

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1172

Introduced by Assembly Member Chu

February 22, 2005

~~An act relating to public contracts. An act to amend Sections 200 and 224 of the Labor Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1172, as amended, Chu. ~~Public contracts: offshore jobs~~
Employment: wages.

~~The State Contract Act authorizes the Department of General Services, or any other department with authority to enter into contracts, to require prospective bidders of state contracts to complete a questionnaire and financial statement regarding the prospective bidder's financial ability and experience in performing public works contracts.~~

~~This bill would declare the Legislature's intent to require any vendor awarded a contract for services in excess of \$100,000 to disclose an estimate of any or all portions of the contract that will be performed by subcontractors or employees outside of the United States.~~

~~Existing law defines wages to include all amounts for labor performed by employees of every description.~~

~~This bill would specify that the definition of wages includes advances on commissions.~~

~~Existing law generally prohibits an employer from withholding or diverting any portion of an employee's wages, except for when the employer is required or empowered to do so by federal or state law, or for other specified deductions.~~

This bill would, notwithstanding that exception, prohibit an employer from withholding or diverting any portion of an employee’s wages to repay an advance on commissions unless the employer has first obtained a valid assignment of wages.

This bill would declare that its provisions are declaratory of existing law and shall apply to all existing claims and causes of action.

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

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

1 ~~SECTION 1. The Legislature declares its intent to require any~~
2 ~~vendor awarded a contract for services in excess of one hundred~~
3 ~~thousand dollars (\$100,000) to disclose an estimate of any or all~~
4 ~~portions of the contract that will be performed by subcontractors~~
5 ~~or employees outside of the United States.~~

6 SECTION 1. Section 200 of the Labor Code is amended to
7 read:

8 200. As used in this article, the following terms have the
9 following meanings:~~(a)~~

10 (a) “Wages” includes all amounts for labor performed by
11 employees of every description, whether the amount is fixed or
12 ascertained by the standard of time, task, piece, commission
13 basis, or other method of calculation, and includes advances on
14 commissions.

15 (b) “Labor” includes labor, work, or service whether rendered
16 or performed under contract, subcontract, partnership, station
17 plan, or other agreement if the labor to be paid for is performed
18 personally by the person demanding payment.

19 SEC. 2. Section 224 of the Labor Code is amended to read:

20 224. (a) The provisions of Sections 221, 222, and 223 shall
21 in no way make it unlawful for an employer to withhold or divert
22 any portion of an employee’s wages when the employer is
23 required or empowered so to do by state or federal law or when a
24 deduction is expressly authorized in writing by the employee to
25 cover insurance premiums, hospital or medical dues, or other
26 deductions not amounting to a rebate or deduction from the
27 standard wage arrived at by collective bargaining or pursuant to
28 wage agreement or statute, or when a deduction to cover health

1 and welfare or pension plan contributions is expressly authorized
2 by a collective bargaining or wage agreement.

3 *(b) Notwithstanding subdivision (a), an employer shall not*
4 *withhold or divert any portion of an employee's wages to repay*
5 *an advance on commissions unless the employer has first*
6 *obtained a valid assignment of wages pursuant to Section 300.*

7 *(c) Nothing in this section or any other provision of law shall*
8 *be construed as authorizing an employer to withhold or divert*
9 *any portion of an employee's wages to pay any tax, fee, or*
10 *charge prohibited by Section 50026 of the Government Code,*
11 *whether or not the employee authorizes such that withholding or*
12 *diversion.*

13 *SEC. 3. The amendments made by this act are declaratory of*
14 *existing law and, as such, shall apply to all existing claims and*
15 *causes of action.*