



# SUMMER

OUR 61<sup>st</sup> YEAR

CONTRA COSTA CHAPTER

FEBRUARY 2024

## REMINDER: INSIDE WIREMAN WAGE RATE INCREASE Effective February 26<sup>th</sup>

The members of IBEW Local Union 302 voted to allocate their \$3.75 per hour increase effective February 26, 2024 as follows: \$2.00 Wages and \$1.75 Health & Welfare.

This is the final increase scheduled under the existing Inside Agreement.

## Our Current Agreement Expires on May 31, 2024.

We will be entering negotiations in March.



[New Wage Rates, Cost-Per-Hour Sheets, and Shift rates](http://www.ccneca.org/Wages.html) reflecting the \$3.75 hour increase can be found at:  
<http://www.ccneca.org/Wages.html>

# Sweeney Mason

LIMITED LIABILITY PARTNERSHIP

## *News Alert:*

### *New Employment Laws for 2024 - Are You Ready?*

By: Roger M. Mason, Esq., Rachael E. Brown, Esq., Caitlin E. Kaufman, Esq.

#### **Minimum Wage Increase**

As of January 1, 2024, minimum wage increases to \$16.00/hour. This is a good time to check your exempt employee salaries to ensure that they meet the new minimum threshold of \$66,560 per year.

#### **Off-Duty Cannabis Use/Testing**

AB 2188 prohibits employers from discriminating against employees for off-duty cannabis use. This means that employers can no longer rely on drug testing that identifies non-psychoactive metabolites, but rather must use testing that identifies actual impairment. As of the date of this article, there are not any drug tests available that meet this criterion.

Employers can still require a drug-free and alcohol-free workplace and may prohibit employees from possessing, being impaired by, or using marijuana on the job. **Employees in the construction and building trades are not covered by AB 2188.**

Employer takeaway: review and update drug testing policies and procedures. Contact your testing lab to ensure compliant testing.

#### **No Automatic Stay During Arbitration Appeal**

Effective January 1, 2024, a party appealing an order denying a motion to compel arbitration (generally the employer) is not entitled to an automatic stay. The court has the discretion to order one, but it is no longer mandatory. This means that employers may be forced to continue defending claims arguably subject to arbitration while they appeal the order.

Employer takeaway: ensure that your arbitration policies are governed by the Federal Arbitration Act (FAA) rather than the California Arbitration Act (CAA) to take advantage of any argument that federal law controls.

## **Rebuttable Presumption of Retaliation**

The Equal Pay and Anti-Retaliation Protection Act creates a rebuttable presumption of retaliation if an employee is disciplined or discharged within ninety (90) days of engaging in certain protected activity (such as filing a claim, complaining to Human Resources, testifying on behalf of another employee, etc.) Employers must be able to establish a legitimate, non-retaliatory reason for the discipline/discharge.

Employer takeaway: review and update discipline policies to emphasize documentation of performance issues.

## **Workplace Violence Prevention Program**

Section 6401.9 requires virtually all employers to implement a Workplace Violence Prevention Plan ("WVPP") by July 1, 2024. These are structured similarly to Injury and Illness Prevention Plans and require employers to (1) designate a person responsible for implementing the plan; (2) identify and correct hazards through periodic inspections; (3) train employees on hazards; (4) maintain records of incidents.

Employer takeaway: develop and implement a WVPP that is narrowly tailored for your workplace, as each business/job site will have unique threats and hazards.

## **Paid Sick Leave**

SB 616 expands California's Healthy Workplaces, Healthy Families Act ("HWHFA") and increases the minimum number of paid sick leave days per year to 40 hours/5 days (whichever affords the employee more leave). Employees covered by a valid collective bargaining agreement ("CBA") are exempt, provided the CBA meets certain conditions: (1) expressly provides for the employees' wages, hours, and working conditions; (2) expressly provides for paid sick days, paid leave, or paid time off; (3) requires final and binding arbitration of disputes concerning paid leave; (4) provides premium wage rates for all overtime hours worked; and (5) establishes a regular hourly rate of pay of at least 30% more than the state minimum wage. It is important to note that the procedural and anti-retaliation provisions of the HWHFA do apply to all employees, including those covered by a CBA. **Construction industry CBAs with a clear and unmistakable waiver remain exempt from the paid sick leave law.**

Employer takeaway: confirm if there is a CBA that exempts covered employees; update paid sick leave banks for non-covered employees.

## **Wage Theft Notice**

Employers must roll out updated Wage Theft Notices and include information about any federal or state emergency/disaster declaration issued within 30 days before hire that applies to the county or counties in which the employee will work. The Labor Commissioner has prepared a [new 2810.5 notice template](#) to meet the new requirements. These notices are not required for employees covered by a valid CBA.

Employer takeaway: review 2810.5 notices for all non-covered employees.

## **30 Days' Notice to Return to Work In Person**

Employers must now provide at least 30 days' notice before requiring an employee to return to work in person. The notice must include certain language regarding the employee's right to request remote work as an accommodation for a disability.

Employer takeaway: review return to work procedures.

## **No Non-Compete Agreements**

SB 699 strengthens California's restrictions on non-compete agreements and other restrictive covenants. Effective January 1, 2024, non-compete agreements are unenforceable and void, regardless of where the agreement was signed or where the employee worked at the time the agreement was signed. This marks a big departure from the previous standard, which permitted non-competes if they were valid in the jurisdiction where the agreement was signed.

By February 14, 2024, employers must notify current and former employees employed after January 1, 2022 that any non-compete clauses previously signed are void. Each notice must be individualized and delivered to the individual's last known address and email address.

Employer takeaway: review employment agreements carefully and update to remove any invalid non-compete clauses; notify current and former employees of void provisions.

## **Reproductive Loss Leave**

Effective January 1, 2024, employers with five (5) or more employees must provide qualified employees with up to five (5) days of unpaid job-protected leave following a "reproductive loss event." This is defined as the day, or for multiple day events, the final day, of a failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. Employers may not request documentation of the event. Leave need not be used consecutively, but must be used within three months of the reproductive loss event. Each employee is limited to a maximum of twenty (20) days over a 12-month period if multiple reproductive loss events occur. Employees must be permitted to use sick, vacation, or other paid time off.

Employer takeaway: add a reproductive loss leave policy to the employee handbook.

# POLITICO ALERT

[www.PoliticoOnline.com](http://www.PoliticoOnline.com) "Connecting you to California"

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## **Clarity On State Law & Drug Testing**

### **In The Construction Industry**

In 2022, Governor Newsome signed legislation (AB 2188) making cannabis users a protected class of employee. AB 2188 contained a delayed implementation date and took effect on January 1, 2024. The measure prohibited employers from discriminating in hiring, firing or setting conditions of employment based upon a person's use of cannabis away from the workplace; or, an employer-required drug screening test that has found the person to have non-psychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

Industry was successful in securing a broad exemption for construction in AB 2188, in an effort to keep construction sites as safe as possible. Simply, the statute contains language stating that the law "does not apply to an employee in the building and construction trades." This is underlined in green below.

Also, the law does not permit an employee to possess, be impaired, or use cannabis on the job, nor does it affect the rights or obligations of an employer to maintain a drug and alcohol-free workplace, underlined in blue below.

The only recent change to the law came in the form of SB 700 in 2023, which also took effect on January 1, 2024. That measure added that it is unlawful for an employer to request information from an applicant for employment relating to the applicant's prior use of cannabis. This is underlined in orange below.

**To be clear, the construction industry carveout that allows testing via non-psychoactive cannabis metabolites in the hair, blood, urine, or other bodily fluids and discipline for drug use still stands. In addition, current state law does not require construction industry testing programs to transition away from hair, blood, urine, or other bodily fluid based drug testing for construction workers.**

## **CALIFORNIA GOVERNMENT CODE § 12954**

(a) (1) *Except as specified in subdivision (c), it is unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person, if the discrimination is based upon any of the following:*

(A) *The person's use of cannabis off the job and away from the workplace. This paragraph does not prohibit an employer from discriminating in hiring, or any term or condition of employment, or otherwise penalize a person based on scientifically valid preemployment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites.*

(B) *An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.*

**(2) This subdivision does not apply to an employee in the building and construction trades.**

**(b) Except as specified in subdivision (c), it is unlawful for an employer to request information from an applicant for employment relating to the applicant's prior use of cannabis.**

(c) *Information about a person's prior cannabis use obtained from the person's criminal history is subject to subdivisions (a) and (b), unless the employer is permitted to consider or inquire about that information under Section 12952 or other state or federal law.*

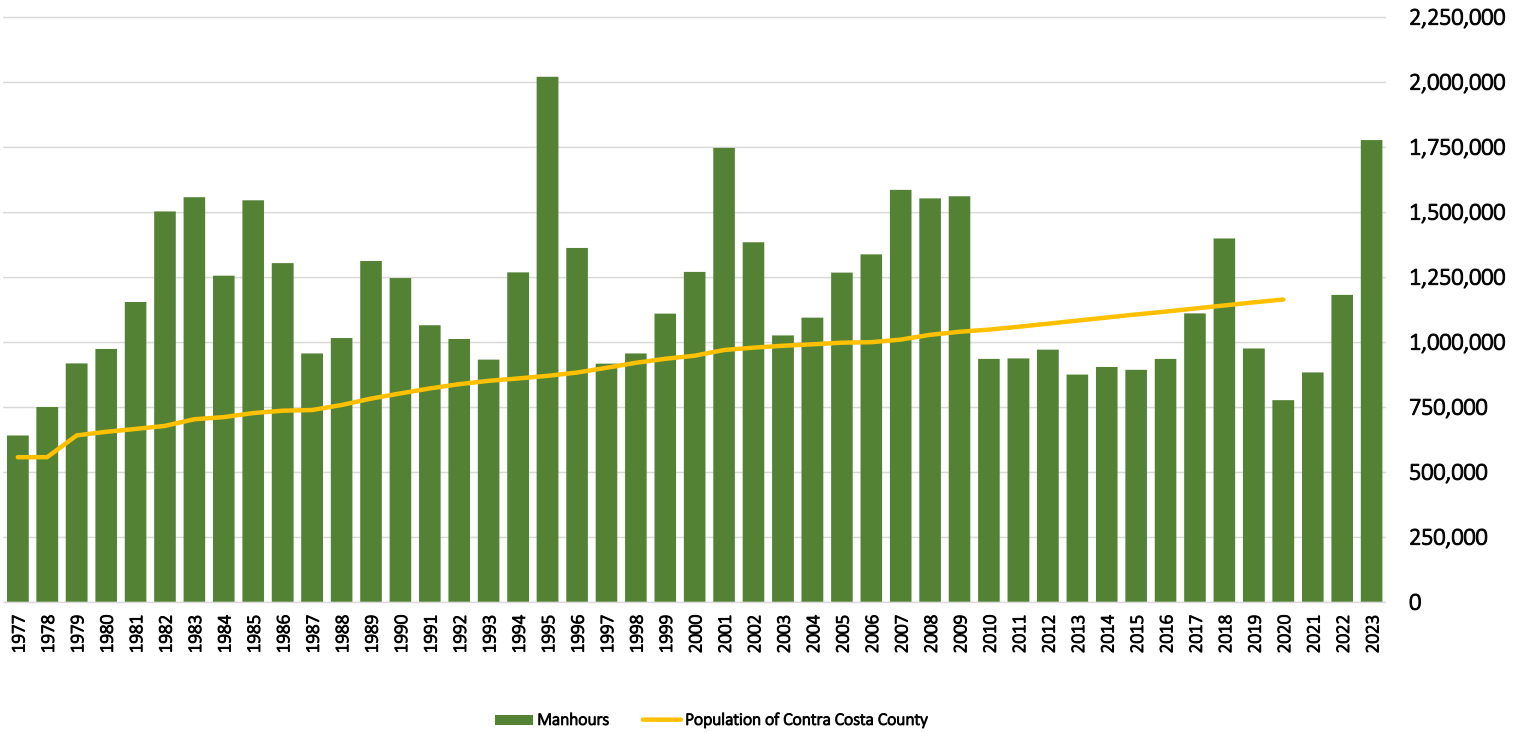
*(d) This section does not permit an employee to possess, to be impaired by, or to use, cannabis on the job, or affect the rights or obligations of an employer to maintain a drug- and alcohol-free workplace, as specified in Section 11362.45 of the Health and Safety Code, or any other rights or obligations of an employer specified by state or federal law or regulation.*

(e) *This section does not preempt state or federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants or employees to be tested, or the manner in which they are tested, as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.*

(f) *This section does not apply to applicants or employees hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the United States Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations, or equivalent regulations applicable to other agencies.*

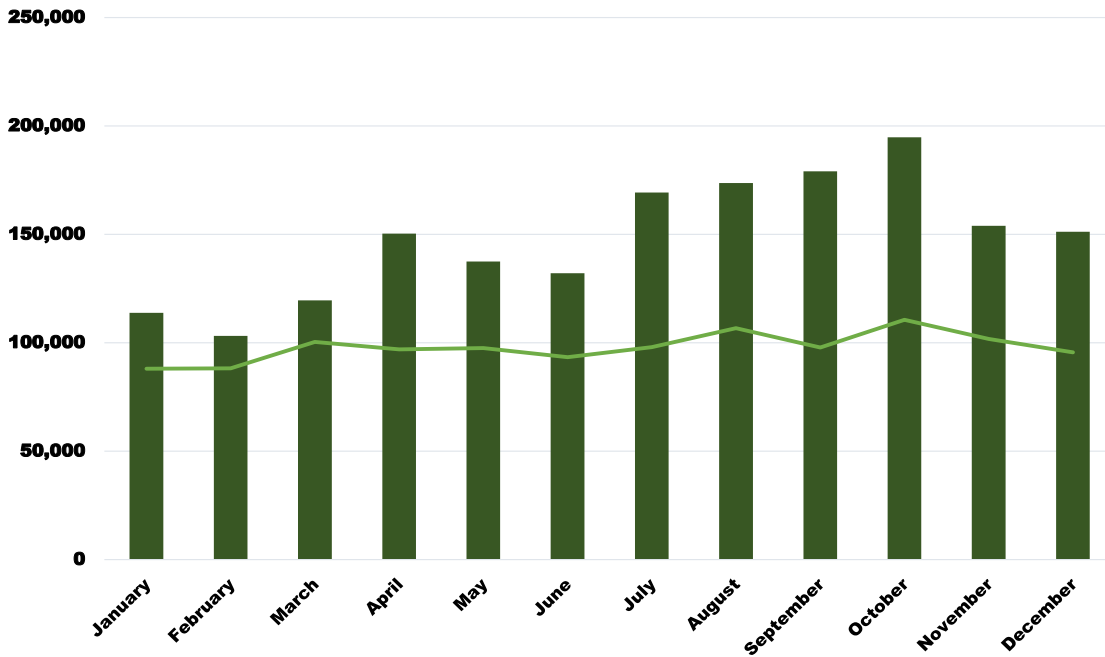
(g) *This section shall become operative on January 1, 2024.*

**IBEW LOCAL UNION 302**  
**Inside Wireman/Maintenance**  
**Manhours Worked**



**IBEW LOCAL 302 INSIDE MANHOURS WORKED**

2023 Compared with Historic Average



■ 2023



# NEWS RELEASE

Release Number: 2024-08

Date: January 29, 2024

## **Cal/OSHA Reminder to Employers: Post 2023 Annual Summary of Work-Related Injuries and Illnesses on February 1**

Instructions and form templates are available for download from Cal/OSHA's [Record Keeping Overview](#). The overview gives instructions on completing both the log (Form 300) and annual summary (Form 300A) of work-related injuries and illnesses. The annual summary must be placed in a visible and easily accessible area at each worksite.

*Click [here](#) to read the entire News Release.*



### **SYNERGY**

[CE/CW Wage Schedule Effective January 1, 2024](#)

[Sign-up for Martinez Alerts](#)

[Sound and Communications Wage & Fringes](#)

[Sound and Communications Agreement December 1, 2023 - November 30, 2027](#)





## February 2024

Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	3
	<b>Off-Day Holiday:</b> <i>Inside Wireman Agreement</i>					
	<b>President's Day Holiday:</b> <i>Inside Wireman Agreement &amp; Sound and Communications Agreement</i>					
4	5	6	7	8	9	10
				<b>JATC</b> Training Center Martinez 2:00 p.m.		
11	12	13	14	15	16	17
		Norcal Chapter <b>Meeting</b> 11:30 a.m. San Leandro				<b>Off-Day</b>
18	19	20	21	22	23	24
	<b>President's Day Holiday</b>					
25	26	27	28	29	1	2
					2024 Long -Range Planning Meeting Monterey, CA	