

AMENDED IN ASSEMBLY MARCH 26, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2052**

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**Introduced by Assembly Member Haynes**  
*(Coauthors: Assembly Members Dutton, La Suer, Leslie, Maze, Mountjoy, Pacheco, Plescia, and Wyland)*  
*(Coauthors: Senators Aanestad and Oller)*

February 17, 2004

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An act to amend Sections 80, 226, 922, 1101, and 1102, and to repeal Section 923 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2052, as amended, Haynes. Employment.

Existing law requires that the headquarters of the Division of Labor Standards Enforcement be located in San Francisco.

This bill would delete that requirement.

Existing law requires employers to furnish their employees with certain information regarding compensation and deductions from payments of wages. Existing law also provides that current or former employees of an employer have the right to inspect and copy these records and requires employers to comply with requests to inspect or copy these records within 21 calendar days from the date of the request, or be subject to penalties.

This bill would additionally require an employer to notify each of the employer's employees of any deductions made from the employee's paycheck that are to be used for political purposes.

Under existing law, any person or agent, or officer of that person or agent, who coerces any person to enter into an agreement not to join or

become a member of any labor organization as a condition of securing or continuing in employment with that person, is guilty of a misdemeanor.

This bill would additionally make any person or agent, or officer of that person or agent, who coerces any person to enter into an agreement to join or become a member of any labor organization as a condition of securing or continuing in employment with that person, guilty of a misdemeanor, thereby imposing a state-mandated local program.

Existing law declares that, in the interpretation and application of certain provisions, it is the public policy of the state that individual workers be permitted to organize and engage in other activities for the purpose of collective bargaining.

This bill would repeal that declaration of public policy.

Existing law prohibits any employer from making, adopting, or enforcing any rule, regulation, or policy that forbids employees from participating in politics or becoming a candidate for public office, or controls or directs the political activities or affiliations of employees. Existing law also prohibits any employer from coercing or influencing its employees to adopt or refrain from adopting any particular course or line of political action or activity.

This bill would additionally prohibit any labor union from performing those same actions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 80 of the Labor Code is amended to  
2 read:

3 80. For purposes of this chapter, “division” means the  
4 Division of Labor Standards Enforcement.

5 SEC. 2. Section 226 of the Labor Code is amended to read:

6 226. (a) (1) Every employer shall, semimonthly or at the  
7 time of each payment of wages, furnish each of the employer’s



1 employees, either as a detachable part of the check, draft, or  
2 voucher paying the employee's wages, or separately when wages  
3 are paid by personal check or cash, an accurate itemized *written*  
4 statement ~~in writing~~ showing all of the following:

5 (A) Gross wages earned.

6 (B) Total hours worked by the employee, except for any  
7 employee whose compensation is solely based on a salary and who  
8 is exempt from payment of overtime under subdivision (a) of  
9 Section 515 or any applicable order of the Industrial Welfare  
10 Commission.

11 (C) The number of piece-rate units earned and any applicable  
12 piece rate if the employee is paid on a piece-rate basis.

13 (D) All deductions, provided that all deductions made on  
14 written orders of the employee may be aggregated and shown as  
15 one item.

16 (E) Net wages earned.

17 (F) The inclusive dates of the period for which the employee is  
18 paid.

19 (G) The name of the employee and his or her social security  
20 number.

21 (H) The name and address of the legal entity that is the  
22 employer.

23 (I) All applicable hourly rates in effect during the pay period  
24 and the corresponding number of hours worked at each hourly rate  
25 by the employee.

26 (2) (A) The deductions made from payments of wages shall be  
27 recorded in ink or other indelible form, properly dated, showing  
28 the month, day, and year.

29 (B) A copy of the statement required by paragraph (1), or a  
30 record of the deductions, shall be kept on file by the employer for  
31 at least three years at the place of employment or at a central  
32 location within the State of California.

33 (C) An employer shall notify each of its employees of any  
34 deductions made from the employee's paycheck that are to be used  
35 for political purposes.

36 (b) An employer that is required by this code or any regulation  
37 adopted pursuant to this code to keep the information required by  
38 subdivision (a) shall afford current and former employees the right  
39 to inspect or copy the records pertaining to that current or former  
40 employee, upon reasonable request to the employer. The employer



1 may take reasonable steps to assure the identity of a current or  
2 former employee. If the employer provides copies of the records,  
3 the actual cost of reproduction may be charged to the current or  
4 former employee.

5 (c) An employer who receives a written or oral request to  
6 inspect or copy records pursuant to subdivision (b) pertaining to  
7 a current or former employee shall comply with the request as soon  
8 as practicable, but no later than 21 calendar days from the date of  
9 the request. A violation of this subdivision is an infraction.  
10 Impossibility of performance, not caused by or a result of a  
11 violation of law, shall be an affirmative defense for an employer  
12 in any action alleging a violation of this subdivision. An employer  
13 may designate the person to whom a request under this subdivision  
14 will be made.

15 (d) This section does not apply to any employer of any person  
16 employed by the owner or occupant of a residential dwelling  
17 whose duties are incidental to the ownership, maintenance, or use  
18 of the dwelling, including the care and supervision of children, or  
19 whose duties are personal and not in the course of the trade,  
20 business, profession, or occupation of the owner or occupant.

21 (e) An employee suffering injury as a result of a knowing and  
22 intentional failure by an employer to comply with subdivision (a)  
23 is entitled to recover the greater of all actual damages or fifty  
24 dollars (\$50) for the initial pay period in which a violation occurs  
25 and one hundred dollars (\$100) per employee for each violation in  
26 a subsequent pay period, not exceeding an aggregate penalty of  
27 four thousand dollars (\$4,000), and is entitled to an award of costs  
28 and reasonable attorney's fees.

29 (f) A failure by an employer to permit a current or former  
30 employee to inspect or copy records within the time set forth in  
31 subdivision (c) entitles the current or former employee or the  
32 Labor Commissioner to recover a seven hundred fifty dollar  
33 (\$750) penalty from the employer.

34 (g) An employee may also bring an action for injunctive relief  
35 to ensure compliance with this section, and is entitled to an award  
36 of costs and reasonable attorney's fees.

37 (h) This section does not apply to the state, or any city, county,  
38 city and county, district, or any other governmental entity.

39 SEC. 3. Section 922 of the Labor Code is amended to read:



1 922. Any person or agent, or officer thereof, who coerces or  
2 compels any person to enter into a written or verbal agreement to  
3 join or become a member or not to join or become a member, of  
4 any labor organization as a condition of securing employment or  
5 continuing in the employment of that person, is guilty of a  
6 misdemeanor.

7 SEC. 4. Section 923 of the Labor Code is repealed.

8 SEC. 5. Section 1101 of the Labor Code is amended to read:

9 1101. No employer or labor union may make, adopt, or  
10 enforce any rule, regulation, or policy that does either of the  
11 following:

12 (a) Forbids or prevents employees from engaging or  
13 participating in politics or from becoming candidates for public  
14 office.

15 (b) Controls, directs, or tends to control or direct the political  
16 activities or affiliations of employees.

17 SEC. 6. Section 1102 of the Labor Code is amended to read:

18 1102. No employer or labor union may coerce or influence or  
19 attempt to coerce or influence that employer's employees or labor  
20 union's members by means of threat of discharge or loss of  
21 employment, to adopt or follow or refrain from adopting or  
22 following any particular course or line of political action or  
23 political activity.

24 SEC. 7. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

