

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN ASSEMBLY MAY 9, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2230**

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**Introduced by Assembly Member Chu**

February 18, 2016

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~~An act to amend Section 5811 of the Labor Code, relating to workers' compensation. An act to amend Section 515.8 of the Labor Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2230, as amended, Chu. ~~Workers' compensation: language interpreters. Overtime compensation: private elementary or secondary academic institutions: teachers.~~

Existing law provides that 8 hours of labor constitutes a day's work. Under existing law, any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek, and the first 8 hours worked on the 7th day of work in any one workweek, is required to be compensated at the rate of no less than 1½ times the regular rate of pay for an employee. Existing law also provides that hours worked in excess of 12 hours in one day as well as hours worked in excess of 8 hours on any 7th day of work are to be compensated at the rate of no less than twice the regular rate of pay of an employee. Existing law exempts from these provisions an individual employed as a teacher at a private elementary or secondary academic institution if specified requirements are met, including, among others, that the employee earns a monthly salary equivalent to no less than 2 times the state minimum wage for full-time employment.

*This bill would suspend that earnings standard until July 1, 2017. On and after that date, the bill would prescribe a revised earnings standard for exemption from the overtime provisions described above that would require the employee to earn no less than the lowest salary offered by any school district or the equivalent of no less than 70% of the lowest schedule salary offered by the school district or county in which the private elementary or secondary institution is located, as specified.*

~~Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires an employer to provide all medical, surgical, chiropractic, acupuncture, and hospital treatment that is reasonably required to cure or relieve the injured worker from the effects of his or her injury, and makes the employer liable for the reasonable expense incurred by or on behalf of the employee in providing treatment, as specified. Existing law authorizes a qualified interpreter to render services in various settings for purposes of workers compensation claims. Existing law prohibits an interpreter from disclosing to any person who is not an immediate participant in the communications the content of the conversations or documents that the interpreter has interpreted or transliterated unless the disclosure is compelled by court order.~~

~~This bill would expressly include within this prohibition the disclosure of any communication or transliteration involving attorney-client privileged communications, and would make additional nonsubstantive conforming changes.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

- 1     SECTION 1. Section 515.8 of the Labor Code is amended to
- 2     read:
- 3     515.8. (a) Section 510 does not apply to an individual
- 4     employed as a teacher at a private elementary or secondary
- 5     academic institution in which pupils are enrolled in kindergarten
- 6     or any of grades 1 to 12, inclusive.

1 (b) For purposes of this section, “employed as a teacher” means  
2 that the employee meets all of the following requirements:

3 (1) The employee is primarily engaged in the duty of imparting  
4 knowledge to pupils by teaching, instructing, or lecturing.

5 (2) The employee customarily and regularly exercises discretion  
6 and independent judgment in performing the duties of a teacher.

7 (3) ~~The~~ *On and after July 1, 2017, the employee earns a monthly*  
8 *salary equivalent to no less than two times the state minimum wage*  
9 *for full-time employment. the greater of the following:*

10 (A) *No less than 100 percent of the lowest salary offered by any*  
11 *school district to a person who is in a position that requires the*  
12 *person to have a valid California teaching credential and is not*  
13 *employed in that position pursuant to an emergency permit, intern*  
14 *permit, or waiver.*

15 (B) *The equivalent of no less than 70 percent of the lowest*  
16 *schedule salary offered by the school district or county in which*  
17 *the private elementary or secondary academic institution is located*  
18 *to a person who is in a position that requires the person to have*  
19 *a valid California teaching credential and is not employed in that*  
20 *position pursuant to an emergency permit, intern permit, or waiver.*

21 (4) The employee has attained at least one of the following  
22 levels of professional advancement:

23 (A) A baccalaureate or higher degree from an accredited  
24 institution of higher education.

25 (B) Current compliance with the requirements established by  
26 the California Commission on Teacher Credentialing, or the  
27 equivalent certification authority in another state, for obtaining a  
28 preliminary or alternative teaching credential.

29 (c) This section does not apply to any tutor, teaching assistant,  
30 instructional aide, student teacher, day care provider, vocational  
31 instructor, or other similar employee.

32 (d) The exemption established in subdivision (a) is in addition  
33 to, and does not limit or supersede, any exemption from overtime  
34 established by a Wage Order of the Industrial Welfare Commission  
35 for persons employed in a professional capacity, and does not  
36 affect any exemption from overtime established by that commission  
37 pursuant to subdivision (a) of Section 515 for persons employed  
38 in an executive or administrative capacity.

39 ~~SECTION 1. Section 5811 of the Labor Code is amended to~~  
40 ~~read:~~

1 5811. ~~(a) No fees shall be charged by the clerk of any court~~  
2 ~~for the performance of any official service required by this division;~~  
3 ~~except for the docketing of awards as judgments and for certified~~  
4 ~~copies of transcripts thereof. In all proceedings under this division~~  
5 ~~before the appeals board, costs as between the parties may be~~  
6 ~~allowed by the appeals board.~~

7 ~~(b) (1) It shall be the responsibility of any party producing a~~  
8 ~~witness requiring an interpreter to arrange for the presence of a~~  
9 ~~qualified interpreter.~~

10 ~~(2) A qualified interpreter is a language interpreter who is~~  
11 ~~certified, or deemed certified, pursuant to Article 8 (commencing~~  
12 ~~with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of~~  
13 ~~Title 2 of, or Section 68566 of, the Government Code. The duty~~  
14 ~~of an interpreter is to accurately and impartially translate oral~~  
15 ~~communications and transliterate written materials, and not to act~~  
16 ~~as an agent or advocate. An interpreter shall not disclose to any~~  
17 ~~person who is not an immediate participant in the communications~~  
18 ~~the content of the conversations or documents that the interpreter~~  
19 ~~has interpreted or transliterated, including, regardless of the~~  
20 ~~circumstances of where or how the communication occurred, any~~  
21 ~~communication or transliteration involving attorney-client~~  
22 ~~privileged communications, unless the disclosure is compelled by~~  
23 ~~court order. An attempt by any party or attorney to obtain~~  
24 ~~disclosure, including, regardless of the circumstances of where or~~  
25 ~~how the communication occurred, disclosure of any communication~~  
26 ~~or transliteration involving attorney-client privileged~~  
27 ~~communications, is a bad faith tactic that is subject to Section~~  
28 ~~5813.~~

29 ~~(3) Interpreter fees that are reasonably, actually, and necessarily~~  
30 ~~incurred shall be paid by the employer under this section, provided~~  
31 ~~they are in accordance with the fee schedule adopted by the~~  
32 ~~administrative director.~~

33 ~~(4) A qualified interpreter may render services during the~~  
34 ~~following:~~

35 ~~(A) A deposition.~~

36 ~~(B) An appeals board hearing.~~

37 ~~(C) A medical treatment appointment or medical-legal~~  
38 ~~examination.~~

39 ~~(D) During those settings which the administrative director~~  
40 ~~determines are reasonably necessary to ascertain the validity or~~

- 1 ~~extent of injury to an employee who does not proficiently speak~~
- 2 ~~or understand the English language.~~

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