

Assembly Bill No. 2675

CHAPTER 826

An act to amend Section 2751 of the Labor Code, relating to employment.

[Approved by Governor September 30, 2012. Filed with
Secretary of State September 30, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2675, Swanson. Employment contract requirements.

Existing law requires that whenever an employer enters into a contract of employment with an employee for services to be rendered within this state and the contemplated method of payment of the employee involves commissions, the contract must be in writing and set forth the method by which the commissions are to be computed and paid.

This bill would exempt from this requirement temporary, variable incentive payments that increase, but do not decrease, payment under the written contract.

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

SECTION 1. Section 2751 of the Labor Code is amended to read:

2751. (a) Whenever an employer enters into a contract of employment with an employee for services to be rendered within this state and the contemplated method of payment of the employee involves commissions, the contract shall be in writing and shall set forth the method by which the commissions shall be computed and paid.

(b) The employer shall give a signed copy of the contract to every employee who is a party thereto and shall obtain a signed receipt for the contract from each employee. In the case of a contract that expires and where the parties nevertheless continue to work under the terms of the expired contract, the contract terms are presumed to remain in full force and effect until the contract is superseded or employment is terminated by either party.

(c) As used in this section, "commissions" has the meaning set forth in Section 204.1. For purposes of this section only, "commission" does not include any of the following:

- (1) Short-term productivity bonuses such as are paid to retail clerks.
- (2) Temporary, variable incentive payments that increase, but do not decrease, payment under the written contract.

(3) Bonus and profit-sharing plans, unless there has been an offer by the employer to pay a fixed percentage of sales or profits as compensation for work to be performed.