

COVID-19 Update From EKA – March 26, 2020

Our media, government, public relations and crisis support services teams are tracking the state, local and national government responses to the COVID-19 crisis. This update has been prepared for informational purposes only and is not offered, nor should be construed, as legal advice. Below are some of the significant government-related developments over the last 24 hours.

EKA Business Resources

Several clients have contacted us as they prepare for operations after public health has been restored. We recognize that the COVID-19 outbreak is first and foremost a human tragedy, affecting millions of people. EKA has been gathering information to help businesses plan for and respond to the pandemic. If you have any questions about the availability of government resources to assist your company during these uncertain times, please call your EKA contact. As always, we are available to address your questions and concerns.

Connecting EKA Clients

EKA Client [Avaya](#) wants to help our communities more easily communicate and collaborate. Given the immediate needs in the education, nonprofit and public sectors to maintain continuity and keep students, volunteers, city councils and employees engaged, Avaya has taken action to help. Avaya is providing Avaya Spaces™ (Business Version) at **no charge** with no obligation worldwide through August 31, 2020. This cloud-based app is easy to use and provides video conferencing, team spaces, and file sharing.

Avaya understands that there is an especially immediate need at the state and local government levels. City councils and superior courts are using Avaya Spaces to reliably communicate with constituents and legal teams to minimize disruption amid closures. Education institutions are using Avaya Spaces to reliably communicate with parents, students, and each other to minimize learning disruption amid school closures. Staff can securely share documents and assign and track coursework regardless of where students or colleagues are located.

Avaya Spaces also offers support for nonprofit organizations responding to the coronavirus outbreak. Online voice and video conferencing can be used for training, status updates and public outreach. Teams can coordinate work and securely meet on the fly – anytime, anywhere, using any device. The solution is recognized for its ease of implementation, and the significant impact it can have on organizational resilience and continuity. Here is the link to [Avaya Spaces](#) and the [User Guide](#). The links below will help to provide:

- An [overview of Avaya Spaces](#), which can be shared with your users to help to get acclimated with the Avaya Spaces environment.
- [Education videos](#) that will show end users how to utilize features and functionality of Avaya Spaces.

If you have anyone that is interested in this offer, please reach out to Marcus Allen at Marcus@ekapr.com, who will initiate the request with Avaya. This free offer does not require the end user to be a current Avaya customer.

COUNTY OF LOS ANGELES

Sheriff Alex Villanueva

Los Angeles County Sheriff Alex Villanueva is fighting an urgency ordinance that would remove him as Director of Emergency Operations during this coronavirus crisis if it's passed. If the ordinance passes next Tuesday, the sheriff will only oversee law enforcement during an emergency. The sheriff says he will pull all his resources out of the emergency operations center if he's removed.

Archdiocese of Los Angeles

Archbishop Jose H. Gomez announced All Roman Catholic churches in the Archdiocese of Los Angeles would be closed until further notice because of the coronavirus outbreak. Gomez encouraged all Catholics "to continue to pray and join in communion for the celebration of Holy Mass remotely via the internet, television or radio."

CITY OF LOS ANGELES

City Council

The Los Angeles City Council will convene an emergency meeting tomorrow allowing members of the public to comment by phoning in or sending email. It is unclear how the Council will address many procedural issues such as: introducing a motion, making amendments, and sharing documents. The meeting is in response to the huge backlash for canceling the meeting on Tuesday.

Currently, it is unknown if the worker retention/hiring/seniority items will be heard. Draft ordinances have been circulated to some members, but not all. The two motions are [20-0147-S15](#) and [20-0147-S42](#)

Van Nuys-based advocacy group Valley Industry & Commerce Association has voiced opposition to a Los Angeles City Council motion to regulate business. In a press release titled "[L.A. City Council Wants to Run Businesses During Economic Crisis](#)" VICA President Stuart Waldman railed against proposed measures for a March 24 meeting to address industry sustainability issues. "Two of the measures will dictate how employers can react to the financial crisis resulting from COVID-19," Waldman wrote, singling out a measure by Councilmembers Mike Bonin, Marqueece Harris-Dawson, Paul Koretz and, separately, a motion by Gil Cedillo. According to Waldman's release, the ordinances will prescribe that businesses lay off employees based on seniority. Also, if a business survives the recession, employees will have the right of recall based on seniority and if a business is sold, the laid off employees will have the right of retention. Furthermore, businesses will need "just cause" to terminate an employee.

Mayor Garcetti

Los Angeles Mayor Eric Garcetti has authorized city department heads to take any action necessary within their budgets" to obtain materials, construction equipment, services and anything else that can help keep people safe during the coronavirus pandemic. The Mayor said the City has no plans to lay off any of its staff, saying such a move would only exacerbate the crisis. More than 1,000 city employees have been working during the pandemic as part of the Los Angeles Disaster Service Worker Program.

During his news conference, the Mayor said the City will shut down water and power to nonessential businesses that refuse to close. The [order](#) requires LA residents to stay at home except for in a number of situations, including to get food, health or medical necessities -- as well as to care for children or adult relatives, friends and people with disabilities.

The Mayor said the \$2 trillion federal stimulus package will provide Los Angeles with about \$400 million to assist LAX operations, \$700 million for the Metropolitan Transportation Authority, tens of millions' in local assistance for areas with low-income residents and \$32 million in emergency homeless assistance. The Mayor acknowledged the details of the package are still being worked out and it doesn't address assistance for immigrants, but he said he is willing to spend whatever it takes in city funding to help with outbreak prevention efforts, with anticipation that the City will be reimbursed.

Eviction Moratorium

The City of Los Angeles eviction moratorium order **does not** mean a rent freeze or holiday. Here is further information regarding the Mayor's recently-issued [temporary eviction moratorium](#) due to the COVID-19 pandemic. These are the protections now in place for those Angelenos unable to pay their rent due to coronavirus.

According to the City's Housing + Community Investment Department, the circumstances covered for non-payment of rent may include:

- Loss of income due to workplace closure or reduced hours due to COVID-19
- Loss of income or childcare expenditures due to school closures
- Health care expenditures stemming from COVID-19 infection of the tenant or a member of the tenant's household who is ill with COVID-19
- Reasonable expenditures stemming from government ordered emergency measures.

While this moratorium aims to alleviate the immediate economic impacts of the pandemic for tenants, according to the emergency order, renters are still obligated to pay the monthly rate as outlined in lease agreements. However, during the emergency period, landlords are barred from evicting commercial and residential tenants who are unable to pay rent. According to the order, tenants will have up to six months following the expiration of the local emergency to repay any back rent due. For more information on the City's Emergency Order Eviction Moratorium, please visit the Housing + Community Investment Development's website [here](#).

More information related to COVID-19:

- [How the City of L.A. is responding to the coronavirus outbreak](#)
- [City Attorney's efforts to prevent price gouging and scams](#)
- [L.A. County's guide to social distancing](#)

LONG BEACH

The City said that eight Long Beach firefighters have tested positive for coronavirus, prompting a sanitizing effort at a city fire station and notifications of people who may have come into contact with them. The firefighters tested positive late Tuesday night and are all in "stable condition" in isolation at home, according to the City. City officials said they are still investigating how the firefighters were exposed, but all eight had recently worked at Fire Station 11, located at 160 E. Market St. That station and all apparatus in it were being sanitized.

CULVER CITY

Street Sweeping

The City announced that street sweeping services are still occurring, while parking enforcement on street sweeping days has been temporarily suspended (until April 1, 2020). The City has temporarily relaxed enforcement to address the changing parking needs because more people are working from home. Understanding that the street sweeper must maneuver around parked cars, many residents have inquired about the relaxed enforcement, and on their own have moved their vehicles off of the street on posted street sweeping days. The City kindly requests motorists to move their cars *when possible* on street sweeping days during this relaxed enforcement period.

City's Homelessness Outreach Efforts

City staff, along with the Culver City Police Department's Mental Health Evaluation Team (MHET), have conducted outreach and will continue to reach out to people in the City currently experiencing homelessness. Over the weekend, Culver City staff and CCPD MHET passed out hand sanitizer and ensured the installation of a hand washing station in the City's largest encampment. The team also provided individuals with information about [Los Angeles Homeless Services Authority's extended Winter Shelter program](#). Staff is also actively working to bring portable toilets to the location. Collaborative efforts have ensured that there are [hand washing stations throughout Los Angeles County](#).

SACRAMENTO

Mortgage Relief

Governor Gavin Newsom announced that the state has reached an agreement with several major banks and financial institutions to delay foreclosures and provide mortgage relief to California homeowners who are struggling to make their monthly payments due to the COVID-19. The governor added that Bank of America only committed to offering a 30-day grace period for mortgages by people affected by the coronavirus. He hopes that the bank reconsiders their position. Eligible homeowners would be able to defer mortgage payments for at least three months and perhaps longer if they suffer hardship due to the pandemic. Any late payments would not be reported to credit agencies. The federal government earlier this month announced that Americans with loans backed by the government-sponsored agencies Fannie Mae or Freddie Mac would be eligible to defer mortgage payments and be shielded from foreclosure if they could not afford to make payments due to the outbreak.

Unemployment After a Coronavirus-Related Layoff in California

The COVID-19 pandemic has left millions of Californians out of work through no fault of their own. California recently loosened its eligibility criteria for unemployment benefits in response to the pandemic. If a person quits work because they have childcare responsibilities arising from the closure of a child's school or daycare, they are eligible for unemployment benefits. In addition, if a person has been forced to quit their job in order to self-isolate or to care for family members who have contracted the disease (or are quarantined), they will likely qualify for benefits. As mentioned in previous updates, the governor issued an executive order waiving the usual one-week waiting period for benefits. That means if a person is approved, they will be entitled to benefits starting the first week they become unemployed. For more information about coronavirus and unemployment in California, read [these FAQs](#) from the state's Employment Development Department.

Health insurance premiums

Covered California says there could be up to \$251 billion in unexpected costs that commercial insurers will have to account for, and it could be passed to consumers. Covered California said that due to the pandemic, premiums could increase by 40% nationwide. For comparison, the rate increase for Californians in 2020 was 0.8%. Covered California's analysis shows the impact of COVID-19 will be significant, and that absent federal action, consumers, employers and our entire health care system may be facing unforeseen costs that could exceed \$251 billion. While there is uncertainty with cost projections and the coronavirus, [the study says](#) one-year projected costs in the commercial market range from \$34 billion to \$251 billion for testing, treatment, and care related to the virus.

Vote-By-Mail

Gov. Gavin Newsom [signed an executive order](#) last week allowing vote-by-mail for three special elections coming up in the next few months and giving counties an additional 21 days to finish counting ballots from the March 3 primary. Padilla said those special elections would help inform any future efforts to further expand mail-in voting in November.

The California Secretary of State's office has issued [CCROV #20066](#) regarding in-person initiative petition filing, suggesting county elections officials offer alternative opportunities to file these petitions. In Congress, lawmakers are debating a proposal to require states to allow mail-in voting and send \$2 billion to election officials to help expand the process as part of a larger coronavirus relief package. But the idea has faced opposition from Republicans who argue that the bill should focus on economic relief, not voting rights.

Department of Alcoholic Beverage Control

The California ABC has released a brand new [Frequently Asked Questions](#) (FAQ's) document related to the [Notice of Regulatory Relief](#) that they issued last week as ABC continues its response to the COVID-19 pandemic.

Amazon

California Attorney General Xavier Becerra today [sent several letters](#) calling on large online marketplaces to intensify their efforts to combat price gouging related to novel coronavirus—or

COVID-19—on their platforms. Many platforms are currently, or were until recently, flooded with potentially illegal postings by third-party sellers for products listed at highly inflated prices.

California's \$21-billion surplus

California's economy has taken a hit as the coronavirus pandemic continues to grow. There are growing fears that crisis could wipe out California's budget surplus in a matter of months. The president of the Greater Sacramento Economic Council says capital gains taxes in the state have already dropped by \$9 billion. Newsom's Department of Finance reported in January that a moderate recession had projected revenue losses of up to \$50 billion over the next two years. However, with California's \$5 billion surplus and a projected \$21 billion in reserves, the state is in a better position than others to deal with the expected big hit to the economy.

NATIONAL

Families First Coronavirus Response Act - Business Provisions

The final version of the \$2 trillion COVID-19 stimulus bill formally called the Families First Coronavirus Response Act reportedly devotes hundreds of billions of dollars in support of loans to companies and [small businesses](#) that are intended to keep them from failing and laying off workers. According to several media reports, the bill includes a variety of mechanisms for businesses of different sizes. Among the most important is a \$367 billion program aimed at keeping the country's unemployment rate from skyrocketing. While the full final text of the bill has **not yet been released**, comments from those familiar with the legislation note the following:

- Small and medium businesses with fewer than 500 workers will be able to apply for government-backed, forgivable loans to cover the costs of their workers' wages, as well as some other business expenses such as rent, up to a maximum of \$10 million. If companies lay off workers, however, parts of the loan will not be forgiven.
- A \$10 billion fund of emergency relief grants set up to help struggling businesses cover other expenses.
For larger companies with up to 10,000 workers, the government is providing tax credits covering 50 percent of employee wages.
- For workers who still lose their jobs, the bill offers additional support to unemployment programs.
- It creates a special Pandemic Unemployment Assistance program that will expand coverage to the self-employed, independent contractors and people with limited work history, who typically are iced out of the benefit.
- Business loans in the package go further than providing money to keep workers. Another \$500 billion is set aside to pump credit to struggling businesses. Of that, \$46 billion would go toward programs to save the airline industry and other reeling companies deemed important to national security.
- \$454 billion would be used to leverage Federal Reserve loans. Because the Federal Reserve is not allowed, by law, to take a loss on its loans, it is limited in the kinds of credit it can offer. The Treasury funds would allow it to put out trillions more in business loans by covering potential losses.
- Loans would come with strings, such as limitations on stock buybacks, executive compensation and layoffs.

- There will also be an inspector general and a congressional oversight panel to examine the loans.

The Department of Labor has created an initial document that details [employer paid leave requirements](#) and a very helpful [FAQ document](#). Senate Democrats have created a document that details [provisions for employees](#).

COVID-19: April 1 Effective Date for FFCRA Leaves

On Tuesday, March 24, the Department of Labor (DOL) announced that the effective date of the leaves available through the Families First Coronavirus Response Act (FFCRA) will be April 1, 2020. Based on the language in the bill, the effective date was widely believed to be April 2. The DOL announced the effective date in a "Questions and Answers" document where it also provided answers to some common questions. Other than the April 1 effective date, the information is in line with what we have been advising. The DOL also released two Fact Sheets, both of which appear to contain the same information, but it's possible they will each be updated in the future with information that is geared more toward employees or employers.

- [Questions and Answers](#)
- [Fact Sheet for Employees](#)
- [Fact Sheet for Employer](#)

While the links above do not provide much new information, they are worth reviewing. We are still waiting on regulations from the DOL to answer many questions about how these leaves will be administered and how they will interact with other leaves. We will post updated information in Comply as soon as it is released.

WAGE & HOUR PITFALLS

The State of California Labor Commissioners office has released a Coronavirus Disease (COVID-19) [FAQs](#) on laws enforced by the California Labor Commissioner's Office. Because of frequent developments, and the need to adapt the general guidance below to specific circumstances, employers should consult counsel regarding specific circumstances. As a reminder, EKA is not a law firm.

Layoffs and Final Pay

Many employers are navigating layoffs and furloughs as businesses close their doors or cut services due to the pandemic. It is important to maintain compliance with [California's final pay laws](#) during this time. Specifically, when employment is terminated, wages earned and unpaid at the time of discharge are due and payable immediately along with all accrued, but unused, vacation time. For purposes of final pay, "accrued vacation" includes traditional vacation pay as well as paid time off (PTO). In the event of a temporary closure, employers should clearly define a return-to-work date to avoid triggering the final pay requirements.

Furloughs and Exempt Employees

Furloughs are a company-initiated short-term, temporary, unpaid leave of absence. According to the [National Law Review](#), Reasonable advance notice of furloughs should be given to

employees. However, under the current circumstances surrounding the COVID-19 pandemic, advance notice is not always possible. Under California law, employers should not place exempt employees on partial week furloughs because exempt employees must be paid their full salary for a workweek during which ANY work is performed. Accordingly, the better approach is to implement a salary reduction due to reduced workload resulting from reduced business demands.

Reporting Time Pay

Under California law, reporting time pay is triggered when employees report for a scheduled shift and are immediately dismissed or put to work for less than half their usual or scheduled day's work. The law requires that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half the employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage. Employers must be mindful of this requirement in the event they are struggling to stay open and schedule employees to work in the hopes that they will be kept busy during a shift but are cutting shifts short. Additionally, employers who notify employees of layoffs after employees report for a scheduled shift, must also comply with this requirement.

Non-exempt Employees Working Remotely

Employers allowing hourly employees to work from home or otherwise remotely during the COVID-19 crisis should take care in assigning schedules based on business needs and consider limiting work time to not more than eight (8) hours in a day and not more than 40 hours in the week, authorizing employees to exceed these amounts only if authorized in advance in writing. Employees must track all time worked and report such time daily. Clearly inform non-exempt employees that if they are performing ANY work, including responding to calls or emails about work duties, that time must be recorded and reported. No off the clock work is permitted. Remote workers should be informed of the employer's expectations in writing, including that employees are expected to take all applicable breaks and to record meal breaks. Employers may want to consider company-issued electronic devices for remote workers to use in performing work duties to avoid expense reimbursement issues.

Expense Reimbursement Issues

Under California law, employees are entitled to reimbursement for all necessary expenditures incurred during the performance of work duties. Thus, California employees must be reimbursed for business-related expenses, such as equipment, materials, training, business travel and uniforms. In the event employees (both exempt and non-exempt) are using their own electronic devices or other equipment in order to perform work duties remotely during the COVID-19 pandemic, they are entitled to reimbursement for the necessary and reasonable use of such devices or equipment for business-related reasons. Employers should provide a written policy to employees explaining that reasonable business expenses will be reimbursed and how employees should request reimbursement for any business-related expenses they incur.

Timely Payment Of Wages

It is important to remember during this time that all wages earned by any person are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Specifically, under [Labor Code section 204](#) labor performed between the 1st and 15th days, shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day of the month shall be paid for between the 1st and 10th day of the following month.

Articles Of Interest

Given the uncertainty and drastic drop in demand in the restaurant industry, national chain The Cheesecake Factory has revealed some struggles it is pushing through during the coronavirus crisis as detailed in an [Eater Los Angeles](#) article.

In a letter on March 18, Cheesecake Factory CEO David Overton informed its landlords it would not be able to make its rent payments for the month of April, citing a severe decline in restaurant traffic that has "inflicted a tremendous financial blow" to business. The restaurant chain has been forced to close 27 stores across the country and others have been restricted to only take-out and delivery orders, which [it said](#) just days ago was enabling the company to "operate sustainably at present."

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