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SB-286 Payment of wages: professional sports organization employees. (2019-2020)

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Senate Bill No. 286

CHAPTER 700

An act to amend Sections 203, 203.1, and 220 of, and to add Section 201.8 to, the Labor Code, relating to employment.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 286, Durazo. Payment of wages: professional sports organization employees.

Existing law provides that generally if an employee is discharged or laid off, wages earned by the employee are due and payable immediately. Existing law provides specified requirements for certain occupations, including temporary services employees, employees engaged in the production or broadcasting of motion pictures, and employees at venues that host live theatrical or concert events. Existing law provides that an employee engaged in the production or broadcasting of motion pictures whose employment terminates is entitled to receive payment of wages earned at the time of termination by the next regular payday. Existing law provides for civil penalties for violations of these provisions.

This bill would provide that an "events employee," as defined, whose employment terminates is entitled to receive payment of wages earned at the time of termination by the next regular payday, except as specified. The bill would provide that these provisions do not apply to the payment of wages of specified public employees. The bill would make conforming changes to the provisions requiring payment of wages due upon termination of employment.

By expanding the definition of a crime, the bill would impose a state-mandated local program.

This bill would incorporate additional changes to Sections 203, 203.1, and 220 of the Labor Code proposed by SB 671 to be operative only if this bill and SB 671 are enacted and this bill is enacted last.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 201.8 is added to the Labor Code, to read:

201.8. (a) As used in this section, the following terms have the following meanings:

(1) "Events employee" means an employee of an owner, operator, affiliate, licensee, vendor, concessions operator, lessee, tenant, or subtenant of a professional baseball venue or professional baseball team, or one of their respective contractors or subcontractors, who works in any capacity during any event held at a professional baseball venue, unless the employee is hired for a specified, limited, period of time, and the employee has no expectation of an ongoing employment relationship.

(2) For purposes of this section, "event" means any event, whether public or private, that is held at a professional baseball venue, including all professional and amateur sports events, games, concerts, shows, performances, conventions, or other entertainment events.

(3) "Professional baseball venue" means any venue where professional baseball games regularly are played.

(4) "Next regular payday" means the day designated by the employer of an events employee, pursuant to Section 204, for payment of wages earned during the payroll period, except where the events employee is discharged by the employer or where the events employee quits the employment.

(b) An events employee is entitled to receive payment of the wages earned and unpaid by the next regular payday, unless an events employee is discharged by the employer or the events employee quits the employment, in which case payment of final wages is governed by Sections 201 and 202, respectively.

(c) The payment of wages to an events employee covered by this section may be mailed to the events employee, paid by direct deposit to an account designated by the events employee, or made available to the events employee at a location specified by the employer in the county where the events employee was hired or performed labor. The payment shall be deemed to have been made on the date that the events employee's wages are mailed to the events employee, directly deposited, or made available to the events employee at the location specified by the employer, whichever is earlier.

(d) Events employees shall be deemed to be employed continuously and without interruption until their employment is terminated either by the employer or the events employee. The conclusion of an event or series of events (whether it is a single game, concert, or event, or a series of games in a homestand, or the end of the season for a professional baseball team), by itself, does not constitute a discharge, termination, layoff, or any other type of break in service.

(e) Nothing in this section prohibits the parties to a valid collective bargaining agreement from establishing alternative provisions for payment of wages to events employees covered by this section if those provisions do not exceed the time limitation established in Section 204.

(f) Nothing in this section should be read to affect the interpretation or application of Article 1 (commencing with Section 1251) of Chapter 5 of Part 1 of Division 1 of the Unemployment Insurance Code, including Section 1253.8 of that article.

SEC. 2. Section 203 of the Labor Code is amended to read:

203. (a) If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who sequesters or absents themselves to avoid payment to them, or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment.

(b) Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

SEC. 2.5. Section 203 of the Labor Code is amended to read:

203. (a) If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who sequesters or absents themselves to avoid payment to them, or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment.

(b) Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

SEC. 3. Section 203.1 of the Labor Code is amended to read:

203.1. If an employer pays an employee in the regular course of employment or in accordance with Section 201, 201.3, 201.5, 201.7, 201.8, or 202 any wages or fringe benefits, or both, by check, draft or voucher, which check, draft or voucher is subsequently refused payment because the employer or maker has no account with the bank, institution, or person on which the instrument is drawn, or has insufficient funds in the account upon which the instrument is drawn at the time of its presentation, so long as the same is presented within 30 days of receipt by the employee of the check, draft or voucher, those wages or fringe benefits, or both, shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced. However, those wages and fringe benefits shall not continue for more than 30 days and this penalty shall not apply if the employer can establish to the satisfaction of the Labor Commissioner or an appropriate court of law that the violation of this section was unintentional. This penalty also shall not apply in any case in which an employee recovers the service charge authorized by Section 1719 of the Civil Code in an action brought by the employee thereunder.

SEC. 3.5. Section 203.1 of the Labor Code is amended to read:

203.1. If an employer pays an employee in the regular course of employment or in accordance with Section 201, 201.3, 201.5, 201.6, 201.7, 201.8, or 202 any wages or fringe benefits, or both, by check, draft or voucher, which check, draft or voucher is subsequently refused payment because the employer or maker has no account with the bank, institution, or person on which the instrument is drawn, or has insufficient funds in the account upon which the instrument is drawn at the time of its presentation, so long as the same is presented within 30 days of receipt by the employee of the check, draft or voucher, those wages or fringe benefits, or both, shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced. However, those wages and fringe benefits shall not continue for more than 30 days and this penalty shall not apply if the employer can establish to the satisfaction of the Labor Commissioner or an appropriate court of law that the violation of this section was unintentional. This penalty also shall not apply in any case in which an employee recovers the service charge authorized by Section 1719 of the Civil Code in an action brought by the employee thereunder.

SEC. 4. Section 220 of the Labor Code is amended to read:

220. (a) Sections 201.3, 201.5, 201.7, 201.8, 203.1, 203.5, 204, 204a, 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments are subject to these provisions.

SEC. 4.5. Section 220 of the Labor Code is amended to read:

220. (a) Sections 201.3, 201.5, 201.6, 201.7, 201.8, 203.1, 203.5, 204, 204a, 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments are subject to these provisions.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 203 of the Labor Code proposed by this bill and Senate Bill 671. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 203 of the Labor Code, and (3) this bill is enacted after Senate Bill 671, in which case Section 203 of the Labor Code, as amended by Senate Bill 671, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 203.1 of the Labor Code proposed by this bill and Senate Bill 671. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 203.1 of the Labor Code, and (3) this bill is enacted after Senate Bill 671, in which case Section 203.1 of the Labor Code, as amended by Senate Bill 671, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 220 of the Labor Code proposed by this bill and Senate Bill 671. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 220 of the Labor Code, and (3) this bill is enacted after Senate Bill 671, in which case Section 220 of the Labor Code, as amended by Senate Bill 671, shall remain operative only until the operative date of this bill, at which time Section 4.5 of this bill shall become operative, and Section 4 of this bill shall not become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.