

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 734**

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**Introduced by Assembly Member Evans**

February 22, 2007

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An act to amend Sections 923, 1770, 1773.4, 1778, 1780, 1811, 4651.2, and 7152 of, and to add Section 6353.5 to, the Labor Code, relating to workers.

LEGISLATIVE COUNSEL'S DIGEST

AB 734, as amended, Evans. Workers: worker safety and gender neutrality.

Existing law requires the Division of Occupational Safety and Health to research ways to improve worker safety.

This bill would require the division, ~~in conjunction with the University of California~~, to investigate the health and safety of workers in state developmental centers, veterans' homes, and state hospitals, where there are staff shortages.

Existing provisions of the Labor Code governing workers use the term "workman" and other masculine words and define the masculine gender to include the feminine.

This bill would either replace masculine terms with gender-neutral terms or add feminine terms to make the provisions applicable to both men and women.

This bill would also make additional technical, nonsubstantive changes.

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

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

1 SECTION 1. Section 923 of the Labor Code is amended to  
2 read:  
3 923. In the interpretation and application of this chapter, the  
4 public policy of this state is declared as follows:  
5 Negotiation of terms and conditions of labor should result from  
6 voluntary agreement between employers and employees.  
7 Governmental authority has permitted and encouraged employers  
8 to organize in the corporate and other forms of capital control. In  
9 dealing with employers, the individual unorganized worker is  
10 helpless to exercise actual liberty of contract and to protect his or  
11 her freedom of labor, and thereby to obtain acceptable terms and  
12 conditions of employment. Therefore it is necessary that the  
13 individual worker have full freedom of association,  
14 self-organization, and designation of representatives of his or her  
15 own choosing, to negotiate the terms and conditions of his or her  
16 employment, and that the worker be free from the interference,  
17 restraint, or coercion of employers of labor, or their agents, in the  
18 designation of representatives or in self-organization or in other  
19 concerted activities for the purpose of collective bargaining or  
20 other mutual aid or protection.  
21 SEC. 2. Section 1770 of the Labor Code is amended to read:  
22 1770. The Director of Industrial Relations shall determine the  
23 general prevailing rate of per diem wages in accordance with the  
24 standards set forth in Section 1773, and the director's determination  
25 in the matter shall be final except as provided in Section 1773.4.  
26 Nothing in this article, however, shall prohibit the payment of  
27 more than the general prevailing rate of wages to any worker  
28 employed on public work. Nothing in this act shall permit any  
29 overtime work in violation of Article 3 (commencing with Section  
30 1810).  
31 SEC. 3. Section 1773.4 of the Labor Code is amended to read:  
32 1773.4. Any prospective bidder or his or her representative,  
33 any representative of any craft, classification or type of worker  
34 involved, or the awarding body may, within 20 days after  
35 commencement of advertising of the call for bids by the awarding

1 body, file with the Director of Industrial Relations a verified  
2 petition to review the determination of any such rate or rates upon  
3 the ground that they have not been determined in accordance with  
4 the provision of Section 1773. Within two days thereafter, a copy  
5 of the petition shall be filed with the awarding body. The petition  
6 shall set forth the facts upon which it is based. The Director of  
7 Industrial Relations or his or her authorized representative shall,  
8 upon notice to the petitioner, the awarding body and those other  
9 persons as he or she deems proper, including the recognized  
10 collective bargaining representatives for the particular crafts,  
11 classifications or types of work involved, institute an investigation  
12 or hold a hearing. Within 20 days after the filing of a petition, or  
13 within such longer period as agreed upon by the director, the  
14 awarding body, and all the interested parties, he or she shall make  
15 a determination and transmit the same in writing to the awarding  
16 body and to the interested parties.

17 The determination shall be final and shall be the determination  
18 of the awarding body. Upon receipt by it of the notice of the filing  
19 of a petition, the body awarding the contract or authorizing the  
20 public work shall extend the closing date for the submission of  
21 bids or the starting of work until five days after the determination  
22 of the general prevailing rates of per diem wages pursuant to this  
23 section.

24 Upon the filing of a petition, notice thereof shall be set forth in  
25 the next and all subsequent publications by the awarding body of  
26 the call for bids. No other notice need be given to bidders by the  
27 awarding body by publication or otherwise. The determination of  
28 the director shall be included in the contract.

29 SEC. 4. Section 1778 of the Labor Code is amended to read:

30 1778. Every person, who individually or as a representative of  
31 an awarding or public body or officer, or as a contractor or  
32 subcontractor doing public work, or agent or officer thereof, who  
33 takes, receives, or conspires with another to take or receive, for  
34 his or her own use or the use of any other person any portion of  
35 the wages of any worker or working subcontractor, in connection  
36 with services rendered upon any public work, is guilty of a felony.

37 SEC. 5. Section 1780 of the Labor Code is amended to read:

38 1780. Any person acting on behalf of the state or any political  
39 subdivision, or any contractor or subcontractor or agent or  
40 representative thereof, doing any public work who places any order

1 for the employment of a worker on public work, where the filling  
2 of the order for employment involves the charging of a fee, or the  
3 receiving of a valuable consideration from any applicant for  
4 employment, is guilty of a misdemeanor.

5 SEC. 6. Section 1811 of the Labor Code is amended to read:  
6 1811. The time of service of any worker employed upon public  
7 work is limited and restricted to 8 hours during any one calendar  
8 day, and 40 hours during any one calendar week, except as  
9 provided for under Section 1815.

10 SEC. 7. Section 4651.2 of the Labor Code is amended to read:  
11 4651.2. No petitions filed under Section 4651.1 shall be granted  
12 while the injured worker is pursuing a rehabilitation plan under  
13 Section 139.5.

14 SEC. 8. Section 6353.5 is added to the Labor Code, to read:  
15 6353.5. The division, ~~in conjunction with University of~~  
16 ~~California~~, shall conduct a study to determine whether the  
17 employees in state developmental centers, veterans' homes, and  
18 state hospitals have safe and healthy work conditions despite staff  
19 shortages.

20 SEC. 9. Section 7152 of the Labor Code is amended to read:  
21 7152. In addition to the duties imposed by any law regulating  
22 or relating to scaffolding, an employer who uses or permits the  
23 use of scaffolding described in Section 7151 in connection with  
24 construction, alteration, repairing, painting, cleaning, or doing of  
25 any work upon any building or structure, shall:

26 (a) Furnish safety lines to tie all hooks and hangers back on the  
27 roof of the building or structure.

28 (b) Provide safety lines hanging from the roof, securely tied  
29 thereto, for all swinging scaffolds which rely upon stirrups of the  
30 single point suspension type to support the working platform. One  
31 line shall be provided for each worker with a minimum of one line  
32 between each pair of hangers or falls.

33 The standards board may adopt occupational safety and health  
34 standards different from the requirements of this section or grant  
35 variances from these requirements if the standards or variances  
36 provide equivalent or superior safety for employees.