

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 09/02/2011
POSITION: Neutral

BILL NUMBER: AB 1313
AUTHOR: Allen, Michael

BILL SUMMARY: Employment: Agricultural Workers

This bill would remove the exemption on agricultural workers from overtime and meal period requirements. Consequently, employers would be required to pay overtime compensation to agricultural employees working more than 8 hours in a workday or 40 hours in a workweek, rather than the current wage order requirement of providing overtime compensation for workdays over 10 hours and workweeks over 60 hours. Additionally, this bill would modify the current requirement to provide a meal rest period to agricultural employees from after the fifth hour of work to before the fifth hour of work and provide a second meal period if a workday is longer than ten hours.

FISCAL SUMMARY

This bill would result in additional costs of \$25,000 to \$30,000, Labor Enforcement and Compliance Fund, for the Department of Industrial Relations (DIR). The DIR anticipates an increase of 86 wage claims related to overtime compensation annually. Additionally, the DIR estimates an annual increase of 40 complaint-driven agricultural inspections, resulting in 14 to 23 citations triggering in-depth investigations.

Additionally, any local government costs resulting from the mandate in this measure would not be state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the May 27, 2011 version include the following significant amendments which do change our position:

This bill no longer addresses the publishing of information related to open cases on the Agricultural Labor Relations Board website. This measure now addresses overtime compensation and meal rest periods for agricultural employees.

COMMENTS

The Department of Finance is neutral on this bill because it will provide consistency by conforming overtime and meal rest period requirements for agricultural employees to the requirements in other industries.

Existing law, with certain exceptions, defines a day's work as eight hours of labor. Any additional hours worked beyond 8 hours in one day, or 40 hours in a workweek, must be compensated with the payment of overtime. Existing law provides exemptions to overtime compensation requirements. In the following instances, overtime is not required:

Analyst/Principal (0241) J.Morozumi	Date	Program Budget Manager Lisa Ann Mangat	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
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COMMENTS (continued)

- An employee submits a written request to make up work time that would be lost as a result of a personal obligation. This make-up work time must be performed in the same workweek in which the work time was lost.
- An alternative workweek schedule has been adopted.
- The work relates to cases of emergency, the protection of life or property, to the movement of trains, or to certain hardship exceptions specified by the Division of Labor Standards Enforcement.

Existing law also requires, with certain exemptions, that all employees receive a meal break of 30 minutes before the start of the fifth hour of work, unless the work period is no more than 6 hours and both the employer and the employee consent to waive the meal break. If a work period is more than 10 hours, a second 30 minute meal period must be granted to the employee. This second meal break may be waived by mutual consent of the employer and employee if the work period is no more than 12 hours. Under existing law, agricultural workers are exempt from meal break requirements.

An existing wage order, promulgated by the Industrial Welfare Commission, require the payment of overtime wages for agricultural employees for hours worked beyond 10 hours in a workday or 60 hours in a workweek. Additionally, the wage order requires a meal break after the fifth hour of work but does not require a second meal period after the tenth hour of work.

This bill would eliminate the exemptions for agricultural employees related to overtime pay and meal rest periods. Under the provisions of this measure, agricultural employees would be entitled to overtime pay after 8 hours of work in a work day or 40 hours of work in a workweek, a meal period prior to the fifth hour of work, and a second meal period if a workday is longer than ten hours.

The California Constitution requires the state to reimburse local entities for increased costs associated with any new program or higher level of service imposed by the state on local entities if the Commission on State Mandates determines that the new program or higher level of service is reimbursable and a state mandate. Any local government costs resulting from the mandate in this measure would not be state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

Proponents of this measure argue that agricultural employees should not be treated differently from employees in other industries and that the two-tiered overtime provisions currently in place pursuant to the work order are antiquated and should be abolished.

Opponents of this bill argue that agriculture is affected by and dependent on weather conditions and the seasonal nature of the industry, resulting in a greater need for flexibility in scheduling work than other industries. Additionally, opponents note that no other state requires overtime compensation for workers exceeding the 40 hour workweek. Finally, opponents state that the increased labor costs resulting from this measure would likely force farmers to reduce hours and layoff employees, and will place the state's agricultural industry at a competitive disadvantage.

BILL ANALYSIS--(CONTINUED)

AUTHOR

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)						
	LA	(Dollars in Thousands)						
	CO	PROP					Fund	
	RV	98	FC	2012-2013	FC	2013-2014	FC	2014-2015
								Code
7350/DIR	SO	No	C	13-15	C	25-30	C	25-30 3152
<u>Fund Code</u>	<u>Title</u>							
3152	Labor Enforcement and Compliance Fund							