
Introduced by Senator Hollingsworth

February 8, 2010

An act to amend Section 511 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 988, as introduced, Hollingsworth. Employment: alternative workweek schedules.

Existing law authorizes an employer to propose an alternative workweek schedule, as defined, that may be either a single, standard work schedule or part of a menu of work schedule options offered to the employees. Under existing law, approval by secret ballot election of at least $\frac{2}{3}$ of the affected employees in a work unit is required for adoption of an alternative workweek schedule.

This bill would make nonsubstantive changes to these provisions.

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 511 of the Labor Code is amended to
- 2 read:
- 3 511. (a) Upon the proposal of an employer, the employees of
- 4 an employer may adopt a regularly scheduled alternative workweek
- 5 that authorizes work by the affected employees for no longer than
- 6 10 hours per day within a 40-hour workweek without the payment
- 7 to the affected employees of an overtime rate of compensation
- 8 pursuant to this section. A proposal to adopt an alternative
- 9 workweek schedule shall be deemed adopted only if it receives

1 approval in a secret ballot election by at least two-thirds of affected
2 employees in a work unit. The regularly scheduled alternative
3 workweek proposed by an employer for adoption by employees
4 may be a single work schedule that would become the standard
5 schedule for workers in the work unit, or a menu of work schedule
6 options, from which each employee in the unit would be entitled
7 to choose.

8 (b) An affected employee working longer than eight hours but
9 not more than 12 hours in a day pursuant to an alternative
10 workweek schedule adopted pursuant to this section shall be paid
11 an overtime rate of compensation of no less than one and one-half
12 times the regular rate of pay of the employee for any work in excess
13 of the regularly scheduled hours established by the alternative
14 workweek agreement and for any work in excess of 40 hours per
15 week. An overtime rate of compensation of no less than double
16 the regular rate of pay of the employee shall be paid for any work
17 in excess of 12 hours per day and for any work in excess of eight
18 hours on those days worked beyond the regularly scheduled
19 workdays established by the alternative workweek agreement.
20 Nothing in this section requires an employer to combine more than
21 one rate of overtime compensation in order to calculate the amount
22 to be paid to an employee for any hour of overtime work.

23 (c) An employer shall not reduce an employee's regular rate of
24 hourly pay as a result of the adoption, repeal, or nullification of
25 an alternative workweek schedule.

26 (d) An employer shall make a reasonable effort to find a work
27 schedule not to exceed eight hours in a workday, in order to
28 accommodate ~~any~~ *an* affected employee who was eligible to vote
29 in an election authorized by this section and who is unable to work
30 the alternative schedule hours established as the result of that
31 election. An employer shall be permitted to provide a work
32 schedule not to exceed eight hours in a workday to accommodate
33 any employee who was hired after the date of the election and who
34 is unable to work the alternative schedule established as the result
35 of that election. An employer shall explore any available reasonable
36 alternative means of accommodating the religious belief or
37 observance of an affected employee that conflicts with an adopted
38 alternative workweek schedule, in the manner provided by
39 subdivision (j) of Section 12940 of the Government Code.

(e) The results of ~~any~~ *an* election conducted pursuant to this section shall be reported by an employer to the Division of Labor Statistics and Research within 30 days after the results are final.

(f) Any type of alternative workweek schedule that is authorized by this code and that was in effect on January 1, 2000, may be repealed by the affected employees pursuant to this section. ~~Any~~ *An* alternative workweek schedule that was adopted pursuant to Wage Order ~~Numbers~~ *Number* 1, 4, 5, 7, or 9 of the Industrial Welfare Commission is null and void, except for an alternative workweek providing for a regular schedule of no more than 10 hours' work in a workday that was adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to wage orders of the Industrial Welfare Commission in effect prior to 1998. This subdivision does not apply to exemptions authorized pursuant to Section 515.

(g) Notwithstanding subdivision (f), an alternative workweek schedule in the health care industry adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to Wage ~~Orders~~ *Order* Numbers 4 and 5 in effect prior to 1998 that provided for workdays exceeding 10 hours but not exceeding 12 hours in a day without the payment of overtime compensation shall be valid until July 1, 2000. An employer in the health care industry shall make a reasonable effort to accommodate ~~any~~ *an* employee in the health care industry who is unable to work the alternative schedule established as the result of a valid election held in accordance with provisions of Wage ~~Orders~~ *Order* Number 4 or 5 that were in effect prior to 1998.

(h) Notwithstanding subdivision (f), if an employee is voluntarily working an alternative workweek schedule providing for a regular work schedule of not more than 10 ~~hours~~ *hours'* work in a workday as of July 1, 1999, an employee may continue to work that alternative workweek schedule without the entitlement of the payment of daily overtime compensation for the hours provided in that schedule if the employer approves a written request of the employee to work that schedule.