

ASSEMBLY BILL

No. 1896

Introduced by Assembly Member Soto

February 7, 2008

An act to amend Section 511 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1896, as introduced, Soto. Employment: alternative workweek.

Under existing law, an alternative workweek schedule proposed by an employer may be adopted through a $\frac{2}{3}$ majority vote of the employer's employees in a secret ballot. Existing law requires the employer to pay overtime compensation to employees who work more than their regularly scheduled hours under the alternative workweek. An employer must also make reasonable effort to find a work schedule that does not exceed 8 hours per day for employees who were eligible to vote in the election but are unable to work the alternative workweek hours.

This bill would make technical, nonsubstantive changes to those provisions.

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 511 of the Labor Code is amended to
2 read:
3 511. (a) Upon the proposal of an employer, the employees of
4 an employer may adopt a regularly scheduled alternative workweek

1 that authorizes work by the affected employees for no longer than
2 10 hours per day within a 40-hour workweek without the payment
3 to the affected employees of an overtime rate of compensation
4 pursuant to this section. A proposal to adopt an alternative
5 workweek schedule shall be deemed adopted only if it receives
6 approval in a secret ballot election by at least two-thirds of affected
7 employees in a work unit. The regularly scheduled alternative
8 workweek proposed by an employer for adoption by employees
9 may be a single work schedule that would become the standard
10 schedule for workers in the work unit, or a menu of work schedule
11 options, from which each employee in the unit would be entitled
12 to choose.

13 (b) An affected employee working longer than eight hours but
14 not more than 12 hours in a day pursuant to an alternative
15 workweek schedule adopted pursuant to this section shall be paid
16 an overtime rate of compensation of no less than one and one-half
17 times the regular rate of pay of the employee for any work in excess
18 of the regularly scheduled hours established by the alternative
19 workweek agreement and for any work in excess of 40 hours per
20 week. An overtime rate of compensation of no less than ~~double~~
21 *two times* the regular rate of pay of the employee shall be paid for
22 ~~any~~ work in excess of 12 hours per day and for ~~any~~ work in excess
23 of eight hours on those days worked beyond the regularly scheduled
24 workdays established by the alternative workweek agreement.
25 Nothing in this section requires an employer to combine more than
26 one rate of overtime compensation in order to calculate the amount
27 to be paid to an employee for ~~any hour of~~ overtime work.

28 (c) An employer shall not reduce an employee’s regular rate of
29 hourly pay as a result of the adoption, repeal, or nullification of
30 an alternative workweek schedule.

31 (d) An employer shall make a reasonable effort to find a work
32 schedule not to exceed eight hours in a workday, in order to
33 accommodate any affected employee who was eligible to vote in
34 an election authorized by this section and who is unable to work
35 the alternative schedule hours established as the result of that
36 election. An employer shall be permitted to provide a work
37 schedule not to exceed eight hours in a workday to accommodate
38 any employee who was hired after the date of the election and who
39 is unable to work the alternative schedule established as the result
40 of that election. An employer shall explore any available reasonable

1 alternative means of accommodating the religious belief or
2 observance of an affected employee that conflicts with an adopted
3 alternative workweek schedule, in the manner provided by
4 subdivision (j) of Section 12940 of the Government Code.

5 (e) The results of any election conducted pursuant to this section
6 shall be reported by an employer to the Division of Labor Statistics
7 and Research within 30 days after the results are final.

8 (f) ~~Any type of~~ An alternative workweek schedule that is
9 authorized by this code and that was in effect on January 1, 2000,
10 may be repealed by the affected employees pursuant to this section.
11 ~~Any~~ An alternative workweek schedule that was adopted pursuant
12 to Wage Order ~~Numbers~~ *Number* 1, 4, 5, 7, or 9 of the Industrial
13 Welfare Commission is null and void, except for an alternative
14 workweek providing for a regular schedule of no more than 10
15 hours' work in a workday that was adopted by a two-thirds vote
16 of affected employees in a secret ballot election pursuant to wage
17 orders of the Industrial Welfare Commission in effect prior to
18 1998. This subdivision does not apply to exemptions authorized
19 pursuant to Section 515.

20 (g) Notwithstanding subdivision (f), an alternative workweek
21 schedule in the health care industry adopted by a two-thirds vote
22 of affected employees in a secret ballot election pursuant to Wage
23 Orders 4 and 5 in effect prior to 1998 that provided for workdays
24 exceeding 10 hours but not exceeding 12 hours in a day without
25 the payment of overtime compensation shall be valid until July 1,
26 2000. An employer in the health care industry shall make a
27 reasonable effort to accommodate ~~any~~ an employee in the health
28 care industry who is unable to work the alternative schedule
29 established as the result of a valid election held in accordance with
30 provisions of Wage ~~Orders~~ *Order* 4 or 5 that were in effect prior
31 to 1998.

32 (h) Notwithstanding subdivision (f), if an employee is
33 voluntarily working an alternative workweek schedule providing
34 for a regular work schedule of ~~not~~ no more than 10 ~~hours~~ *hours*'
35 work in a workday as of July 1, 1999, an employee may continue
36 to work that alternative workweek schedule without the entitlement
37 of the payment of daily overtime compensation for the hours

- 1 provided in that schedule if the employer approves a written request
- 2 of the employee to work that schedule.

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