person” (see above).

Bereavement leave need not be taken in consecutive days, but it must be completed within three months of the date of death of the family member. Within 30 days of the first day of the leave, the employer may request that the employee provide documentation of the death of the family member. “Documentation” includes a death certificate, a published obituary or written verification of death, burial or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution or governmental agency. The employer must maintain the confidentiality of any employee requesting bereavement leave. Any documentation the employee provides to the employer must be maintained as confidential and must not be disclosed except to internal personnel or counsel, as necessary, or as required by law.

The bereavement leave must be taken pursuant to any existing bereavement leave policy of the employer. If the policy provides for less than five days of bereavement leave, the employee will be entitled to no less than a total of five days of bereavement leave, consisting of the number of days of leave under the policy and the remainder as CFRA bereavement leave. The CFRA does not provide for paid leave. To the extent the employer does not have a paid bereavement leave policy, the employee can use vacation, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

Finally, the bill exempts employees subject to a collective bargaining agreement if certain conditions are met.

This bill amends Government Code Secs. 12945.21 and 19859.3, and adds Sec. 12945.7.

**ANTI-DISCRIMINATION**

**DFEH Renamed to CRD**

Effective July 1, 2022, **SB 189** changed the name of the Department of Fair Employment and Housing (DFEH) to the “Civil Rights Department.” The CRD’s website notes that the change more accurately reflects the CRD’s powers and duties, which include enforcement of laws prohibiting hate violence, human trafficking, discrimination in business establishments, and discrimination in government-funded programs and activities, among others. The Fair Employment and Housing Council is now known as the California Civil Rights Council.

This bill affects many areas of California law.

**Reproductive Health Decision-making is Protected**

**SB 523** expands the Fair Employment and Housing Act’s (FEHA) protected classes of applicants and employees by prohibiting employers from discriminating based on their reproductive health decision-making, defined as “a decision to use or access a particular drug, device, product or medical service for reproductive health.” The bill clarifies that discrimination based on “sex” under FEHA includes reproductive health decision-making.

Employers also are prohibited from requiring applicants or employees to disclose information relating to their reproductive health decision-making.

This bill affects Government Code secs. 12920, 12921, 12926, 12931, 12940, 12941, 12993 and 22853.3 as well as sections of the Health & Safety, Insurance and Public Contract Codes.

**Off Duty Use of Cannabis**

Effective Jan. 1, 2024, **AB 2188** amends FEHA to prohibit discrimination of applicants and employees based on use of cannabis off the job and away from the workplace or worksite, or employer-required drug screening test that finds “… the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine or other bodily fluids.”

The bill does not permit an employee to possess, be impaired by or use cannabis on the job, or affect the rights or obligations of an employer to maintain a drug free workplace. Employers may conduct pre-employment drug testing and refuse to hire someone based on a valid preemployment drug testing that does not screen for non-psychoactive cannabis metabolites. The bill does not apply to employees in the building and construction trades, or to applicants and employees hired for positions that require a federal government background investigation or security clearance. Nor does the bill preempt state or federal laws that require testing for controlled substances as a condition of employment or for the employer to receive federal funding, licensing benefits or contracts.

This bill adds Government Code Sec. 12954.
Sexual Assault: Statute of Limitations & Cover-Ups

**AB 2777**, known as the Sexual Abuse and Cover Up Accountability Act, provides that actions commenced on or after Jan. 1, 2019, based on conduct that occurred on or after Jan. 1, 2009, will not be time-barred, even if the 10-year statute of limitations has expired, provided that such claims are commenced by Dec. 31, 2026, and had not previously been resolved to finality through litigation or settlement.

Significantly, this bill also provides that where a party seeks to recover damages based on a sexual assault that was “covered up” by an entity, the action may be commenced between Jan. 1 and Dec. 31, 2023, even if that claim would otherwise be time-barred. “Cover up” under this law means “a concerted effort to hide evidence relating to a sexual assault that incentivizes individuals to remain silent or prevents information relating to a sexual assault from becoming public or being disclosed to the plaintiff, including, but not limited to, the use of nondisclosure agreements or confidentiality agreements.”

This bill amends Code of Civil Procedure Sec. 340.16.

WAGES & WORKING CONDITIONS

Fast Food Restaurant Employment Standards Stayed

**AB 257**, the Fast Food Accountability and Standards Recovery Act (or FAST Recovery Act), was signed by Gov. Newsom on Sept. 5, 2022, to be effective Jan. 1. The bill established a 10-member “Fast Food Council” of political appointees within the Department of Industrial Relations until Jan. 1, 2029, who are authorized to set sector-wide rules on minimum wages, working hours, working conditions and training for fast food restaurant workers. The bill permits the Council to raise the sector’s minimum wage to $22 per hour in 2023 and up to 3.5 percent annually after that.

Restaurants affected by the bill are those consisting of 100 or more establishments nationally that share a common brand or that are characterized by standardized options for decor, marketing, packaging, products and services—including franchisees.

Excepted from Fast Food Council standards are employees subject to a valid collective bargaining agreement.

Following the bill’s enactment, a referendum launched to stay the new law and have California voters decide in the November 2024 ballot whether the law will be implemented. Reportedly, more than 1 million registered voter signatures have been obtained. Assuming that the California Secretary of State verifies collection of the required number of voter signatures, the FAST Recovery Act will not take effect unless after the voters approve it in November 2024, or any legal challenge that may come reveals a different path or outcome.
Pay Transparency
With the stated purpose of enforcing a worker’s right to be free from discriminatory employment practices, SB 1162 requires employers with 15 or more employees to (a) disclose pay scales for a position in any job posting (and upon request by an existing employee), and (b) maintain records of job titles and wage rate history for each employee for the duration of employment plus three years.

The bill defines “pay scale” as “the salary or hourly wage range that the employer reasonably expects to pay for the position.”

The bill also expands existing pay data reporting requirements (akin to federal EEO-1s) for employers of 100 or more employees based on protected characteristics, and adds such data reporting separately for employers of 100 or more employees hired through labor contractors (including the names and owners of the labor contractors). The data must now include, “[w]ithin each job category, for each combination of race, ethnicity, and sex, the median and mean hourly rate.” For employers with multiple establishments, the employer must now submit a report covering each establishment. “Establishment” is defined by the bill as “an economic unit producing goods or services.”

Finally, the bill changes the date for submitting these pay data
SB 1162 states employers with multiple establishments, the employer must now submit a report covering each establishment.

Minimum Wage Increases
Minimum wage in California increased to $15.50 per hour on Jan. 1 for all employers based on legislation signed by Gov. Jerry Brown in 2015. Gone is the lower rate phase-in for smaller employers.

State minimum wage changes impact classification of most exempt workers. In addition to “duties tests” for administrative, executive and professional exemptions, a salary of at least twice the state minimum wage must be paid to meet the “salary basis test” (assuming another salary basis test does not apply). By Jan. 1, the annualized salary rate that employers must pay to meet the exempt salary requirement will advance to $64,480. State minimum wage increases also impact retailers who rely on the inside-sales exemption, which requires that employees be paid at least 1.5 times the state minimum wage, and at least half of their other earnings be from commissions.

Many local city and county governments continue to create and increase their own minimum wage ordinances for companies with employees working in their jurisdiction. Employers must pay the higher of the state or local minimum wage. These local rates typically change Jan. 1 or July 1. Some already exceed $16 per hour. Employers should
monitor the requirements to assure compliance in each municipality in which they have employees working. A good starting place is the UC Berkeley Labor Center database: https://laborcenter.berkeley.edu/inventory-of-us-city-and-county-minimum-wage-ordinances/#s-2.

Overtime Exemption for Some Computer Professionals
Labor Code Sec. 515.5 contains an overtime pay exemption for highly skilled computer professionals who spend more than half of their working time in top level intellectual or creative work that requires the exercise of discretion and independent judgment, such as software engineers and programmers, and systems designers and analysts. To qualify for exemption, the employee also must be paid at least a minimum amount per hour or, alternatively, a salary equal to that hourly rate. Each year, the California Department of Industrial Relations sets that pay rate based on the California CPI increase.

For 2023, the minimum rates of pay required for this exemption are $53.80 per hour, or $9,338.78 salary monthly or $112,065.20 annual salary.

What’s Next?
Employers should consider how these new laws impact their business and workplace, and then review and update their personnel and document retention policies and practices with experienced attorneys or human resource professionals.

Mark E. Terman, Esq. is a partner with Faegre Drinker Biddle & Reath LLP in the firm’s Labor and Employment Group. You can reach him at www.faegredrinker.com.

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New Year
CalCPA Kicks Off Another Year of Advocacy

Later this month, CalCPA will launch another year of advocacy on behalf of its members with a Legislative Summit that brings together CalCPA leaders with leaders in the public policy space to discuss a variety of issues facing California and the profession.

Some of the discussion will focus on specific profession issues like licensure, tax and emerging service areas such as environment, social and corporate governance reporting. Other topics will focus on general business climate issues and how CPAs can be a part of solutions to some of California’s challenges.

CalCPA members also will have the opportunity to get back to in-person meetings with legislators and their staff. As was outlined in last month’s article, nearly one-third of the legislators are new to their position. Meetings early in the legislative calendar are a great way to establish a positive relationship before complex policy proposals start to take center stage.

Keep an eye out for more information about this event and the impact it has on CalCPA’s advocacy efforts.

Bills, Bills, Bills
January and February bring the annual window for legislators to introduce new legislative proposals. And if things track like they have in years past, we will see nearly 1,000 Assembly and Senate bills introduced by the end of February.

Some of these will be extensive new proposals or adjustments to various state statues, some will be necessary adjustments to update codes or codify new processes, and some of these will be vague “spot bills” that serve as place holders for more substantive amendments later in the legislative session.

CalCPA’s government relations team will be closely reviewing these proposals for anything that might be of concern or of interest to the profession. Once flagged, we will work with CalCPA member leaders to review and develop a course of action. Often the first step is an outreach to the author of the bill to find out more about the intent of their proposal and have a conversation about the profession and offer additional input and perspective that can help build on the bill idea and avoid any troublesome unintended consequences.

Additional involvement may include formal comment letters to legislative policy committees and other stakeholders with similar interests in a particular bill.

No matter the level of engagement, being attentive and at the table in a meaningful way is critical to positively influencing legislative proposals. This is just part of the value that CalCPA’s advocacy team works to provide on behalf of all CalCPA members. Stay tuned to CalCPA communications for updates and insights on the hot issues that you and your firm need to be aware of.

CPA Evolution: T-Minus 365 Days
A redesigned Uniform CPA Exam is just around the corner and on track to launch Jan. 1, 2024. As the date gets closer, more and more information about the new content, transition policy and key dates continues to come out.

We encourage firm leaders, those who work in academia and others who work closely with CPA candidates working toward licensure to continue to closely monitor developments at evolutionofcpa.org for up-to-date information about the new CPA Exam. Recent updates include information about important scheduling deadlines for the current version of the exam and the start of the new exam, as well as the transition policy for candidates that may be caught between the two exams.

New CBA Regulation Related Sale, Transfer or Discontinuance of Licensee’s Practice
The CBA is in the process of adopting a new regulation related to the “Sale, Transfer or Discontinuance of Licensee’s Practice.” This change follows an AICPA Professional Ethics Executive Committee (PEEC) adoption of revised interpretations of the AICPA Code of Professional Conduct related to the “Transfer of Files and Return of Client Records in Sale, Transfer, Discontinuance or Acquisition of a Practice.”

While the changes in professional standard took effect in 2017, the CBA required regulations to stay consistent and codify this new requirement, including some clarification in how licensees can comply with their professional obligations.

CalCPA worked with the CBA on the regulatory language to ensure it was consistent with the AICPA standard and that there was reasonable flexibility in how a licensee would meet the standard/requirement.

CBA Elects New Leadership
CalCPA member Katrina Salazar, CPA from Sacramento was elected president of the CBA for 2023; Yan Tu, a public member from San Diego was elected vice president; and CalCPA member Joseph Rosenbaum, CPA was elected secretary/treasurer. CalCPA congratulates the newly elected leadership team of the CBA and looks forward to working with them in the year ahead.

Jason Fox is CalCPA’s vice president of government relations. You can reach him at jason.fox@calcpa.org.
Here’s a unique opportunity with upcoming Uniform CPA Exam changes to engage your candidates and take the role of adviser in their CPA journey.

CPA Evolution is the name given for the new model of CPA testing, which has a core in accounting, auditing, tax and technology, and a discipline to demonstrate deeper skills and knowledge. AUD, FAR and REG will remain part of the “core curriculum” and BEC will phase out giving way to the new three disciplines: Business Analysis and Reporting (BAR), Information Systems and Controls (ISC) and Tax Compliance and Planning (TCP). Candidates must pass the three core curriculum tests and one of the disciplines within 18 months to fully complete the exam.

Understanding CPA Evolution and Other Historical Changes

To put the changes in context, it’s helpful to look at other large-scale changes to the exam and California-based requirements:

- **2004:** Paper-based to computer-based CPA Exam and a reorganization into new four parts (FAR, BEC, REG and FAR)
- **2014:** California CPA educational requirements increase to include 30 additional units and 150 units in total
- **2020:** Continuous testing with no blackout periods and other restrictions
- **2024:** CPA Evolution, core plus discipline model, phasing out of BEC

CPA Evolution is set to take effect Jan. 1, 2024. There is a transition plan in terms of passed exam credit. A candidate who passes AUD, FAR, REG or BEC before the roll out will retain credit if passed by Dec. 31, 2023. A candidate that loses credit for AUD, FAR or REG after Dec. 31, 2023, must take the corresponding new core section of AUD, FAR or REG. A candidate that loses credit for BEC after Dec. 31, 2023, must select and take one of the three disciplines sections.

What This Means for CPA Candidates

Candidates who have started or are going to start their exam process within the next year will be impacted. Many will attempt to pass the current four exams (FAR, REG, AUD and BEC) by Dec. 31, 2023. Others will attempt to pass BEC by the deadline, so they bypass having to take one of the new three disciplines.

Recent college graduates will be setting part of the “core curriculum” and BEC will phase out giving way to the new three disciplines: Business Analysis and Reporting (BAR), Information Systems and Controls (ISC) and Tax Compliance and Planning (TCP). Candidates must pass the three core curriculum tests and one of the disciplines within 18 months to fully complete the exam.

What you can bet on is that the upcoming deadline will likely force an uptick in the number of CPA candidates at firms who will be applying for and sitting for the exams. Firms can take a proactive approach to the upcoming deadline to support their staff on this journey.

Proactive Steps to Take Now

1. **Break Down Application and Testing Process Step by Step**

   Firms can take immediate action by providing exam information to both new hires and current staff that are candidates. This includes, but is not limited to, information about California CPA educational requirements, how to sign up for a CBA Exam account, how to schedule your exams and how to sign up with a CPA review course provider. The key is to break down this information into bite-size pieces that the candidate can easily follow and keep moving through the process. This will create momentum for the candidate and should take away any informational roadblocks they come across. Many review courses offer firms complimentary, personalized webinars to help provide information on the upcoming CPA changes, study tips and educational requirements.

2. **Assign Firm-wide Resources**

   One of the most important steps a firm can take is providing candidates a go-to staff member that has recently passed the exam and an internal HR or management sponsor that can champion CPA initiatives. The internal sponsor should fully understand the exam process, from initial application to education to how to fulfill experience requirements. One productive way to provide this support is through office hours held periodically throughout the calendar year to share information and provide an environment where questions are welcomed.

3. **Exam-friendly Expense Policies**

   Now is a good time to look at exam-related policies at your firm, including exam fee reimbursement, CPA review course, exam bonus, etc. to incentivize studying and passing. One important nuance of exam fee reimbursement is the timing of the reimbursement. By allowing candidates to expense the fees as they pay, you are taking a cash flow hurdle away. Another important policy involves paying for the CPA review course for the candidate. Passing without a review course is very difficult and this is considered a staple for the candidate. Allowing new hires to sign up right away upon starting or even before starting can encourage progress.

4. **Share Success Stories**

   This is a great opportunity to highlight the latest employees who have passed the exam. This can include publishing success stories internally or on social media and also interviewing staff to understand the keys to their success. While training and other internal leadership opportunities are usually reserved for those in management roles, this gives junior staff a chance to be in the expert role.

Dana Jarvis, CPA, PHR specializes in HR and operations within the public accounting industry.

You can reach her at djarvis@gmail.com.
To represent another person or entity before the FTB, a Power of Attorney (POA) is required. The FTB has two standard POA forms that must be used: Form 3520-PIT for individuals (and estates and trusts), and Form 3520-BE for business entities or group nonresidents. Both forms are relatively straightforward and include specific line instructions. Additional instructions for each form can be found on FTB's website: ftb.ca.gov/forms/misc/3520-pit-instructions.html.

Yet for 2022, the FTB POA rejection rate is approximately 25 percent. (The positive news is the rejection rate is falling significantly; it was 60 percent in 2017). On average, this is a high-volume operation—the FTB processes approximately 90,000 POAs each year. A rejection rate of 1 in 4 suggests practical difficulties in getting it right the first time.

Here are some helpful tips for having your POA submission accepted the first time and for anticipating problems in using the POA.

**Top 3 Tips**

First, while paper POAs can still be submitted by mail, use the online submission in MyFTB. This avoids the dangers of lost or delayed mail and makes for faster processing by the FTB. You want your POA processed as fast as possible before it’s rejected, you want to know as soon as possible to correct the errors and resubmit.

Second, do not submit POAs at the last minute because a POA is only active once the FTB approves it and approval is not immediate. FTB aims for a turnaround time of 15 business days. Then, if the POA is rejected (which statistically happens in 1 of 4 cases), it must

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**POA Submission Tips**

- If a joint tax return is filed, everyone must complete and submit their POA declaration. If submitting these online, they must be uploaded separately.

- If representation involves a corporate taxpayer’s combined report/unity group, the POA must be submitted in the name of the Key Corporation (as identified on the return’s Schedule R-7).

- A social security number, TIN, FEIN or California corporation number must be provided. It’s easy to omit this number, thinking that it’s unnecessary because the information is already in FTB’s possession.

- Think carefully about who the named representative will be. You can name multiple representatives. An FTB POA establishes a relationship between an individual/business entity and a named representative who is an individual. It does not establish a relationship with the organization/employer for which the representative works. Thus, a POA declaration submitted by me gives me the right to represent an individual or an entity before the FTB. My law firm [Eversheds-Sutherland (US) LLP] is not the legal representative. I have lost count the number of times I have had to submit new POAs when, over the passage of time, additional employees and members of my firm wish to interact directly with FTB (or participate in a meeting) on a case, but were not named on the POA on file with FTB.

- Think about what years are to be covered by the POA. The easiest choice is to mark it for “all years” because that way, if a matter for a specific year spills over into another year (e.g., a carryback to an earlier year, or an audit that expands to later years), a new POA will not be needed. Otherwise, you must identify the specific years.

- Consider whether you will need full online access to the taxpayer’s account. If you indicate “No,” the representative will have limited online access to any notices and correspondence sent by the FTB to the taxpayer in the last 12 months. But additional access to items, such as viewing tax returns, account balance and tax year details, payment history, etc., will require a “Yes” response. For a comparison of Limited vs Full online access visit ftb.ca.gov/myftb/tax-pro-online-account-access-descriptions.html.
be resubmitted, so it will take another 15 business days for resubmission and (hopefully) approval.

Third, use the current FTB forms and follow the instructions. There is no substitute for following instructions. While this point may seem obvious, common reasons for rejection are the submitted POA is not completed correctly or is incomplete.

The FTB has no tolerance for submissions that are incorrect, and if the required item is omitted or incorrect, expect the POA to be rejected. If submitting online and attaching the taxpayer’s signed POA, the information entered online must match the POA form.

The POA must be signed and dated by an authorized individual. This is a critical item and is the cause of many rejected POAs. In the case of Form 3520-BE, the signatory must be a corporate officer, general partner, authorized managing member or tax matter partner who has the authority to sign. This must be a “wet” signature—electronic or stamped signatures are not accepted. The FTB and the other California tax agencies have relaxed some “wet” signature requirements considering COVID disruptions, but this is not one of them. It requires a valid signature, which is legible, and it must be in the right spot.

If the POA is signed by a fiduciary, then supporting documentation must be submitted with the POA to substantiate the signer’s authority (e.g. durable, certification of trust, will etc.). When you submit a new POA or are responding to a rejected POA, you must not modify or change the POA without the taxpayer’s initial and date. Often it’s easier and far more efficient to start over instead of attempting to write over, cross out or whiteout the mistake.

Filling out the form on-line makes for easy corrections.

When you submit a POA for a new client, let them know that a verification letter (FTB 1181-Verify Power of Attorney) may be coming and provide them with the phone number to contact FTB immediately (24 hours after electronic submission of a POA) to approve the relationship. They do not have to wait until the letter arrives to contact the FTB at (916) 845-5525.

Eric J. Coffill is the senior counsel at Eversheds Sutherland (US) LLP. You can reach him at ericcoffill@eversheds-sutherland.com.
**Accounting and Financial Statements**

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<td>SSARS Codification: Preparation, Compilation and Review of Financial Information</td>
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<td>Preparation, Compilations and Reviews: Practical Workshop</td>
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**Tax**

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<td>Sophisticated Planning for High-Net-Worth Clients</td>
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*Dates subject to change*

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**INDEX**

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