

AMENDED IN ASSEMBLY JUNE 29, 2000  
AMENDED IN ASSEMBLY SEPTEMBER 7, 1999  
AMENDED IN ASSEMBLY AUGUST 16, 1999  
AMENDED IN ASSEMBLY JULY 13, 1999  
AMENDED IN ASSEMBLY JUNE 22, 1999  
AMENDED IN SENATE APRIL 8, 1999

**SENATE BILL**

**No. 146**

---

---

**Introduced by Senator Solis  
(Principal coauthor: Senator Johnston)**

January 6, 1999

---

---

~~An act to amend Sections 10200 and 79202 of the Education Code, to amend Sections 1091.2 and 15365.55 of the Government Code, to add Chapter 6 (commencing with Section 6200) to Division 2 of the Unemployment Insurance Code, and to amend Section 10531 of the Welfare and Institutions Code, relating to job training. An act to amend Sections 514, 554, and 558 of, and to add Sections 518 and 519 to, the Labor Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 146, as amended, Solis. Employment: ~~education and investment~~ overtime requirements: nurses.

*(1) 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 is required to be compensated at an overtime rate*

*of pay, as specified. Existing law authorizes employees to adopt an alternative workweek that allows an employee to work no longer than 10 hours per day within a 40-hour workweek without overtime compensation.*

*This bill would provide that a registered nurse who is employed to engage in the practice of nursing and who is not working under an alternative workweek schedule may not be required to work over 8 hours in a workday or 40 hours in a workweek. Under the bill, a registered nurse who is working under an alternative schedule may not be required to perform any work in excess of the workday hours provided in the alternative schedule or in excess of 40 hours in a workweek.*

*This bill would provide exceptions to its prohibitions, including when a federal, state, or county state of emergency is declared. The bill would require the Industrial Welfare Commission to adopt wage orders consistent with the bill.*

*(2) This bill would provide that it does not apply to a nurse midwife, nurse anesthetist, or a nurse practitioner, as provided. This provision would become operative only if SB 88 is enacted and becomes effective on or before January 1, 2001.*

~~Existing law contains various programs for job training and employment investment, including work incentive programs, as specified.~~

~~This bill would enact provisions establishing local workforce investment boards, which would implement various local workforce development programs, as a part of the California Economic Security Act proposed to be enacted by SB 43 of the 1999-2000 Regular Session. By imposing duties on local government with respect to the implementation of these local programs, the bill would impose a state-mandated local program.~~

~~Existing law requires various local job training plans to be prepared by local education agencies and counties with respect to welfare-to-work programs, as specified.~~

~~This bill would authorize a unified local plan prepared by the local workforce investment board to be submitted instead of the individual local plans.~~



~~This bill would also provide certain job security protections for state employees affected by the reorganization of job training programs into one-stop career centers, as specified.~~

~~Existing law specifies various duties of the Department of General Services with respect to real property used by state agencies and contracts entered into by state agencies.~~

~~This bill would authorize the Employment Development Department to lease or sublease any real property for purposes of establishing one-stop career centers, subject to specified limitations. This bill would also provide for applicability of local or state health and safety building standards, as specified, to buildings used by state agencies and local service providers in order to implement the establishment of one-stop career centers. This bill would also exempt contracts or grants made by local workforce investment boards from conflict-of-interest provisions in certain cases.~~

~~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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~This bill would not become operative unless other provisions relating to the California Economic Security Act, as proposed by SB 43 of the 1999-2000 Regular Session, are also enacted and become operative.~~

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

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

- 1 ~~SECTION 1.—Section 10200 of the Education Code is~~
- 2 ~~SECTION 1. Section 514 of the Labor Code is~~
- 3 ~~amended to read:~~



1 514. ~~This~~—*Except as provided in Section 518, this*  
2 *chapter does not apply to an employee covered by a valid*  
3 *collective bargaining agreement if the agreement*  
4 *expressly provides for the wages, hours of work, and*  
5 *working conditions of the employees, and if the*  
6 *agreement provides premium wage rates for all overtime*  
7 *hours worked and a regular hourly rate of pay for those*  
8 *employees of not less than 30 percent more than the state*  
9 *minimum wage.*

10 *SEC. 2. Section 518 is added to the Labor Code, to*  
11 *read:*

12 518. (a) *A registered nurse who is employed to*  
13 *engage in the practice of nursing and who is working*  
14 *under an alternative workweek schedule adopted*  
15 *pursuant to Section 511, adopted pursuant to a collective*  
16 *bargaining agreement under Section 514, or adopted*  
17 *pursuant to regulations adopted by the Industrial Welfare*  
18 *Commission under subdivision (b) of Section 517, may*  
19 *not be required to perform any work in excess of the*  
20 *workday hours provided in the alternative workweek*  
21 *schedule. A registered nurse who is employed to engage*  
22 *in the practice of nursing and who is not working under*  
23 *an alternative workweek schedule may not be required*  
24 *to perform any work in excess of eight hours in a workday.*  
25 *A registered nurse who is employed to engage in the*  
26 *practice of nursing, whether or not working pursuant to*  
27 *an alternative workweek schedule, may not be required*  
28 *to perform any work in excess of 40 hours in a workweek.*

29 (b) *This section applies to a registered nurse working*  
30 *for a private employer and to a registered nurse working*  
31 *for a public employer, including the state.*

32 (c) *This section does not apply when a federal, state,*  
33 *or county declaration of a state of emergency is in effect*  
34 *in the county in which the registered nurse practices.*

35 (d) *An employer may require a registered nurse to*  
36 *work overtime under subdivision (c) only after the*  
37 *employer has made reasonable efforts to fill its staffing*  
38 *needs through alternative means, including requesting*  
39 *off-duty registered nurses to voluntarily report to work,*  
40 *requesting on-duty nurses to voluntarily work overtime,*



1 *and recruiting per diem and registry nurses to report to*  
2 *work.*

3 *(e) Subdivision (c) does not apply to a state of*  
4 *emergency declaration resulting from a labor dispute in*  
5 *the health care industry.*

6 *(f) This section does not apply to a registered nurse*  
7 *who is exempt from overtime as an executive or*  
8 *administrative employee pursuant to subdivision (f) of*  
9 *Section 515.*

10 *(g) Nothing in this section prohibits a registered nurse*  
11 *from voluntarily working overtime.*

12 *(h) An employer shall not retaliate or discriminate*  
13 *against a registered nurse for refusing to work overtime.*  
14 *An employer shall not coerce a registered nurse into*  
15 *surrendering his or her rights under this section.*

16 *(i) The Industrial Welfare Commission shall, at a*  
17 *public hearing, adopt wage orders consistent with this*  
18 *section without convening wage boards, which orders*  
19 *shall be final and conclusive for all purposes.*

20 *SEC. 3. Section 519 is added to the Labor Code, to*  
21 *read:*

22 *519. Section 518 does not apply to the following*  
23 *categories of advanced practice nurses:*

24 *(a) A nurse midwife certified pursuant to Section 2746*  
25 *of the Business and Professions Code, who is primarily*  
26 *engaged in performing the duties of a nurse midwife.*

27 *(b) A nurse anesthetist certified pursuant to Section*  
28 *2830 of the Business and Professions Code, who is*  
29 *primarily engaged in performing the duties of a nurse*  
30 *anesthetist.*

31 *(c) A nurse practitioner who meets the standards*  
32 *established by the Board of Registered Nursing pursuant*  
33 *to Section 2836 of the Business and Professions Code, who*  
34 *is primarily engaged in performing the duties of a nurse*  
35 *practitioner.*

36 *SEC. 4. Section 554 of the Labor Code is amended to*  
37 *read:*

38 *554. (a) Sections 551 and 552 shall not apply to any*  
39 *cases of emergency nor to work performed in the*  
40 *protection of life or property from loss or destruction, nor*



1 to any common carrier engaged in or connected with the  
2 movement of trains. This chapter, with the exception of  
3 Section 558, shall not apply to any person employed in an  
4 agricultural occupation, as defined in Order No. 14-80  
5 (operative January 1, 1998) of the Industrial Welfare  
6 Commission, nor shall the provisions of this chapter,  
7 *except for Section 518*, apply when the employer and a  
8 labor organization representing employees of the  
9 employer have entered into a valid collective bargaining  
10 agreement pursuant to Section 514. Nothing in this  
11 chapter shall be construed to prevent an accumulation of  
12 days of rest when the nature of the employment  
13 reasonably requires that the employee work seven or  
14 more consecutive days, providing that in each calendar  
15 month the employee receive days of rest equivalent to  
16 one day's rest in seven. The requirement respecting the  
17 equivalent of one day's rest in seven shall apply,  
18 notwithstanding the other provisions of this chapter  
19 relating to collective bargaining agreements, where the  
20 employer and a labor organization representing  
21 employees of the employer have entered into a valid  
22 collective bargaining agreement respecting the hours of  
23 work of the employees, unless the agreement expressly  
24 provides otherwise.

25 ~~It~~

26 (b) *In addition to the exceptions ~~herein~~ provided in*  
27 *subdivision (a), the Chief of the Division of Labor*  
28 *Standards Enforcement may, when in his judgment*  
29 *hardship will result, exempt any employer or employees*  
30 *from the provisions of Sections 551 and 552.*

31 *SEC. 5. Section 558 of the Labor Code is amended to*  
32 *read:*

33 558. (a) Any employer or other person acting on  
34 behalf of an employer who violates, or causes to be  
35 violated, a section of this chapter or any provision  
36 regulating hours and days of work in any order of the  
37 Industrial Welfare Commission shall be subject to a civil  
38 penalty as follows:

39 (1) ~~For~~ *Except as provided in paragraph (3), for any*  
40 *initial violation, fifty dollars (\$50) for each underpaid*



1 employee for each pay period for which the employee  
2 was underpaid in addition to an amount sufficient to  
3 recover underpaid wages.

4 (2) ~~For~~ *Except as provided in paragraph (4), for each*  
5 subsequent violation, one hundred dollars (\$100) for each  
6 underpaid employee for each pay period for which the  
7 employee was underpaid in addition to an amount  
8 sufficient to recover underpaid wages.

9 (3) *For any initial violation of Section 518, fifty dollars*  
10 *(\$50) for each hour or fraction of an hour for each*  
11 *registered nurse who is required to work overtime.*

12 (4) *For any subsequent violation of Section 518, one*  
13 *hundred dollars (\$100) for each hour or fraction of an*  
14 *hour for each registered nurse who is required to work*  
15 *overtime.*

16 (5) Wages recovered pursuant to this section shall be  
17 paid to the affected employee.

18 (b) If upon inspection or investigation the Labor  
19 Commissioner determines that a person had paid or  
20 caused to be paid a wage for overtime work in violation  
21 of any provision of this chapter, or any provision  
22 regulating hours and days of work in any order of the  
23 Industrial Welfare Commission, the Labor Commissioner  
24 may issue a citation. The procedures for issuing,  
25 contesting, and enforcing judgments for citations or civil  
26 penalties issued by the Labor Commissioner for a  
27 violation of this chapter shall be the same as those set out  
28 in Section 1197.1.

29 (c) The civil penalties provided for in this section are  
30 in addition to any other civil or criminal penalty provided  
31 by law.

32 *SEC. 5. Section 3 of this act shall become operative*  
33 *only if Senate Bill 88 of the 1999–2000 Regular Session is*  
34 *enacted and becomes effective on or before January 1,*  
35 *2001.*



1  
2  
3  
4  
5  
6  
7

**All matter omitted in this version of the bill appears in the bill as amended in the Assembly, September 7, 1999 (JR 11)**

O

