

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY APRIL 7, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 469

Introduced by Assembly Member Swanson

February 15, 2011

An act to amend Sections 98, 226, 240, 243, and 1174 of, and to add Sections 1194.3, 1197.2, 1206, and 2811 to, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 469, as amended, Swanson. Employees: wages.

(1) Existing law authorizes the Labor Commissioner to investigate and enforce statutes and orders of the Industrial Welfare Commission that, among other things, specify the requirements for the payment of wages by employers. Existing law provides for criminal and civil penalties for violations of statutes and orders regarding payment of wages.

This bill would make it a felony if an employer is convicted of a willful violation of specified wage statutes and the total amount of unpaid wages is more than \$1,000.

(2) Existing law permits the Labor Commissioner to require an employer who has been convicted of a subsequent wage violation or who has failed to satisfy a judgment to post a bond in order to continue business operations.

This bill would extend the time required for a subsequently convicted employer to maintain a bond from 6 months to 2 years and would require

that a subsequently convicted employer provide an accounting of assets, as specified, to the Labor Commissioner.

(3) Existing law requires an employer to post specified wage and hour information in a location where it can be viewed by employees.

This bill would require an employer to provide each employee, at the time of hiring, with a notice in English and in the employee's primary language that specifies the rate and the basis, whether hourly, salary, commission, or otherwise, of the employee's wages.

(4) In addition to the crime and employer obligations imposed by this bill, the Labor Code provides for other work-related standards and duties that, upon violation, are subject to specified penalties.

This bill would state that the Labor Code establishes minimum penalties, and that nothing in the Labor Code preempts, limits, or affects state or local laws, standards, and the like that may impose punishment or regulation in excess of that in the Labor Code, as specified.

Because this bill would create a new crime or expand the definition of a crime, it would impose a state-mandated local program.

(5) 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. This act shall be known and may be cited as the
2 Wage Theft Prevention Act of 2011.

3 SEC. 2. Section 98 of the Labor Code is amended to read:

4 98. (a) The Labor Commissioner is authorized to investigate
5 employee complaints. The Labor Commissioner may provide for
6 a hearing in any action to recover wages, penalties, and other
7 demands for compensation properly before the division or the
8 Labor Commissioner, including orders of the Industrial Welfare
9 Commission, and shall determine all matters arising under his or
10 her jurisdiction. It is within the jurisdiction of the Labor
11 Commissioner to accept and determine claims from holders of
12 payroll checks or payroll drafts returned unpaid because of
13 insufficient funds, if, after a diligent search, the holder is unable

1 to return the dishonored check or draft to the payee and recover
2 the sums paid out. Within 30 days of the filing of the complaint,
3 the Labor Commissioner shall notify the parties as to whether a
4 hearing will be held, whether action will be taken in accordance
5 with Section 98.3, or whether no further action will be taken on
6 the complaint. If the determination is made by the Labor
7 Commissioner to hold a hearing, the hearing shall be held within
8 90 days of the date of that determination. However, the Labor
9 Commissioner may postpone or grant additional time before setting
10 a hearing if the Labor Commissioner finds that it would lead to an
11 equitable and just resolution of the dispute. A party who has
12 received actual notice of a claim before the Labor Commissioner
13 shall, while the matter is before the Labor Commissioner, notify
14 the Labor Commissioner in writing of any change in that party's
15 business or personal address within 10 days after the change in
16 address occurs.

17 It is the intent of the Legislature that hearings held pursuant to
18 this section be conducted in an informal setting preserving the
19 right of the parties.

20 (b) When a hearing is set, a copy of the complaint, which shall
21 include the amount of compensation requested, together with a
22 notice of time and place of the hearing, shall be served on all
23 parties, personally or by certified mail, or in the manner specified
24 in Section 415.20 of the Code of Civil Procedure.

25 (c) Within 10 days after service of the notice and the complaint,
26 a defendant may file an answer with the Labor Commissioner in
27 any form as the Labor Commissioner may prescribe, setting forth
28 the particulars in which the complaint is inaccurate or incomplete
29 and the facts upon which the defendant intends to rely.

30 (d) No pleading other than the complaint and answer of the
31 defendant or defendants shall be required. Both shall be in writing
32 and shall conform to the form and the rules of practice and
33 procedure adopted by the Labor Commissioner.

34 (e) Evidence on matters not pleaded in the answer shall be
35 allowed only on terms and conditions the Labor Commissioner
36 shall impose. In all these cases, the claimant shall be entitled to a
37 continuance for purposes of review of the new evidence.

38 (f) If the defendant fails to appear or answer within the time
39 allowed under this chapter, no default shall be taken against him
40 or her, but the Labor Commissioner shall hear the evidence offered

1 and shall issue an order, decision, or award in accordance with the
2 evidence. A defendant failing to appear or answer, or subsequently
3 contending to be aggrieved in any manner by want of notice of the
4 pendency of the proceedings, may apply to the Labor
5 Commissioner for relief in accordance with Section 473 of the
6 Code of Civil Procedure. The Labor Commissioner may afford
7 this relief. No right to relief, including the claim that the findings
8 or award of the Labor Commissioner or judgment entered thereon
9 are void upon their face, shall accrue to the defendant in any court
10 unless prior application is made to the Labor Commissioner in
11 accordance with this chapter.

12 (g) All hearings conducted pursuant to this chapter are governed
13 by the division and by the rules of practice and procedure adopted
14 by the Labor Commissioner.

15 (h) (1) Whenever a claim is filed under this chapter against a
16 person operating or doing business under a fictitious business
17 name, as defined in Section 17900 of the Business and Professions
18 Code, which relates to the person's business, the division shall
19 inquire at the time of the hearing whether the name of the person
20 is the legal name under which the business or person has been
21 licensed, registered, incorporated, or otherwise authorized to do
22 business.

23 (2) The division may amend an order, decision, or award to
24 conform to the legal name of the business or the person who is the
25 defendant to a wage claim, if it can be shown that proper service
26 was made on the defendant or his or her agent, unless a judgment
27 had been entered on the order, decision, or award pursuant to
28 subdivision (d) of Section 98.2. The Labor Commissioner may
29 apply to the clerk of the superior court to amend a judgment that
30 has been issued pursuant to a final order, decision, or award to
31 conform to the legal name of the defendant, if it can be shown that
32 proper service was made on the defendant or his or her agent.

33 SEC. 3. Section 226 of the Labor Code is amended to read:

34 226. (a) Every employer shall, semimonthly or at the time of
35 each payment of wages, furnish each of his or her employees,
36 either as a detachable part of the check, draft, or voucher paying
37 the employee's wages, or separately when wages are paid by
38 personal check or cash, an accurate itemized statement in writing
39 showing (1) gross wages earned, (2) total hours worked by the
40 employee, except for any employee whose compensation is solely

1 based on a salary and who is exempt from payment of overtime
2 under subdivision (a) of Section 515 or any applicable order of
3 the Industrial Welfare Commission, (3) the number of piece-rate
4 units earned and any applicable piece rate if the employee is paid
5 on a piece-rate basis, (4) all deductions, provided that all deductions
6 made on written orders of the employee may be aggregated and
7 shown as one item, (5) net wages earned, (6) the inclusive dates
8 of the period for which the employee is paid, (7) the name of the
9 employee and his or her social security number, except that by
10 January 1, 2008, only the last four digits of his or her social security
11 number or an employee identification number other than a social
12 security number may be shown on the itemized statement, (8) the
13 name and address of the legal entity that is the employer, and (9)
14 all applicable hourly rates in effect during the pay period and the
15 corresponding number of hours worked at each hourly rate by the
16 employee. The deductions made from payments of wages shall be
17 recorded in ink or other indelible form, properly dated, showing
18 the month, day, and year, and a copy of the statement and the
19 record of the deductions shall be kept on file by the employer for
20 at least three years at the place of employment or at a central
21 location within the State of California.

22 (b) An employer that is required by this code or any regulation
23 adopted pursuant to this code to keep the information required by
24 subdivision (a) shall afford current and former employees the right
25 to inspect or copy the records pertaining to that current or former
26 employee, upon reasonable request to the employer. The employer
27 may take reasonable steps to assure the identity of a current or
28 former employee. If the employer provides copies of the records,
29 the actual cost of reproduction may be charged to the current or
30 former employee.

31 (c) An employer who receives a written or oral request to inspect
32 or copy records pursuant to subdivision (b) pertaining to a current
33 or former employee shall comply with the request as soon as
34 practicable, but no later than 21 calendar days from the date of the
35 request. A violation of this subdivision is an infraction.
36 Impossibility of performance, not caused by or a result of a
37 violation of law, shall be an affirmative defense for an employer
38 in any action alleging a violation of this subdivision. An employer
39 may designate the person to whom a request under this subdivision
40 will be made.

1 (d) This section does not apply to any employer of any person
2 employed by the owner or occupant of a residential dwelling whose
3 duties are incidental to the ownership, maintenance, or use of the
4 dwelling, including the care and supervision of children, or whose
5 duties are personal and not in the course of the trade, business,
6 profession, or occupation of the owner or occupant.

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

15 (f) A failure by an employer to permit a current or former
16 employee to inspect or copy records within the time set forth in
17 subdivision (c) entitles the current or former employee or the Labor
18 Commissioner to recover a seven-hundred-fifty-dollar (\$750)
19 penalty from the employer.

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

23 (h) This section does not apply to the state, to any city, county,
24 city and county, district, or to any other governmental entity, except
25 that if the state or a city, county, city and county, district, or other
26 governmental entity furnishes its employees with a check, draft,
27 or voucher paying the employee's wages, the state or a city, county,
28 city and county, district, or other governmental entity shall, by
29 January 1, 2008, use no more than the last four digits of the
30 employee's social security number or shall use an employee
31 identification number other than the social security number on the
32 itemized statement provided with the check, draft, or voucher.

33 SEC. 4. Section 240 of the Labor Code is amended to read:

34 240. (a) If any employer has been convicted of a violation of
35 any provision of this article, or if any judgment against an employer
36 for nonpayment of wages remains unsatisfied for a period of 10
37 days after the time to appeal therefrom has expired, and no appeal
38 therefrom is then pending, the Labor Commissioner may require
39 the employer to deposit a bond in such sum as the Labor
40 Commissioner may deem sufficient and adequate in the

1 circumstances, to be approved by the Labor Commissioner. The
2 bond shall be payable to the Labor Commissioner and shall be
3 conditioned that the employer shall, for a definite future period,
4 not exceeding two years, pay the employees in accordance with
5 the provisions of this article, and shall be further conditioned upon
6 the payment by the employer of any judgment which may be
7 recovered against the employer pursuant to the provisions of this
8 article.

9 (b) If an order to post a bond issued against an employer under
10 this section remains unsatisfied for a period of 10 days after the
11 time to appeal therefrom has expired, and no appeal from the order
12 is then pending, the Labor Commissioner may require the employer
13 to provide an accounting of assets of the employer, including a list
14 of all bank accounts, accounts receivable, personal property, real
15 property, automobiles or other vehicles, and any other assets, in a
16 form and manner as prescribed by the Labor Commissioner. An
17 employer shall provide an amended accountings of assets, if
18 ordered by the Labor Commissioner to do so. If, within 10 days
19 after a demand for an accounting of assets, made by certified or
20 registered mail, the employer fails to provide an accounting, or if
21 the employer fails to provide an amended accounting after receiving
22 a demand by the Labor Commissioner to do so, the Labor
23 Commissioner may bring an action in the name and on behalf of
24 the people of the State of California against such employer to
25 compel the employer to furnish the accounting. An employer who
26 fails to provide an accounting as required by this subdivision shall
27 be subject to a civil penalty not to exceed ten thousand dollars
28 (\$10,000).

29 (c) If, within 10 days after demand for the bond, which demand
30 may be made by mail, the employer fails to deposit the bond, the
31 Labor Commissioner may bring an action in the name and on
32 behalf of the people of the State of California against the employer
33 in a court of competent jurisdiction to compel the employer to
34 furnish the bond or to cease doing business until the employer has
35 done so. The employer has the burden of proving either that the
36 bond is unnecessary or that the amount demanded is excessive. If
37 the court finds that there is just cause for requiring the bond, and
38 that the bond is reasonably necessary or proper to secure prompt
39 payment of the wages of the employees of the employer and the
40 employer's compliance with the provisions of this article, the court

1 may enjoin the employer, whether an individual, partnership,
2 corporation, company, trust, or association, and such other person
3 or persons as may have been or may be concerned with or in any
4 way participating in the failure to pay the wages resulting in the
5 conviction or in the judgment, from doing business until the
6 requirement is met, and make other and further orders appropriate
7 to compel compliance with the requirement.

8 SEC. 5. Section 243 of the Labor Code is amended to read:

9 243. (a) If, within 10 years of either a conviction for a violation
10 of this article or failing to satisfy a judgment for nonpayment of
11 wages, or of both, it is alleged that an employer on a second
12 occasion has been convicted of again violating this article or is
13 failing to satisfy a judgment for nonpayment of wages, an employee
14 or the employee's legal representative, an attorney licensed to
15 practice law in this state, may, on behalf of himself or herself and
16 others, bring an action in a court of competent jurisdiction for a
17 temporary restraining order prohibiting the employer from doing
18 business in this state unless the employer deposits with the court
19 a bond to secure compliance by the employer with this article or
20 to satisfy the judgment for nonpayment of wages.

21 (b) Upon the filing of an affidavit that, to the satisfaction of the
22 court, shows reasonable proof that an employer, for the second
23 time within 10 years, has been convicted of violating this article
24 or has failed to satisfy a judgment for the nonpayment of wages,
25 or both, the court may grant an order that prohibits the employer
26 within 30 days from conducting any business within the state unless
27 the employer deposits a bond payable to the Labor Commissioner,
28 with the condition that the employer make wage payments in
29 accordance with this article, or that the employer pay any
30 unsatisfied judgment for nonpayment of wages, or both. The court
31 shall order that the bond be on deposit with the Labor
32 Commissioner at all times within a five-year period from the date
33 of the order, that the employer employs more than 10 employees.
34 The court shall order that the bond be in an amount equal to
35 twenty-five thousand dollars (\$25,000) or 25 percent of the weekly
36 gross payroll of the employer at the time of the posting of the bond,
37 whichever is greater, and that the term of the bond be for the
38 duration of the service of the employee who brought the action,
39 until past due wages have been paid, or until satisfaction of all
40 judgments for nonpayment of wages. The bond shall also be

1 payable for wages, interest on wages and for any damages arising
2 from any violation of orders of the Industrial Welfare Commission,
3 and for any other monetary relief awarded to an employee as a
4 result of a violation of this code. To aid in the enforcement of this
5 section, upon a request by the Labor Commissioner or an employee
6 bringing an action pursuant to this section, the court may
7 additionally require the employer to provide an accounting of
8 assets of the employer, including a list of all bank accounts,
9 accounts receivable, personal property, real property, automobiles
10 or other vehicles, and any other assets, in a form and manner as
11 prescribed by the court. An employer shall provide an amended
12 accountings of assets if ordered by the court to do so. If, within
13 10 days after a demand for an accounting of assets, which demand
14 may be made by certified or registered mail, the employer shall
15 fail to provide an accounting, or if the employer fails to provide
16 an amended accounting being ordered to do so, the court may take
17 all appropriate action to enforce its order, including the imposition
18 of appropriate sanctions.

19 (c) For purposes of subdivision (b), an employer shall be deemed
20 to have been convicted of having violated this article or to have
21 failed to satisfy a judgment for the second time within 10 years if,
22 to secure labor or personal services in connection with his or her
23 business, the employer uses the services of an agent, contractor,
24 or subcontractor who is convicted of a violation of this article or
25 fails to satisfy a judgment for wages respecting those employees,
26 or both, but only if the employer had actual knowledge of the
27 person's failure to pay wages. In issuing a temporary restraining
28 order pursuant to this section, the court, in determining the amount
29 and term of the bond, shall count the agent's, contractor's, or
30 subcontractor's employees as part of the employer's total
31 workforce. This subdivision shall not apply where a temporary
32 restraining order against the agent, contractor, or subcontractor as
33 an employer has been issued pursuant to subdivision (b).

34 (d) An employer who, for the third time within 10 years of the
35 first occurrence, is alleged to have violated this article or to have
36 failed to satisfy a judgment for nonpayment of wages, or both,
37 shall be deemed by the court to have commenced a new five-year
38 period for which the posting of a bond may be ordered in
39 accordance with subdivision (b), except that the court may, in its

1 discretion, require the posting of a bond in a greater amount as it
2 determines appropriate under the circumstances.

3 (e) A former employee who was a party to an earlier action
4 against an employer in which a judgment for the payment of wages
5 was obtained, and who alleges that the employer has failed to
6 satisfy the judgment for the payment of wages, in addition to any
7 other available remedy, may petition the court pursuant to
8 subdivision (b) for a temporary restraining order against the
9 employer to cease doing business in this state unless the employer
10 posts a bond with the court.

11 (f) Actions brought pursuant to this section shall be set for trial
12 at the earliest possible date, and shall take precedence over all
13 other cases, except older matters of the same character and matters
14 to which special precedence may be given by law.

15 (g) Nothing in this section shall be construed to impose any
16 mandatory duties on the Labor Commissioner.

17 SEC. 6. Section 1174 of the Labor Code is amended to read:

18 1174. Every person employing labor in this state shall:

19 (a) Furnish to the commission, at its request, reports or
20 information that the commission requires to carry out this chapter.
21 The reports and information shall be verified if required by the
22 commission or any member thereof.

23 (b) Allow any member of the commission or the employees of
24 the Division of Labor Standards Enforcement free access to the
25 place of business or employment of the person to secure any
26 information or make any investigation that they are authorized by
27 this chapter to ascertain or make. The commission may inspect or
28 make excerpts, relating to the employment of employees, from the
29 books, reports, contracts, payrolls, documents, or papers of the
30 person.

31 (c) Keep a record showing the names and addresses of all
32 employees employed and the ages of all minors.

33 (d) Keep, at a central location in the state or at the plants or
34 establishments at which employees are employed, payroll records
35 showing the hours worked daily by and the wages paid to, and the
36 number of piece-rate units earned by and any applicable piece rate
37 paid to, employees employed at the respective plants or
38 establishments. These records shall be kept in accordance with
39 rules established for this purpose by the commission, but in any
40 case shall be kept on file for not less than three years. An employer

1 shall not prohibit an employee from maintaining a personal record
2 of hours worked, or, if paid on a piece-rate basis, piece-rate units
3 earned.

4 SEC. 7. Section 1194.3 is added to the Labor Code, to read:

5 1194.3. An employee may recover attorney's fees and costs
6 incurred to enforce a court judgment for unpaid wages due pursuant
7 to this code.

8 SEC. 8. Section 1197.2 is added to the Labor Code, to read:

9 1197.2. (a) In addition to any other penalty imposed by law,
10 an employer who willfully violates provisions of this code or orders
11 of the Industrial Welfare Commission requiring payment of the
12 legal minimum wage or the legal overtime compensation applicable
13 to an employee shall be guilty of a misdemeanor if the total amount
14 of unpaid wages is less than one thousand dollars (\$1,000), and,
15 upon conviction therefor, shall be fined not less than one thousand
16 dollars (\$1,000) nor more than ten thousand dollars (\$10,000) or
17 imprisoned in the county jail for not more than six months, or both
18 the fine and imprisonment, and, if the total amount of unpaid wages
19 is more than one thousand dollars (\$1,000), shall be guilty of a
20 felony and, upon conviction therefor, shall be fined not less than
21 ten thousand dollars (\$10,000) nor more than twenty thousand
22 dollars (\$20,000), or imprisoned in the state prison for 16 months,
23 or two or three years, or both the fine and imprisonment, for each
24 offense. If there are multiple violations of this code or orders of
25 the Industrial Welfare Commission involving more than one
26 employee, the total amount of unpaid wages owed to all employees
27 shall be aggregated together for purposes of determining whether
28 an offense is a misdemeanor or a felony.

29 (b) In addition to any other penalty imposed by law, an
30 employer, ~~or other person acting either individually or as an officer,~~
31 ~~agent, or employee of another person,~~ who willfully fails to pay
32 and has the ability to pay all wages due to an employee who has
33 been discharged or who has quit within 90 days of the date that
34 those wages became due is guilty of a misdemeanor if the total
35 amount of wages due is less than one thousand dollars (\$1,000),
36 and, upon conviction therefor, shall be fined not less than one
37 thousand dollars (\$1,000) nor more than ten thousand dollars
38 (\$10,000) or imprisoned in the county jail for not more than six
39 months, or both, and, if the total amount of wages due is more than
40 one thousand dollars (\$1,000), shall be guilty of a felony, and upon

1 conviction therefor, shall be fined not less than ten thousand dollars
2 (\$10,000) nor more than twenty thousand dollars (\$20,000), or
3 imprisoned in the state prison for 16 months, or two or three years,
4 or both the fine and imprisonment for each offense. If there are
5 multiple failures to pay wages involving more than one employee,
6 the total amount of wages due to all employees shall be aggregated
7 together for purposes of determining whether an offense is a
8 misdemeanor or a felony.

9 (c) This section does not apply if the employee's entitlement
10 to unpaid wages is disputed by the employer in a civil action or
11 proceeding by the Labor Commissioner unless a final judgment
12 is entered with respect to that dispute in favor of the employee.

13 (d) As used in this section, "willfully" has the same meaning
14 as provided in Section 7 of the Penal Code.

15 (e) An employer or other person guilty of a misdemeanor or
16 felony under subdivision (a) or (b) shall pay, in addition to any
17 criminal fines, restitution to the aggrieved employee or employees
18 in an amount equal to the total amount of unpaid wages.

19 SEC. 9. Section 1206 is added to the Labor Code, to read:

20 1206. Notwithstanding any other provision of law, this code
21 establishes minimum penalties for failure to comply with
22 wage-related statutes and regulations. Nothing in this code
23 preempts, limits, or otherwise affects the applicability of any other
24 state or local law, ordinance, regulation, requirement, policy, or
25 standard that prohibits the same or similar conduct, imposes more
26 severe penalties for failing to comply with wage-related payment
27 requirements, requires payment of wages on a more accelerated
28 timeline, or imposes penalties on a more accelerated timeline.

29 SEC. 10. Section 2811 is added to the Labor Code, to read:

30 2811. (a) (1) At the time of hiring, an employer shall provide
31 each employee, in writing in English and in the language identified
32 by the employee as his or her the primary language, a notice
33 containing the following information:

34 (A) The rate or rates of pay and basis thereof, whether paid by
35 the hour, shift, day, week, salary, piece, commission, or otherwise
36 including any rates for overtime, as applicable.

37 (B) Allowances, if any, claimed as part of the minimum wage,
38 including meal or lodging allowances.

39 (C) The regular payday designated by the employer in
40 accordance with the requirements of this code.

1 (D) The name of the employer, including any “doing business
2 as” names used by the employer.

3 (E) The physical address of the employer’s main office or
4 principal place of business, and a mailing address, if different.

5 (F) The telephone number of the employer.

6 (G) Any other information the Labor Commissioner deems
7 material and necessary.

8 (2) When providing the notice to an employee, the employer
9 shall obtain from the employee a signed and dated
10 acknowledgment, in English and in the primary language of the
11 employee, of receipt of the notice, which the employer shall
12 preserve and maintain for three years. The acknowledgment shall
13 include an affirmation by the employee that the employee
14 accurately identified his or her primary language to the employer,
15 and that the notice provided by the employer to the employee was
16 in the language so identified, and shall conform to any additional
17 requirements established by the Labor Commissioner with regard
18 to content and form.

19 (3) The Labor Commissioner shall prepare templates that comply
20 with the requirements of paragraphs (1) and (2). Each template
21 shall be in English and one additional language. The Labor
22 Commissioner shall determine, in his or her discretion, which
23 languages to provide in addition to English, based on the size of
24 the state population that speaks each language and any other factor
25 that the Labor Commissioner shall deem relevant. All templates
26 shall be made available to employers in such manner as determined
27 by the Labor Commissioner.

28 (4) When an employee identifies as his or her primary language
29 a language for which a template is not available from the Labor
30 Commissioner, the employer may comply with this subdivision
31 by providing the employee an English-language notice or
32 acknowledgment.

33 (5) An employer shall not be penalized for errors or omissions
34 in the non-English portions of any notice provided by the Labor
35 Commissioner.

36 (b) An employer shall notify his or her employees in writing of
37 any changes to the information set forth in the notice, or in the
38 terms or conditions of employment, within seven calendar days
39 after the time of the changes, unless all changes are reflected on
40 the wage statement furnished in accordance with Section 226.

1 SEC. 11. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

O