

Assembly Bill No. 202

CHAPTER 102

An act to add Section 2754 to the Labor Code, relating to employment.

[Approved by Governor July 15, 2015. Filed with
Secretary of State July 15, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 202, Gonzalez. Professional sports teams: cheerleaders: employee status.

Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship.

Existing law requires employers to make specified payments and withholdings from wages paid to employment to, and to file reports of wages and make contributions for unemployment insurances and the employment administering the state's payroll taxes.

Existing law, the California Fair Employment and Housing Act, makes it an unlawful employment practice for an employer, unless based upon a bona fide occupational qualification or, except where based upon applicable security regulations to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment, or to bar or discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of the person.

This bill, for purposes of all of the provisions of state law that govern employment, including the Labor Code, the Unemployment Insurance Code, and the California Fair Employment and Housing Act, would require a cheerleader who is utilized by a California-based professional sports team during its exhibitions, events, or games to be deemed an employee. The bill would also require the professional sports team to ensure that the cheerleader is classified as an employee.

Because a violation of specified employment laws, including wage and hour laws, that would apply to California-based professional sports teams utilizing cheerleaders would be a crime, 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.

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

SECTION 1. Section 2754 is added to the Labor Code, to read:

2754. (a) For the purposes of this section, the following definitions shall apply:

(1) “California-based team” means a team that plays a majority of its home games in California.

(2) “Cheerleader” means an individual who performs acrobatics, dance, or gymnastics exercises on a recurring basis. This term shall not include an individual who is not otherwise affiliated with a California-based professional sports team and is utilized during its exhibitions, events, or games no more than one time in a calendar year.

(3) “Professional sports team” means a team at either a minor or major league level in the sport of baseball, basketball, football, ice hockey, or soccer.

(b) Notwithstanding any other law, for purposes of all of the provisions of state law that govern employment, including this code, the Unemployment Insurance Code, and the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), a cheerleader who is utilized by a California-based professional sports team directly or through a labor contractor during its exhibitions, events, or games, shall be deemed to be an employee.

(c) The professional sports team shall ensure that the cheerleader is classified as an employee.

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