

**ASSEMBLY BILL**

**No. 2063**

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**Introduced by Assembly Member Chávez**

February 20, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2063, as introduced, Chávez. Employment: wages and hours: alternative workweek schedules.

Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law authorizes the adoption by an affirmative vote of at least  $\frac{2}{3}$  of affected employees in a work unit of alternative workweek schedules providing for workdays no longer than 10 hours within a 40-hour workweek without the payment to those employees of overtime wages.

This bill would make 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~~ *that* employer may adopt a regularly scheduled alternative  
5 workweek that authorizes work by the affected employees for no  
6 longer than 10 hours per day within a 40-hour workweek without

1 the payment to the affected employees of an overtime rate of  
2 compensation pursuant to this section. A proposal to adopt an  
3 alternative workweek schedule shall be deemed adopted only if it  
4 receives approval in a secret ballot election by at least two-thirds  
5 of affected employees in a readily identifiable work unit. The  
6 regularly scheduled alternative workweek proposed by an employer  
7 for adoption by employees may be a single work schedule that  
8 would become the standard schedule for workers in the work unit,  
9 or a menu of work schedule options, from which each employee  
10 in the unit would be entitled to choose. Notwithstanding  
11 subdivision (c) of Section 500, the menu of work schedule options  
12 may include a regular schedule of eight-hour days that are  
13 compensated in accordance with subdivision (a) of Section 510.  
14 Employees who adopt a menu of work schedule options may, with  
15 employer consent, move from one schedule option to another on  
16 a weekly basis.

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

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

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

1 schedule not to exceed eight hours in a workday to accommodate  
2 any employee who was hired after the date of the election and who  
3 is unable to work the alternative schedule established as the result  
4 of that election. An employer shall explore any available reasonable  
5 alternative means of accommodating the religious belief or  
6 observance of an affected employee that conflicts with an adopted  
7 alternative workweek schedule, in the manner provided by  
8 subdivision (j) of Section 12940 of the Government Code.

9 (e) The results of any election conducted pursuant to this section  
10 shall be reported by an employer to the Division of Labor Standards  
11 Enforcement within 30 days after the results are final.

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

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

35 (h) Notwithstanding subdivision (f), if an employee is  
36 voluntarily working an alternative workweek schedule providing  
37 for a regular work schedule of not more than 10 hours' work in a  
38 workday as of July 1, 1999, an employee may continue to work  
39 that alternative workweek schedule without the entitlement of the  
40 payment of daily overtime compensation for the hours provided

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

3 (i) For purposes of this section, “work unit” includes a division,  
4 a department, a job classification, a shift, a separate physical  
5 location, or a recognized subdivision thereof. A work unit may  
6 consist of an individual employee as long as the criteria for an  
7 identifiable work unit in this section ~~is~~ *are* met.

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