

AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

AMENDED IN ASSEMBLY MARCH 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1277

Introduced by Assembly Member Skinner
(Principal coauthor: Senator DeSaulnier)

February 22, 2013

An act to amend Sections 143.1, 148.5, 6317, 6409.1, *6450*, 6601, 6601.5, 6602, 6603, *and* 6614, ~~and 6625~~ of, to add Sections 148.3, 6600.1, 6602.5, 6602.6, and 6626.5 to, and to repeal and add Section 6309 ~~to~~ *of*, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1277, as amended, Skinner. Occupational safety and health: procedures.

Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations to enforce employment safety laws. Existing law authorizes the division to conduct hearings, inspections, and investigations regarding alleged violations of employment safety laws and to issue citations to employers. Existing law establishes the Occupational Safety and Health Appeals Board in the department and prescribes procedures for the appeals board to hear and decide employer appeals of the division's enforcement actions. Existing law also establishes the Occupational Safety and Health Standards Board in the department and authorizes the standards board to adopt, amend, or repeal occupational safety and health standards and orders, *and to grant temporary or permanent variances from a standard*

or order upon request from an employer, and prescribes procedures for the standards board to conduct a hearing on a request for a permanent variance ~~from a standard or order upon request from an employer~~, as specified.

This bill would revise and recast various provisions regarding the investigations and citations issued by the division, the persons or entities who are authorized to participate as parties in an appeal before the appeals board, the procedures that govern the standards board in *issuing a temporary variance and in* conducting a hearing on a permanent variance, the procedures that govern the appeals board in hearing, deciding, and reconsidering appeals, and procedures that govern the judicial review of the appeals board's decisions. The bill would make other related clarifying and conforming changes.

Existing law requires an employer to file a complete report of every occupational injury or occupational illness, as defined, to each employee that results in lost time beyond the date of the injury or illness, or that requires medical treatment beyond first aid, with the department, or if an insured employer, with the insurer. Under existing law, in every case involving a serious injury or illness, or death, an additional report is required to be made immediately by the employer to the division, as specified. Under existing law, an employer is required to be assessed a civil penalty not less than \$5,000 for a violation of the requirement to make the additional report to the division.

This bill would authorize the division to increase the penalty in a settlement or decrease it to no less than \$2,500 under specified conditions, including that the employer has declared, under penalty of perjury, that it made a timely report to its workers' compensation carrier or to a state, county, or local fire or police agency and that it was informed by that entity that the report satisfied the requirement to report to the division. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

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. Section 143.1 of the Labor Code is amended to
2 read:

3 143.1. (a) The board shall conduct a hearing on a request for
4 a permanent variance after affected employees or employee
5 representatives are properly notified pursuant to subdivision (b)
6 and given an opportunity to be heard. All board decisions on
7 permanent variance requests shall be final except for any rehearing
8 or judicial review provided for by law.

9 (b) An affected employee has a right to due process when a
10 permanent variance from a standard or order is sought pursuant to
11 Section 143. The employer shall post a notice of the variance
12 prepared by the board and shall provide that notice *by certified*
13 *mail* to each collective bargaining agent who represents an
14 employee.

15 (c) For the purposes of this section, “affected employee” means
16 an employee who would be affected by the grant or denial of a
17 variance, limitation, variation, tolerance, or exemption from a
18 standard or order sought by an employer pursuant to Section 143.

19 SEC. 2. Section 148.3 is added to the Labor Code, to read:

20 148.3. In adjudicating appeals, the appeals board shall do both
21 of the following:

22 (a) Apply the regulations adopted by the department regarding
23 occupational safety and health.

24 (b) Liberally construe the provisions of Division 5 (commencing
25 with Section 6300), as well as the standards and orders adopted
26 by the Division of Occupational Safety and Health or the
27 department pursuant to that division, and the standards and orders
28 adopted by the Occupational Safety and Health Standards Board
29 pursuant to Chapter 6 (commencing with Section 140), in order
30 to promote safe and healthy working conditions for the working
31 men and women of this state.

32 SEC. 3. Section 148.5 of the Labor Code is amended to read:

33 148.5. A decision of the appeals board is final, except for any
34 rehearing or judicial review as permitted by Chapter 7
35 (commencing with Section 6600) of Part 1 of Division 5.

36 SEC. 4. Section 6309 of the Labor Code is repealed.

37 SEC. 5. Section 6309 is added to the Labor Code, to read:

1 6309. (a) If the division learns or has reason to believe that an
2 employment or place of employment is not safe or is injurious to
3 the welfare of an employee, the division, on its own motion, or
4 upon complaint, may summarily investigate the same with or
5 without notice or hearings.

6 (b) The division shall investigate and conduct an onsite
7 inspection of the employment or place of employment as soon as
8 possible, but not later than three working days after receipt of a
9 complaint charging a serious violation, except as provided in
10 subdivision (e), and shall investigate and may conduct an onsite
11 inspection not later than 14 calendar days after receipt of a
12 complaint charging a nonserious violation, from the following:

- 13 (1) An employee or former employee.
- 14 (2) An employee's or former employee's representative,
15 including, but not limited to, an attorney; a union, workers'
16 organization, or community organization; or a family member of
17 an employee or former employee.
- 18 (3) A health or safety professional.
- 19 (4) A government agency representative.
- 20 (5) A joint labor-management committee established pursuant
21 to the federal Labor Management Cooperation Act of 1978 (Section
22 175a of Title 29 of the United States Code).
- 23 (6) An employer of an employee who is or may be exposed to
24 an unsafe or unhealthful condition in his or her employment or at
25 his or her place of employment.

26 (c) The division may investigate and conduct an onsite
27 inspection of a serious violation charged in a complaint from a
28 person other than those described in paragraphs (1) to (6), inclusive,
29 of subdivision (b) before investigating any nonserious violation
30 in order to best effectuate the purposes of this division.

31 (d) For purposes of this section, a complaint is deemed to allege
32 a serious violation if the division determines that the complaint
33 charges that there is a realistic possibility that death or serious
34 physical harm could result from a condition that exists, or from
35 one or more practices, means, methods, operations, or processes
36 that have been adopted or are in use in a place of employment. All
37 other complaints are deemed to allege nonserious violations.

38 (e) If a complaint charging a serious violation is received from
39 a state or local prosecutor, or a local law enforcement agency, the
40 division shall investigate and conduct an onsite inspection of the

1 employment or place of employment within 24 hours of receipt
2 of the complaint.

3 (f) The division is not required to respond to a complaint within
4 the time period required by subdivision (b) if the division
5 determines, from the facts stated in the complaint, that the
6 complaint is intended to willfully harass an employer or is without
7 any reasonable basis.

8 (g) The division shall attempt to determine the period of time
9 in the future that the complainant believes the unsafe *or unhealthful*
10 condition may continue to exist, and shall allocate inspection
11 resources so as to respond first to those situations in which time
12 is of the essence.

13 (h) The division may enter and serve any necessary order relative
14 to the complaint.

15 (i) The division shall keep complete and accurate records of all
16 complaints, whether oral or written, and shall inform the
17 complainant, whenever his or her identity is known, of any action
18 taken by the division in regard to the subject matter of the
19 complaint, and the reasons for the action, within 14 calendar days
20 of taking any action. The records of the division shall include the
21 dates on which any action was taken on the complaint, or the
22 reasons for not taking any action on the complaint. The division,
23 pursuant to authorized regulations, shall conduct an informal
24 review of any refusal by a representative of the division to issue
25 a citation with respect to an alleged violation. The division shall
26 furnish the employee or the representative of employees requesting
27 the review a written statement of the reasons for the division's
28 final disposition of the case.

29 (j) The division shall keep confidential the name of a person
30 who submits to the division a complaint regarding the unsafe
31 condition of an employment or place of employment, unless that
32 person requests otherwise.

33 (k) The division shall annually compile and release on its
34 Internet Web site the data pertaining to complaints received and
35 citations issued.

36 (l) The requirements of this section do not relieve the division
37 of its requirement to inspect and ensure that all places of
38 employment are safe and healthful for employees. The division
39 shall maintain the capability to receive and act upon complaints
40 at all times.

1 SEC. 6. Section 6317 of the Labor Code is amended to read:

2 6317. (a) If, upon inspection or investigation, the division
3 believes that an employer has violated Section 25910 of the Health
4 and Safety Code, this division, Article 4 (commencing with Section
5 3550) of Chapter 2 of Part 1 of Division 4, or any standard, rule,
6 order, or regulation established pursuant to Chapter 6 (commencing
7 with Section 140) of Division 1, or any standard, rule, order, or
8 regulation adopted pursuant to this code regarding occupational
9 safety and health, it shall, with reasonable promptness, issue a
10 citation to the employer.

11 (b) Each citation shall be in writing and shall describe with
12 particularity the nature of the violation, including a reference to
13 the provision of the code, standard, rule, regulation, or order alleged
14 to have been violated. In addition, the citation shall fix a reasonable
15 time for the abatement of the alleged violation. The period specified
16 for abatement shall not commence running until the date the
17 citation or notice is received by certified mail and the certified
18 mail receipt is signed, or if not signed, the date the return is made
19 to the post office. If the division officially and directly delivers
20 the citation or notice to the employer, the period specified for
21 abatement shall commence running on the date of the delivery.

22 (c) (1) The division may issue a notice in lieu of a citation with
23 respect to violations found in an inspection or investigation that
24 meet either of the following requirements:

25 (A) The violations do not have a direct relationship upon the
26 health or safety of an employee.

27 (B) The violations do not have an immediate relationship to the
28 health or safety of an employee, and are of a general or regulatory
29 nature. ~~A~~

30 (2) A notice in lieu of a citation may be issued only if the
31 employer agrees to correct the violations within a reasonable time,
32 as specified by the division, and agrees not to appeal the finding
33 of the division that the violations exist. A notice issued pursuant
34 to this paragraph shall have the same effect as a citation for
35 purposes of establishing repeat violations or a failure to abate.
36 Every notice shall clearly state the abatement period specified by
37 the division, that the notice may not be appealed, and that the notice
38 has the same effect as a citation for purposes of establishing a
39 repeated violation or a failure to abate. The employer shall indicate

1 agreement to the provisions and conditions of the notice by his or
2 her signature on the notice.

3 ~~(2)~~

4 (3) (A) Under no circumstances shall a notice be issued in lieu
5 of a citation if the violations are serious, repeated, willful, or arise
6 from a failure to abate.

7 (B) The director shall prescribe guidelines for the issuance of
8 a notice in lieu of citation.

9 (C) A notice in lieu of a citation shall not be issued if the number
10 of first instance violations found in the inspection (other than
11 serious, willful, or repeated violations) is 10 or more violations.

12 (d) (1) No citation or notice shall be issued by the division for
13 a given violation or violations after six months have elapsed since
14 occurrence of the violation.

15 (2) The division may impose a civil penalty against an employer
16 as specified in Chapter 4 (commencing with Section 6423) of this
17 part.

18 (3) The director shall prescribe procedures for the issuance of
19 a citation or notice.

20 (4) The division shall prepare and maintain records capable of
21 supplying an inspector with previous citations and notices issued
22 to an employer.

23 SEC. 7. Section 6409.1 of the Labor Code is amended to read:

24 6409.1. (a) Every employer shall file a complete report of
25 every occupational injury or occupational illness, as defined in
26 subdivision (b) of Section 6409, to each employee that results in
27 lost time beyond the date of the injury or illness, or that requires
28 medical treatment beyond first aid, with the Department of
29 Industrial Relations or, if an insured employer, with the insurer,
30 on a form prescribed for that purpose by the department. A report
31 shall be filed concerning each injury and illness that has, or is
32 alleged to have, arisen out of and in the course of employment,
33 within five days after the employer obtains knowledge of the injury
34 or illness. Each report of occupational injury or occupational illness
35 shall indicate the social security number of the injured employee.
36 In the case of an insured employer, the insurer shall file with the
37 division, immediately upon receipt, a copy of the employer's report
38 that has been received from the insured employer. In the event an
39 employer has filed a report of injury or illness pursuant to this
40 subdivision and the employee subsequently dies as a result of the

1 reported injury or illness, the employer shall file an amended report
2 indicating the death with the department or, if an insured employer,
3 with the insurer, within five days after the employer is notified or
4 learns of the death. A copy of any amended reports received by
5 the insurer shall be filed with the division immediately upon
6 receipt.

7 (b) In every case involving a serious injury or illness, or death,
8 in addition to the report required by subdivision (a), a report shall
9 be made immediately, but no longer than eight hours after the
10 employer knew or should have known of the death or serious
11 illness, by the employer to the Division of Occupational Safety
12 and Health by telephone, fax, or other electronic means approved
13 by the division. An employer who violates this subdivision shall
14 be assessed a civil penalty of five thousand dollars (\$5,000) that
15 may be adjusted pursuant to subdivision (d) either by the division
16 in a settlement agreement between the employer and the division,
17 or by the Occupational Safety and Health Appeals Board when
18 approving a settlement agreement or when making a finding.
19 Nothing in this subdivision shall be construed to affect the civil
20 penalty that may be imposed pursuant to Sections 6427 to 6430,
21 inclusive.

22 (c) When making a report pursuant to subdivision (b), the
23 employer shall inform the division of all information in its
24 possession relating to the time, location, and circumstances of the
25 incident. The employer shall also inform the division if the
26 employee subsequently dies as a result of the reported injury or
27 illness, within five days after the employer is notified or learns of
28 the death.

29 (d) ~~The~~ *If the employer has never been subject to an inspection*
30 *or investigation by the division, the* civil penalty assessed pursuant
31 to subdivision (b) may be adjusted according to the following:

32 (1) The penalty may be reduced if there is ~~a finding on~~
33 *documentation in the division file or in the record of the appeals*
34 *board of any of the following:*

35 (A) The employer has 10 or fewer employees.

36 (B) The employer delayed in reporting to the division by no
37 more than 48 hours.

38 (C) The employer delayed in reporting to the division by more
39 than 48 hours or failed to report to the division, but states under
40 penalty of perjury that it did timely report to its workers'

1 compensation carrier or to a state, county, or local fire or police
2 agency, and that it was informed by that entity that reporting to
3 that entity was sufficient to comply with the requirement to report
4 to the division.

5 (2) The penalty may be increased if there is a finding on the
6 record of any of the following:

7 (A) The employer failed to report a death ~~resulting from the~~
8 ~~reported injury or illness.~~

9 (B) The employer *did not provide documentation that the injured*
10 *or ill employee did not receive received* prompt and adequate first
11 aid, medical care, or both.

12 (C) The employer did not provide evidence that it had an
13 effective injury and illness prevention program.

14 (D) The employer previously failed to report a serious injury
15 or illness, or death.

16 (E) The employer interfered with the division's investigation
17 by withholding evidence or witnesses or materially altering the
18 worksite.

19 (3) Additional penalty reductions afforded by regulations
20 promulgated pursuant to subdivision (c) of Section 6319 shall not
21 apply to the adjustment of the civil penalty assessed pursuant to
22 subdivision (b).

23 (4) The penalty shall not be decreased if the division determines
24 that the failure to report or report timely impaired its investigation
25 *or that the employer did not ensure that the injured or ill employee*
26 *received prompt and adequate first aid, medical care, or both.*

27 (5) The adjusted civil penalty shall not be less than two thousand
28 five hundred dollars (\$2,500).

29 (e) In addition to ~~any other~~ *the* penalty provided *in this section*,
30 an employer who willfully or repeatedly fails to report, or to report
31 timely, an occupational injury or occupational illness, or a death
32 ~~resulting from a reported injury or illness~~, as required by
33 subdivision (b), or an employer who intentionally interferes with
34 the division's investigation by withholding evidence or witnesses
35 or materially altering the worksite, shall be assessed a civil penalty
36 ~~of not more than seventy thousand dollars (\$70,000) for each~~
37 ~~violation, but in no case less than five thousand dollars (\$5,000)~~
38 ~~for each willful violation~~ *subject to the penalties set forth in Section*
39 *6429.*

40 SEC. 8. Section 6450 of the Labor Code is amended to read:

1 6450. (a) ~~Any~~An employer may apply to the division for a
2 temporary order granting a variance from an occupational safety
3 or health standard. ~~Such~~The temporary order shall be granted only
4 if the employer files an application which meets the requirements
5 of Section 6451, and establishes ~~that~~ ~~(1) he~~ all of the following:

6 (1) *The employer* is unable to comply with a standard by its
7 effective date because of unavailability of professional or technical
8 personnel or of materials and equipment needed to come into
9 compliance with the standard or because necessary construction
10 or alteration of facilities cannot be completed by the effective date;
11 ~~(2) he.~~

12 (2) *The employer* is taking all available steps to safeguard his
13 or her employees against the hazards covered by the standard, ~~and~~
14 ~~(3) he.~~

15 (3) *The employer* has an effective program for coming into
16 compliance with the standard as quickly as practicable.

17 (b) ~~Any~~A temporary order issued under this section shall
18 prescribe the practices, means, methods, operations, and processes
19 which the employer must adopt and use while the order is in effect
20 and state in detail his or her program for coming into compliance
21 with the standard. ~~Such a~~A temporary order may be granted only
22 after notice to *affected* employees pursuant to subdivision (c) and
23 an opportunity for a hearing. However, the division may issue one
24 interim order for a temporary variance upon submission of an
25 application showing that the employment or place of employment
26 will be safe for employees pending a hearing on the application
27 for a temporary variance. ~~No~~A temporary order may *not* be in
28 effect for longer than the period needed by the employer to achieve
29 compliance with the standard or one year, whichever is shorter,
30 except that ~~such~~ an order may be renewed not more than twice
31 provided that the requirements of this section are met and an
32 application for renewal is filed prior to the expiration date of the
33 order. ~~No single~~A renewal of an order may *not* remain in effect
34 for longer than 180 days.

35 (c) *An affected employee has a right to due process when a*
36 *temporary variance from a standard or order is sought pursuant*
37 *to this section. The employer shall post a notice of the variance*
38 *prepared by the board and shall provide that notice by certified*
39 *mail to each collective bargaining agent who represents an*
40 *employee.*

1 (d) For the purposes of this section, “affected employee” means
2 an employee who would be affected by the grant or denial of a
3 variance, limitation, variation, tolerance, or exemption from a
4 standard or order sought by an employer pursuant to this section.

5 ~~SEC. 8.~~

6 *SEC. 9.* Section 6600.1 is added to the Labor Code, to read:

7 6600.1. Any affected employee may appeal the terms and
8 conditions of abatement in a citation or notice pursuant to Section
9 6317 or order pursuant to Section 6308. A notice of appeal shall
10 be filed with the division or the appeals board within 15 working
11 days of the issuance of a citation or order, by any of the following:

12 (a) An affected employee, individually or through his or her
13 designated representative, or if the affected employee is deceased,
14 then the employee’s surviving spouse or domestic partner,
15 surviving issue, or personal representative as defined in Section
16 58 of the Probate Code.

17 (b) A union that represents an affected employee.

18 (c) A union that has a collective bargaining agreement with the
19 cited or ordered employer.

20 (d) For purposes of this chapter, “affected employee” means an
21 employee who is exposed to or who, due to assigned work in the
22 vicinity, may be exposed to an unsafe or unhealthful condition out
23 of circumstances, conditions, practices, or operations that are the
24 basis of a citation issued by the division to any employer, whether
25 or not the direct employer of the employee.

26 ~~SEC. 9.~~

27 *SEC. 10.* Section 6601 of the Labor Code is amended to read:

28 6601. If, within 15 working days from receipt of the citation
29 or notice of civil penalty issued by the division, the employer fails
30 to notify the appeals board that the employer intends to contest
31 the citation or notice of proposed penalty, and no notice contesting
32 the terms or conditions of the abatement is filed by any affected
33 employee or representative of an affected employee within that
34 time, the citation or notice of proposed penalty shall be deemed a
35 final order of the appeals board and not subject to review by any
36 court or agency. The 15-day period may be extended by the appeals
37 board for good cause.

38 ~~SEC. 10.~~

39 *SEC. 11.* Section 6601.5 of the Labor Code is amended to read:

1 6601.5. If, within 15 working days from receipt of a special
 2 order or action order by the division, the employer fails to notify
 3 the appeals board that the employer intends to contest the order,
 4 and no notice contesting the terms or conditions of the abatement
 5 is filed by any affected employee or representative of an affected
 6 employee within that time, the order shall be deemed a final order
 7 of the appeals board and not subject to review by any court or
 8 agency. The 15-day period may be extended by the appeals board
 9 for good cause.

10 ~~SEC. 11.~~

11 *SEC. 12.* Section 6602 of the Labor Code is amended to read:

12 6602. If an employer notifies the appeals board that he or she
 13 intends to contest a citation issued under Section 6317, or notice
 14 of proposed penalty issued under Section 6319, or order issued
 15 under Section 6308, or if, within 15 working days of the issuance
 16 of a citation or order any affected employee or representative of
 17 an affected employee files a notice with the division or appeals
 18 board contesting the terms or conditions of the abatement, the
 19 appeals board shall afford an opportunity for a hearing. The appeals
 20 board shall thereafter issue a decision, based on findings of fact,
 21 affirming, modifying, or vacating the division’s citation or order,
 22 and may modify the proposed penalty if the penalty modification
 23 would not violate a requirement of this code or a regulation of the
 24 department, or direct other appropriate relief.

25 ~~SEC. 12.~~

26 *SEC. 13.* Section 6602.5 is added to the Labor Code, to read:

27 6602.5. The appeals board, upon a *timely* request *as set forth*
 28 *in its regulations*, shall permit the following to participate as a
 29 party in an appeal:

30 (a) An affected employee, individually or through his or her
 31 designated representative, or if the affected employee is deceased,
 32 then the employee’s surviving spouse or domestic partner,
 33 surviving issue, or personal representative as defined in Section
 34 58 of the Probate Code.

35 (b) A union that represents an affected employee.

36 (c) A union that has a collective bargaining agreement with the
 37 cited or ordered employer.

38 ~~SEC. 13.~~

39 *SEC. 14.* Section 6602.6 is added to the Labor Code, to read:

1 6602.6. Parties shall have the opportunity to participate fully
2 in a hearing, receive notices, be permitted to subpoena witnesses
3 and documents at any time before the completion of the hearings,
4 offer evidence, examine and cross-examine witnesses, and argue
5 and submit briefs. Parties representing an affected employee shall
6 also have the right to participate and object to terms or conditions
7 during in settlement discussions between the division and the
8 employer at any formal or informal prehearing conference or
9 discussion prior to or during the hearing, *may express an objection*,
10 and shall be timely informed of any final settlement *reached*
11 *between the employer and the division*.

12 ~~SEC. 14.~~

13 *SEC. 15.* Section 6603 of the Labor Code is amended to read:

14 6603. (a) The rules of practice and procedure adopted by the
15 appeals board shall be consistent with Article 8 (commencing with
16 Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title
17 2 of, and Sections 11507, 11507.6, 11507.7, 11513, 11514, 11515,
18 and 11516 of, the Government Code, and shall provide affected
19 employees or representatives of affected employees an opportunity
20 to participate as parties to a hearing under Section 6602. The rules
21 of practice and procedure also shall provide for the scheduling of
22 hearings in a manner designed to minimize inconvenience to the
23 division and all parties and witnesses who are required to attend
24 the hearings, and for the completion of the hearings without
25 significant lapses in time if the hearings are not completed within
26 the scheduled time.

27 (b) The superior courts shall have jurisdiction over contempt
28 proceedings, as provided in Article 12 (commencing with Section
29 11455.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the
30 Government Code.

31 ~~SEC. 15.~~

32 *SEC. 16.* Section 6614 of the Labor Code is amended to read:

33 6614. (a) At any time within 30 days after the service of any
34 final order or decision made and filed by the appeals board or a
35 hearing officer, any party aggrieved directly or indirectly by any
36 final order or decision, made and filed by the appeals board or a
37 hearing officer under this division, may petition the appeals board
38 for reconsideration in respect to any matters determined or covered
39 by the final order or decision and specified in the petition for

1 reconsideration. The petition shall be made only within the time
2 and in the manner specified in this chapter.

3 (b) At any time within 30 days after the service of any final
4 order or decision made and filed by the appeals board, any person
5 aggrieved directly or indirectly by any final order or decision made
6 and filed by the appeals board under this division may petition the
7 appeals board for reconsideration in respect to any matters
8 determined or covered by the final order or decision and specified
9 in the petition for reconsideration. The petition shall be made only
10 within the time and in the manner specified in this chapter.

11 (c) At any time within 30 days after the filing of an order or
12 decision made by a hearing officer and the accompanying report,
13 the appeals board may, on its own motion, grant reconsideration.

14 ~~SEC. 16. Section 6625 of the Labor Code is amended to read:~~
15 ~~6625. The filing of a petition for reconsideration shall suspend~~
16 ~~for a period of 10 days the order or decision affected, insofar as it~~
17 ~~applies to the parties to the petition, unless otherwise ordered by~~
18 ~~the appeals board. The appeals board upon the terms and conditions~~
19 ~~that it by order directs, may stay, suspend, or postpone the order~~
20 ~~or decision during the pendency of the reconsideration except as~~
21 ~~to the requirements for abatement.~~

22 SEC. 17. Section 6626.5 is added to the Labor Code, to read:

23 6626.5. (a) ~~An affected~~A person who was not a party to the
24 case prior to the appeals board issuing the decision after
25 reconsideration who plans to seek judicial review of a decision
26 pursuant to Section 6627 shall provide a written notice to the
27 appeals board, including a statement that the ~~affected~~ person
28 intends to seek judicial review of the decision, a brief statement
29 regarding the nature of the challenge to the decision after
30 reconsideration, and a request that the appeals board modify or
31 rescind its decision.

32 (b) The notice and statement shall be filed with the appeals
33 board within 30 days of the appeals board order or decision and
34 shall toll, for 30 days or until the board acts, whichever is sooner,
35 both the finality of the decision after reconsideration and the filing
36 deadline set forth in Section 6627. After receiving notice, the
37 appeals board may either rescind, modify, and reissue the decision
38 after reconsideration, or deny the request either summarily or in
39 writing with the reasons stating the basis for the denial. The appeals
40 board's failure to act on the notice within 30 days shall be deemed

1 a summary denial. An affected person shall not be required to file
2 more than one notice prior to seeking judicial review.

3 (c) Nothing in this section is intended to eliminate or limit any
4 other exceptions to any requirement under law that administrative
5 remedies be exhausted before judicial action is sought.

6 SEC. 18. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

O