

Introduced by Senator Monning

February 21, 2013

An act to amend Section 218.5 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 462, as introduced, Monning. Employment: compensation.

Existing law, except as specified, requires a court in any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, to award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action.

This bill would make the award of attorney's fees and costs where the prevailing party is not an employee contingent on a finding by the court that the employee brought the court action in bad faith.

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 218.5 of the Labor Code, as amended by
- 2 Section 42 of Chapter 697 of the Statutes of 2010, is amended to
- 3 read:
- 4 218.5. (a) In any action brought for the nonpayment of wages,
- 5 fringe benefits, or health and welfare or pension fund contributions,
- 6 the court shall award reasonable attorney's fees and costs to the
- 7 prevailing party if any party to the action requests attorney's fees
- 8 and costs upon the initiation of the action. *However, if the*
- 9 *prevailing party in the court action is not an employee, attorney's*

1 *fees and costs shall be awarded pursuant to this section only if the*
2 *court finds that the employee brought the court action in bad faith.*
3 This section shall not apply to an action brought by the Labor
4 Commissioner. This section shall not apply to a surety issuing a
5 bond pursuant to Chapter 9 (commencing with Section 7000) of
6 Division 3 of the Business and Professions Code or to an action
7 to enforce a mechanics lien brought under Chapter 4 (commencing
8 with Section 8400) of Title 2 of Part 6 of Division-2 4 of the Civil
9 Code.

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11 (b) *This section does not apply to any cause of action for which*
12 *attorney's fees are recoverable under Section 1194.*