

AMENDED IN SENATE JULY 3, 2001
AMENDED IN SENATE JUNE 13, 2001
AMENDED IN ASSEMBLY MAY 8, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1635

Introduced by Assembly Member Vargas

February 23, 2001

An act to amend Section 1198.5 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1635, as amended, Vargas. Personnel records.

Existing law provides that every employee has the right to inspect the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.

This bill would further provide that the employee has the right to obtain a copy of those personnel records. The bill would allow the employer to charge the employee copying costs in the amount specified in any applicable collective bargaining agreement or, if there is no collective bargaining agreement, or, if the agreement does not specify an amount, the employer may charge the actual copying costs incurred, not to exceed 10¢ per page.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1198.5 of the Labor Code is amended to
2 read:

3 1198.5. (a) Every employee has the right to inspect and
4 obtain a copy of the personnel records that the employer maintains
5 relating to the employee’s performance or to any grievance
6 concerning the employee. The employer may charge the employee
7 copying costs in the amount specified in any applicable collective
8 bargaining agreement. In the event that there is no collective
9 bargaining agreement, or the agreement does not specify an
10 amount, the employer may charge the employee for the actual
11 copying costs incurred, not to exceed ten cents (\$0.10) per page.

12 (b) The employer shall make the contents of those personnel
13 records available to the employee at reasonable intervals and at
14 reasonable times. Except as provided in paragraph (3) of
15 subdivision (c), the employer shall not be required to make those
16 personnel records available at a time when the employee is actually
17 required to render service to the employer.

18 (c) The employer shall do one of the following:

19 (1) Keep a copy of each employee’s personnel records at the
20 place where the employee reports to work.

21 (2) Make the employee’s personnel records available at the
22 place where the employee reports to work within a reasonable
23 period of time following an employee’s request.

24 (3) Permit the employee to inspect and obtain a copy of the
25 personnel records at the location where the employer stores the
26 personnel records, with no loss of compensation to the employee.

27 (d) The requirements of this section do not apply to:

28 (1) Records relating to the investigation of a possible criminal
29 offense.

30 (2) Letters of reference.

31 (3) Ratings, reports, or records that were:

32 (A) Obtained prior to the employee’s employment.

33 (B) Prepared by identifiable examination committee members.

34 (C) Obtained in connection with a promotional examination.

35 (4) Employees who are subject to the Public Safety Officers
36 Procedural Bill of Rights, Chapter 9.7 (commencing with Section
37 3300) of Division 4 of Title 1 of the Government Code.



1 (5) Employees of agencies subject to the Information Practices
2 Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4
3 of Division 3 of the Civil Code).

4 (e) The Labor Commissioner may adopt regulations that
5 determine the reasonable times and reasonable intervals for the
6 inspection of records maintained by an employer that is not a
7 public agency.

8 (f) If a public agency has established an independent employee
9 relations board or commission, an employee shall first seek relief
10 regarding any matter or dispute relating to this section from that
11 board or commission before pursuing any available judicial
12 remedy.

13 (g) In enacting this section, it is the intent of the Legislature to
14 establish minimum standards for the inspection of personnel
15 records by employees. Nothing in this section shall be construed
16 to prevent the establishment of additional rules for the inspection
17 of personnel records that are established as the result of agreements
18 between an employer and a recognized employee organization.

19 *SEC. 2. The amendments made to Section 1198.5 of the Labor*
20 *Code by Section 1 of this act do not expand the scope of personnel*
21 *records that an employer is required to make available to an*
22 *employee for inspection.*

