



What's New For 2017?

December 2016

Each year Cast & Crew provides its clients with a summary of key changes in the labor, employment and payroll-administration area. This “What’s New” series does not provide legal advice. However, it does seek to alert our clients to the myriad issues and challenges facing our industry in the new year. Please contact us if you have any questions.

PAID SICK LEAVE LAWS

More than two dozen jurisdictions had paid sick leave laws in effect for 2016, including new ordinances in Los Angeles, San Diego and Oregon. In 2017, the following jurisdictions (with effective dates) are joining them:

- **Arizona (1/1/2017):** Employees accrue one hour of sick leave for every 30 hours worked, and can accrue either 24 or 40 sick hours per year, depending on employer’s size. Accrued-but-unused sick leave carries over to following year, and employees can use 24 or 40 hours per year, depending on employer’s size.
- **Berkeley, CA (10/1/2017):** Covered employees accrue one sick leave hour for every 30 hours worked. For small businesses, the cap is 48 hours per year; for all other businesses, the cap is 72 hours. Leave accrued up to the cap must be carried over to following year. There is no limit on how many leave hours can be used per year.
- **Santa Monica, CA (1/1/2017):** Eligible employees will accrue one hour of paid sick time for every 30 hours worked. Accrual begins at start of employment, and employees may not accrue paid sick leave in increments of less than one hour. Employers with 26 or more employees must provide at least 40 hours of accrued paid sick leave as of January 1, 2017, and at least 72 hours of accrued paid sick leave as of January 1, 2018. Unused accrued paid sick leave will carry over until amount accrued reaches 40 hours as of 2017 and 72 hours the following year, unless employer establishes more generous policy. Employers may provide sick leave at start of calendar, fiscal or employment year, so long as the leave is consistent with the required accrual amounts above.
- **Chicago (7/1/2017):** Covered employees accrue one sick leave hour for every 40 hours worked. Accrual can be capped at 40 hours per year. Half of an employee’s accrued-but-unused leave carries over to following year, but additional leave must carry over if



employer is covered by FMLA. Leave use can be capped at 40 hours per year, but additional leave can be used for an FMLA-eligible absence.

- **Cook County, IL (7/1/2017):** Covered employees accrue one sick leave hour for every 40 hours worked. Accrual can be capped at 40 hours per year. Half of an employee's accrued-but-unused leave carries over to the following year, but additional leave must carry over if an employer is covered by the FMLA. Leave use can be capped at 40 hours per year, but additional leave can be used for an FMLA-eligible absence.
- **Minneapolis (7/1/2017):** Employees must accrue a minimum of one hour of sick and safe leave for every 30 hours worked, up to a maximum of 48 hours in a calendar or fiscal year. Employees may carry over unused sick leave from year to year, but may not accrue more than a total of 80 hours of sick and safe leave unless employer agrees to higher amount. Sick leave begins to accrue at start of employment (or July 1, 2017, when the ordinance will take effect), but it may not be used until 90 calendar days after the start of employment.
- **Morristown, NJ (1/11/2017):** Covered employees accrue one sick leave hour for every 30 hours worked. Accrual can be capped at 40 hours per year (24 hours if certain employers have fewer than 10 employees). Accrued-but-unused leave carries over to the following year. Leave use can be capped at 40 hours per year.
- **Vermont (1/1/2017):** Covered employees accrue one hour of paid sick time for every 52 hours worked and can accrue or use up to 24 hours in 2017 and 2018, and 40 hours in 2019 and following years. While existing employees will begin accruing paid sick leave as of January 1, 2017, they will not be eligible to use the leave until December 31, 2017.

Cast & Crew provides paid sick leave solutions for Cast & Crew-exclusive clients as well as Cast & Crew clients that use multiple payroll providers. For more information, click [here](#).

LEGISLATION, CASE LAW AND NLRB DECISIONS

Paid Time Off (PTO) Reporting Requirements: In what appears to be a case of first impression, California's Fourth Appellate District upheld a lower court's decision that employees aren't entitled to see a breakdown of the monetary value of accrued vacation or PTO on each wage statement. The plaintiff had alleged that PTO qualify as "gross/net wages earned" under California Labor Code 226 and must be included on employees' wage statements. However, the court held that PTO is a form of deferred compensation.



Time Clock Rounding Practice: In May 2016, the Ninth Circuit Court of Appeals determined that an employer's time clock rounding procedures complied with federal law. Time clock rounding is a longstanding employer practice whereby employers round employee starting and stopping times to the nearest five minutes, or to the nearest one-tenth or quarter of an hour. The court reaffirmed the importance of implementing a neutral practice that, on average, does not undercompensate employees.

Misclassifying Independent Contractors: The National Labor Relations Board (NLRB) recently released an advice memorandum in which it found that an employer's misclassification of independent contractor status was a Section 8(a)(1) violation of the National Labor Relations Act (NLRA). Employers should be sure to consult with a Labor Relations attorney if they have any concerns about an independent contractor's status.

California Legislation

- **Employers Required to Provide Employees Notice of Eligibility for California's Earned Income Tax Credit (AB 1847):** For several years, California employers have been required to notify employees regarding the federal Earned Income Tax Credit. Beginning January 1, 2017, employers must also notify employees that they may be eligible for the California Earned Income Tax Credit (EITC). The new law states that an employer must notify all employees that they may be eligible for the federal and the California EITC within one week (before or after) or at the same time that the employer provides an annual wage summary, including but not limited to, a Form W-2 or a Form 1099, to any employee. Click [here](#) for more information.
- **Total Hours Worked on Wage Statements No Longer Required for Some Employees (AB 2535):** Effective January 1, 2017, pay stubs or itemized statements provided semimonthly or with each wage payment to employees exempt from minimum wage and overtime requirements do not need to include total hours worked.
- **Employment Contracts (SB 1241):** Contracts entered into, modified, or extended on or after January 1, 2017 cannot require employees who primarily reside or work in California to adjudicate certain claims outside of California.
- **Mandated Notice to Employees of Retirement Plan/Deduction (SB1234):** Employers with four or more employees that do not offer an employer-sponsored retirement plan or an automatic payroll deduction IRA must notify new and existing employees about the existence of a state-run retirement program that will be available for private-sector employees. At this time, sample notices have not been made available.



- **Identification/Work Authorization Documents During Hiring Process (SB1001):** Prohibits requesting more or different documents than are required under federal law, refusing to honor documents that on their face reasonably appear to be genuine, refusing to honor documents or work authorization based on the specific status or term of status that accompanies the work authorization, and reinvestigating or re-verifying an employee's work authorization.

New York Legislation

- **Wage Payment:** Passed a law setting conditions for paying wages by direct deposit or by debit card.
- **Freelance Workers:** Requires a written contract if the freelance work is worth at least \$800.00, including multiple small projects over a 120-day period; that payment for services be made timely and in full; and that freelance workers be free of retaliation for exercising their rights under the bill.

Oregon Legislation

- **Pay Stub:** Employers must provide employees an itemized statement (which can be electronic if certain conditions are met) on regular paydays and when wages, salaries, or commissions are paid that include: date of payment and dates of work covered by the payment; employee name; business name, business registry number or business identification number, and address and telephone number of employer; rate(s) of pay and whether employee is paid by the hour, shift, day or week or on a salary, piece or commission basis; gross and net wages; amount and purpose of each deduction made during the pay period; allowances, if any, claimed as part of the minimum wage; for non-exempt employees, the regular hourly rate or rates of pay, number of regular and overtime hours worked, and the pay for those hours.

Pennsylvania Legislation:

- **Wage Payment:** Employers authorized to pay wages, salaries, commissions or other payments by pay card if employees authorize such payment in writing or electronically.



PRODUCTION INCENTIVES

Although Florida's program ended on June 30, 2016, and Louisiana instituted an annual funding and per-project cap, other jurisdictions — such as Kentucky, Mississippi, New Mexico, Ohio, Savannah (Georgia) and the U.S. Virgin Islands — enhanced or created a program. There currently are 34 U.S. states offering a production-incentive program.

Cast & Crew Financial Services provides an end-to-end production-incentive solution to studios and independent producers, including valuation and administration services. Cast & Crew's The Incentive Program (TIP) guides provide up-to-date information for every available incentive in the U.S. and around the world. For more information, click [here](#).

REVISED I-9 RELEASED

On November 14, 2016, the U.S. Citizenship and Immigration Services (USCIS) released a new version of Form I-9, Employment Eligibility Verification. Employers must use the new form by January 22, 2017. The previous version, dated March 8, 2013, may be used until then.

PAID FAMILY LEAVE

Employers in San Francisco must provide pay to employees receiving state paid family leave insurance benefits when leave is taken for bonding with a new child. Coverage is phased in based on employer size:

- 50 or more employees (January 1, 2017)
- 35 or more employees (July 1, 2017)
- 20 or more employees (January 1, 2018)

CBAS EXPIRING IN 2017

- Writers (theatrical and television): May 1, 2017
- Directors (film and tape): June 30, 2017
- SAG-AFTRA theatrical: June 30, 2017
- SAG-AFTRA television (includes Exhibit A, Basic Cable Live Action and the CW Supplement): June 30, 2017
- SAG-AFTRA Basic Cable Animation: June 30, 2017
- SAG-AFTRA Television Animation: June 30, 2017



AFFORDABLE CARE ACT

The Affordable Care Act requires that businesses with more than 50 full-time or full-time equivalent employees offer affordable health insurance to at least 95% of their employees, plus dependents up to age 26. Employers that do not follow these requirements will be subject to a penalty. For 2017, health coverage is deemed affordable if the cost to the employee does not exceed 9.69% of the employee's annual income.

Cast & Crew Open Health offers a seamless solution to your healthcare needs. Check out our award winning, one-of-a-kind multiple employer health plan designed especially for the entertainment industry at www.cc-openhealth.com.

Reporting Requirements

Employers who average 50 or more full-time employees (including full-time equivalent employees) are subject to the ACA employer "shared responsibility" mandate. All employees, union and non-union, are included in determining the number of employees. Subject employers are required to report health insurance coverage offered under their employer-sponsored plans in accordance with Section 6056 of the Internal Revenue Code (IRC).

EVEN IF YOU DID NOT OFFER HEALTH CARE YOU MUST STILL REPORT ON YOUR EMPLOYEES.

Each employer is responsible for its own reporting. There are two forms required to be filed by employers: Forms 1094-C and 1095-C.

Key dates affecting employers, insurers and other providers for 2017 include:

- The due date for furnishing the 2016 Form 1095-C to the employee is extended from January 31, 2017 to March 2, 2017.
- The due date for employers furnishing the 2016 Form 1094-C to the IRS remains February 28, 2017, if not filing electronically. Employers with 250 or more forms must file electronically.
- The due date for employers electronically filing the 2016 Form 1094-C with the IRS remains March 31, 2017.

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NEW MINIMUM WAGE RATES

There has been a surge in recent years in the number of localities passing their own minimum wage laws that are higher than the federally mandated \$7.25 per hour. In 2016, 14 local laws were passed, up from four in 2013. Interestingly, various localities in 2016 voted against exploring or instituting a local minimum wage law. For example, West Hollywood and Long Beach opted to not pursue proposed minimum wage ordinances. In addition, 23 states passed laws expressly prohibiting local governments from enacting their own minimum wage laws. The information below applies only to private-sector employers. It does not include alternative minimum wages for piece-rate, tipped or government contract employees.

The following states/cities are increasing their minimum wage in 2017 (effective date in parentheses):

- Alaska, \$9.80 (1/1/2017)
- Arizona, \$10.00 (1/1/2017)
- Arkansas, \$8.50 (1/1/2017)
- California, \$10.50 (26 or more employees); \$10.00 (25 or fewer employees) (1/1/2017)
 - Berkeley, \$13.75 (10/1/2017)
 - Cupertino, \$12.00 (1/1/2017)
 - El Cerrito, \$12.25 (1/1/2017)
 - Emeryville, \$14.00 (55 or fewer employees); \$15.20 (56 or more employees) (7/1/2017)
 - Long Beach, \$10.50 (1/1/2017)
 - Los Altos, \$12.00 (1/1/2017)
 - Los Angeles City/County (unincorporated areas): \$12.00 (26 or more employees); \$10.50 (25 or fewer employees) (7/1/2017)
 - Malibu, \$12.00 (26 or more employees); \$10.50 (25 or fewer employees) (7/1/2017)
 - Mountain View, \$13.00 (1/1/2017)
 - Oakland, \$12.86 (1/1/2017)
 - Palo Alto, \$12.00 (1/1/2017)
 - Pasadena, \$12.00 (26 or more employees); \$10.50 (25 or fewer employees) (7/1/2017)
 - Richmond, \$12.30 (1/1/2017)
 - Sacramento, \$10.50 (1/1/2017)
 - San Diego, \$11.50 (1/1/2017)
 - San Francisco, \$14.00 (7/1/2017)
 - San Jose, \$10.50 (1/1/2017)
 - San Mateo, \$12.00 (1/1/2017)



- Santa Clara, \$11.10 (1/1/2017)
- Santa Monica, \$12.00 (26 or more employees); \$10.50 (25 or fewer employees) (7/1/2017)
- Sunnyvale, \$13.00 (1/1/2017)
- San Jose, \$10.50 (1/1/2017)
- San Leandro, \$12.00 (7/1/2017)
- San Mateo, \$12.00 (1/1/2017)
- Santa Clara, \$11.10 (1/1/2017)
- Santa Monica, \$12.00 (26 or more employees); \$10.50 (25 or fewer employees) (7/1/2017)
- Sunnyvale, \$13.00 (1/1/2017)
- Colorado, \$9.30 (1/1/2017)
- Connecticut, \$10.10 (1/1/2017)
- District of Columbia, \$12.50 (7/1/2017)
- Florida, \$8.10 (indexed annual increases 1/1/2017)
- Hawaii, \$9.25 (1/1/2017)
- Illinois
 - Chicago, \$11.00 (7/1/2017)
 - Cook County, \$10.00 (7/1/2017)
- Iowa
 - Johnson County, \$10.10 (1/1/2017)
- Maine, \$9.00 (1/1/2017)
 - Portland, \$10.68 (1/1/2017)
- Maryland, \$9.25 (7/1/2017)
 - Montgomery County, \$11.50 (7/1/2017)
 - Prince George's County, \$11.50 (10/1/2017)
- Massachusetts, \$11.00 (1/1/2017)
- Michigan, \$8.90 (1/1/2017)
- Minnesota, \$9.50 (indexed annual increases 1/1/2017)
- Missouri, \$7.70 (indexed annual increases 1/1/2017)
- Montana, \$8.15 (indexed annual increases 1/1/2017)
- Nevada, \$8.25 (indexed annual increases 7/1/2017)
- New Jersey, \$8.44 (indexed annual increases 1/1/2017)
- New Mexico
 - Albuquerque, \$8.80 (1/1/2017)
 - Bernalillo County, \$8.70 (1/1/2017)
 - Los Cruces, \$9.20 (1/1/2017)
 - Santa Fe, \$10.91 (indexed annual increases 3/1/2017)
- New York (12/31/2016)
 - Upstate New York, \$9.70
 - New York City, \$11.00



- Nassau, Suffolk and Westchester counties, \$10.00
- Ohio, \$8.15 (indexed annual increases 1/1/2017)
- Oregon, \$10.25 (7/1/2017)
 - Portland, \$11.25 (7/1/2017)
- South Dakota, \$8.65 (indexed annual increases 1/1/2017)
- Vermont, \$10.00 (1/1/2017)
- Washington, \$11.00
 - Seattle, \$15.00 (more than 500 employees) (1/1/2017)
 - Seattle, \$11.00 (less than 500 employees)
 - Tacoma, \$11.25 (1/1/2017)

THE INFORMATION CONTAINED IN THIS PUBLICATION HAS BEEN ABRIDGED FROM LAWS, COURT DECISIONS, NEWS ARTICLES AND ADMINISTRATIVE RULINGS. THE PRECEDING INFORMATION SHOULD NOT BE CONSTRUED OR RELIED UPON AS LEGAL ADVICE AND IS SUBJECT TO CHANGE WITHOUT NOTICE. IF YOU HAVE QUESTIONS CONCERNING PARTICULAR SITUATIONS, SPECIFIC PAYROLL ADMINISTRATION OR LABOR RELATIONS ISSUES, PLEASE CONTACT YOUR LABOR RELATIONS REPRESENTATIVE.