

AMENDED IN ASSEMBLY JUNE 16, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

Assembly Concurrent Resolution

No. 163

Introduced by Assembly Members V. Manuel Perez and Ammiano
(Coauthors: Assembly Members Coto, Furutani, Hernandez,
Mendoza, Nava, and Saldana)

~~(Coauthors: Senators Cedillo and Negrete McLeod)~~

(Coauthors: Assembly Members Charles Calderon, Coto, De La Torre,
De Leon, Furutani, Hernandez, Mendoza, Monning, Nava, Salas,
Saldana, Solorio, Swanson, Torres, Torrico, and Yamada)

~~(Coauthors: Senators Cedillo, Ducheny, Florez, Negrete McLeod, and~~
~~Romero)~~

April 28, 2010

Assembly Concurrent Resolution No. 163—Relative to domestic worker rights.

LEGISLATIVE COUNSEL'S DIGEST

ACR 163, as amended, V. Manuel Perez. Domestic worker rights.

This measure would encourage greater protections in federal and state law for domestic workers.

Fiscal committee: no.

- 1 WHEREAS, California's domestic workers—comprised of
- 2 housekeepers, nannies, and caregivers for children, persons with
- 3 disabilities, and the elderly—work in private households to care
- 4 for the health, safety, and well-being of the most important aspects
- 5 of Californians' lives, their families and homes; and
- 6 WHEREAS, Domestic workers ~~are the backbone of~~ *play a*
- 7 *critical role in* California's economy, working to ensure the health

1 and prosperity of California families and freeing others to
2 participate in the workforce, which is increasingly necessary in
3 these difficult economic times; and

4 WHEREAS, Domestic workers across the state of California
5 have joined together to form the California Domestic Workers'
6 Coalition to achieve social and economic justice and secure
7 much-needed protections for domestic workers under California's
8 labor laws; and

9 WHEREAS, The National Domestic Workers Alliance is
10 organizing domestic workers across the United States to end the
11 exclusion of domestic workers from federal labor protections, and
12 the International Domestic Workers Network, made up of domestic
13 worker organizations across the world, has formed to fight
14 exploitation and abuse by creating and advancing international
15 standards in the industry; and

16 WHEREAS, The treatment of domestic service workers under
17 federal and state laws has historically reflected stereotypical
18 assumptions about the nature of domestic work, specifically that
19 the relationship between employer and "servant" was "personal,"
20 rather than commercial, in character; that employment within a
21 household was not "real" productive work; and that women did
22 not work to support their families; and

23 WHEREAS, The Fair Labor Standards Act of 1938 (29 U.S.C.
24 Sec. 201 et seq.), which Congress enacted to ensure a fair day's
25 pay for a fair day's work, excluded domestic workers from its
26 protection at a time when 60% of African American women
27 workers were employed as domestic workers; and

28 WHEREAS, The vast majority of domestic workers are women
29 of color and immigrants who, because of race and sex
30 discrimination and fear of deportation, are particularly vulnerable
31 to unlawful employment practices and abuses; and

32 WHEREAS, Domestic workers usually work alone, behind
33 closed doors, and out of the public eye, leaving them isolated,
34 vulnerable to abuse and exploitation, and unable to advocate
35 collectively for better working conditions; and

36 WHEREAS, Domestic workers often labor under harsh
37 conditions, work long hours for low wages without benefits or job
38 security, and face termination without notice or severance pay,
39 leaving many suddenly without both a job and a home; and

1 WHEREAS, Most domestic workers work to support families
2 and children of their own and more than half are primary income
3 earners, yet two-thirds of domestic workers earn low wages or
4 wages below the poverty line; and

5 WHEREAS, Many live-in domestic workers are not permitted
6 to make basic decisions regarding the food they eat or to cook or
7 heat their meals; and

8 WHEREAS, In the worst cases, domestic workers are verbally
9 and physically abused or sexually assaulted, forced to sleep in
10 conditions unfit for human habitation, and stripped of their privacy
11 and dignity; and

12 WHEREAS, Many employers desire to treat their caregivers
13 and housekeepers fairly, but do not have the information to guide
14 them in setting terms of employment, and may never develop a
15 formal contract or clearly establish the rights and obligations each
16 party owes to the other; and

17 WHEREAS, Domestic workers are still excluded from the most
18 basic protections afforded the rest of the labor force under state
19 and federal law, including the rights to fair wages, safe and healthy
20 working conditions, workers' compensation, protection from
21 discriminatory and abusive treatment, and to engage in collective
22 bargaining; and

23 WHEREAS, Domestic workers are excluded under the National
24 Labor Relations Act (29 U.S.C. Sec. 151 et seq.), leaving them
25 unprotected when asking for respect of their basic rights and unable
26 to collectively bargain for conditions allowing them to labor in
27 dignity; and

28 WHEREAS, Domestic workers whose primary work is to care
29 for children, the elderly, or persons with disabilities are excluded
30 from overtime protections, meal and rest breaks, and reporting
31 time pay under California law, and the federal Fair Labor Standards
32 Act exempts live-in domestic workers from overtime provisions
33 and exempts "companions" for the elderly and "casual" babysitters
34 from federal minimum wage and overtime provisions; and

35 WHEREAS, Domestic workers are excluded from the
36 protections of the California Occupational Safety and Health Act
37 of 1973 and therefore do not have the right to work in a healthy
38 and safe environment, leaving them exposed to dangerous and
39 unhealthy working conditions on a regular basis; and

1 WHEREAS, Household employees who work less than 52 hours
2 in the 90 days prior to sustaining an injury are excluded from
3 California workers' compensation coverage, leaving many
4 domestic workers without an adequate remedy for injuries suffered
5 in the course of their employment; and

6 WHEREAS, Because state and federal antidiscrimination laws
7 apply only to employers with certain minimum numbers of
8 employees, domestic workers are often unprotected against
9 discrimination based on race, color, religion, sex, national origin,
10 age, and disability; and

11 WHEREAS, Because domestic workers do not have the right
12 to a minimum number of consecutive hours of uninterrupted sleep,
13 they are often woken up repeatedly throughout the night, leaving
14 them sleep deprived, vulnerable to illness, and unable to provide
15 proper care for those in their charge; and

16 WHEREAS, Because the vast majority of domestic workers
17 receive no health benefits from their employers and have no right
18 to paid sick days, many workers cannot take time off to deal with
19 illness or medical emergencies, thereby endangering their own
20 health and the health of the families they care for; now, therefore,
21 be it

22 *Resolved by the Assembly of the State of California, the Senate*
23 *thereof concurring*, That coverage of domestic workers under state
24 and federal labor law should be an expression of respect for their
25 dignity and equality and the importance of the work they perform,
26 and a rejection of antiquated and long-discredited stereotypes about
27 domestic work; and be it further

28 *Resolved*, That the Legislature finds that domestic workers are
29 entitled to industry-specific protections and labor standards that
30 eliminate discriminatory provisions in the labor laws and guarantee
31 domestic workers basic workplace rights to ensure that domestic
32 workers are treated with the respect and dignity they so richly
33 deserve; and be it further

1 *Resolved*, That the Chief Clerk of the Assembly transmit copies
2 of this resolution to the author for appropriate distribution.

3

4

5 CORRECTIONS:

6 Text—Pages 1 and 4.

7

O