

**Introduced by Senator Wyland**

February 23, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

SB 953, as introduced, Wyland. Alternative workweek.

Existing law requires that an alternative workweek schedule proposed by an employer be adopted through a  $\frac{2}{3}$  majority vote of the employees in a secret ballot. Existing law also requires the employer to pay overtime compensation to employees who work more than their regularly scheduled hours under the alternative workweek. Employers must also make reasonable accommodations 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. Existing law provides that knowing and intentional violation of this provision is a misdemeanor.

This bill would make technical, nonsubstantive changes to these 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
- 5 that authorizes work by the affected employees for no longer than

1 10 hours per day within a 40-hour workweek without the payment  
2 to the affected employees of an overtime rate of compensation  
3 pursuant to this section. A proposal to adopt an alternative  
4 workweek schedule shall be deemed adopted only if it receives  
5 approval in a secret ballot election by at least two-thirds of affected  
6 employees in a work unit. The regularly scheduled alternative  
7 workweek proposed by an employer for adoption by employees  
8 may be a single work schedule that would become the standard  
9 schedule for workers in the work unit, or a menu of work schedule  
10 options, from which each employee in the unit would be entitled  
11 to choose.

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

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

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

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

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

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

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

30 (h) Notwithstanding subdivision (f), if an employee is  
31 voluntarily working an alternative workweek schedule providing  
32 for a regular work schedule of not more than 10 ~~hours~~ *hours*' work  
33 in a workday as of July 1, 1999, an employee may continue to  
34 work that alternative workweek schedule without the entitlement  
35 of the payment of daily overtime compensation for the hours  
36 provided in that schedule if the employer approves a written request  
37 of the employee to work that schedule.

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