

File No. 110411

Committee Item No. \_\_\_\_\_

Board Item No. 22

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date April 12, 2011

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
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<input type="checkbox"/>	<input type="checkbox"/>	Legislative Analyst Report
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<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form (for hearings)
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OTHER

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<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Assembly Bill</u>
<input type="checkbox"/>	<input type="checkbox"/>	_____
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Completed by: Andrea Ausberry Date April 7, 2011

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document is in the file.

1 [Supporting California Assembly Bill 889 - Domestic Worker Bill of Rights]

2  
3 **Resolution urging the California legislature and the Governor of California to pass**  
4 **Assembly Bill 889, the "Domestic Worker Bill of Rights," as an expression of respect**  
5 **for the dignity and equality of domestic workers and the importance of the work they**  
6 **perform.**

7  
8 WHEREAS, California's domestic workers—comprised of housekeepers, nannies, and  
9 caregivers for children, persons with disabilities, and the elderly—work in private households  
10 to care for the health, safety and well-being of the most important aspects of Californians'  
11 lives, their families and homes; and

12 WHEREAS, Domestic workers play a critical role in California's economy, working to  
13 ensure the health and prosperity of California families and freeing others to participate in the  
14 workforce, which is increasingly necessary in these difficult economic times; and

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

18 WHEREAS, The National Domestic Workers Alliance is organizing domestic workers  
19 across the United States to end the exclusion of domestic workers from federal labor  
20 protections, and the International Domestic Workers Network, made up of domestic worker  
21 organizations across the world, has formed to fight exploitation and abuse by creating and  
22 advancing international standards in the industry; and

23 WHEREAS, The treatment of domestic service workers under federal and state laws  
24 has historically reflected stereotypical assumptions about the nature of domestic work,  
25 specifically that the relationship between employer and "servant" was "personal," rather than

1 commercial, in character; that employment within a household was not "real" productive work;  
2 and that women did not work to support their families; and

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

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

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

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

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

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

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

24 WHEREAS, Many employers desire to treat their caregivers and housekeepers fairly,  
25 but do not have the information to guide them in setting terms of employment, and may never

1 develop a formal contract or clearly establish the rights and obligations each party owes to the  
2 other; and

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

7 WHEREAS, Domestic workers are excluded under the National Labor Relations Act  
8 (29 U.S.C. Sec. 151 et seq.), leaving them unprotected when asking for respect of their basic  
9 rights and unable to collectively bargain for conditions allowing them to labor in dignity; and

10 WHEREAS, Domestic workers whose primary work is to care for children, the elderly,  
11 or persons with disabilities are excluded from overtime protections, meal and rest breaks, and  
12 reporting time pay under California law, and the federal Fair Labor Standards Act exempts  
13 live-in domestic workers from overtime provisions and exempts "companions" for the elderly  
14 and the infirm, and "casual" babysitters, from federal minimum wage and overtime provisions;  
15 and

16 WHEREAS, Domestic workers are excluded from the protections of the California  
17 Occupational Safety and Health Act of 1973 and therefore do not have the right to work in a  
18 healthy and safe environment, leaving them unprotected from dangerous and unhealthy  
19 working conditions on a regular basis; and

20 WHEREAS, State and federal antidiscrimination laws apply only to employers with  
21 certain minimum numbers of employees, and domestic workers are often unprotected against  
22 discrimination based on race, color, religion, sex, national origin, age, and disability; and

23 WHEREAS, Domestic workers do not have the right to a minimum number of  
24 consecutive hours of uninterrupted sleep, they are often woken up repeatedly throughout the  
25

1 night, leaving them sleep deprived, vulnerable to illness, and unable to provide proper care for  
2 those in their charge; and

3 WHEREAS, The vast majority of domestic workers receive no health benefits from their  
4 employers and have no right to paid sick days, many workers cannot take time off to deal with  
5 illness or medical emergencies, thereby endangering their own health and the health of the  
6 families they care for; and

7 WHEREAS, Assemblyman Tom Ammiano is introducing AB 889 "Domestic Worker Bill  
8 of Rights, which would provide domestic workers with equal overtime pay, equal right to a  
9 safe and healthy workplace, equal right to worker's compensation; equal right to notice before  
10 termination, equal right to five hours of uninterrupted sleep under adequate conditions, rights  
11 to annual cost of living wage increase, and rights to paid vacations and sick days; now,  
12 therefore, be it

13 RESOLVED, By the Board of Supervisors of the City and County of San Francisco that  
14 coverage of domestic workers under state and federal labor law should be an expression of  
15 respect for their dignity and equality and the importance of the work they perform, and a  
16 rejection of antiquated and long-discredited stereotypes about domestic work; and be it

17 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges the  
18 California legislature and the Governor of California to pass the "Domestic Worker Bill of  
19 Rights" supported by the California Domestic Workers' Coalition; and be it

20 FURTHER RESOLVED, That the San Francisco Board of Supervisors directs the clerk  
21 to distribute this Resolution to all of San Francisco's state legislators urging them to endorse  
22 this Resolution.

**ASSEMBLY BILL**

**No. 889**

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**Introduced by Assembly Members Ammiano and V. Manuel Pérez**

February 17, 2011

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An act to amend Sections 226, 3351, 3352, 3551, 3708, 3715, 6303, and 6314 of, to repeal Section 4156 of, and to add Part 4.5 (commencing with Section 1450) to Division 2 of, the Labor Code, relating to domestic work employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 889, as introduced, Ammiano. Domestic work employees.

Existing law regulates the wages, hours, and working conditions of any man, woman, and minor employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, except for individuals employed as outside salesmen and individuals participating in specified national service programs. Under existing law, the Industrial Welfare Commission within the Department of Industrial Relations is authorized to adopt rules, regulations, and orders to ensure that employers comply with those provisions of law.

This bill would specially regulate the wages, hours, and working conditions of domestic work employees, as defined. Specifically, this bill would, among other things, provide a private right of action for a domestic work employee when those regulations are violated by his or her employer; provide an overtime compensation rate for domestic work employees; require annual pay increases, paid vacation, and paid sick days for domestic work employees; and require that a domestic work employer provide written notice of termination 21 days in advance.

Existing law requires an employer to provide its employees with specified information regarding their wages either semimonthly or at

the time of each wage payment. Under existing law, this requirement does not apply to employers of persons who engage in specified types of household domestic service.

This bill would delete the exclusion for employers of persons who engage in specified types of household domestic service, thereby requiring those employers to provide the above-described information.

Existing law requires employers to carry workers' compensation insurance. The failure to secure workers' compensation as required by the workers' compensation law is a misdemeanor. Under existing law, employers of persons who engage in specified types of household domestic service and who work less than a specified number of hours are excluded from that definition of employer and are therefore excluded from the requirement to carry workers' compensation insurance, as specified.

This bill would remove that exclusion and require all domestic work employers, as defined, to carry workers' compensation insurance and would make conforming changes. By expanding the definition of a crime, this bill would impose a state-mandated local program.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified. Under existing law, employment related to household domestic services is excluded from the provisions of the act.

This bill would remove that exclusion and require domestic work employers to comply with the requirements of the act.

The Division of Occupational Safety and Health of the Department of Industrial Relations is charged with enforcing occupational health and safety laws, orders, and standards, including the investigation of alleged violations of those provisions.

This bill would provide a process for investigating alleged violations of the above provisions when the place of employment is a residential dwelling.

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.  
State-mandated local program: yes.

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

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) As recognized by the State of California in Resolution  
4 Chapter 119 of the Statutes of 2010, it is the policy of the state to  
5 encourage and protect the rights of domestic work employees.

6     (b) California's domestic workers, which includes housekeepers,  
7 nannies, and caregivers for children, persons with disabilities, and  
8 the elderly, work in private households to care for the health, safety,  
9 and well-being of the most important aspects of Californians' lives:  
10 their families and homes.

11     (c) Domestic workers play a critical role in California's  
12 economy, working to ensure the health and prosperity of California  
13 families and freeing others to participate in the workforce, which  
14 is increasingly necessary in these difficult economic times. The  
15 labor of domestic workers is central to the ongoing prosperity of  
16 the state but, despite the value of their work, domestic workers  
17 have not received the same protection under state laws as workers  
18 in other industries. Most domestic workers labor to support families  
19 and children of their own, and more than half are primary income  
20 earners, but two-thirds of domestic workers earn low wages or  
21 wages below the poverty line.

22     (d) Because domestic workers care for the most important  
23 elements of their employers' lives, their families and homes, it is  
24 in the interest of employees, employers, and the people of the State  
25 of California to ensure that the rights of domestic workers are  
26 respected, protected, and enforced.

27     (e) The vast majority of domestic workers are women of color  
28 and immigrants and are particularly vulnerable to unlawful  
29 employment practices and abuses. Domestic workers usually work  
30 alone, behind closed doors, and out of the public eye, leaving them  
31 isolated, vulnerable to abuse and exploitation, and unable to  
32 advocate collectively for better working conditions. Domestic  
33 workers often labor under harsh conditions, work long hours for  
34 low wages without benefits or job security, and face termination  
35 without notice or severance pay, leaving many suddenly without  
36 both a job and a home. In the worst cases, domestic workers are  
37 verbally and physically abused or sexually assaulted, forced to



1 sleep in conditions unfit for human habitation, and stripped of their  
2 privacy and dignity.

3 (f) Domestic workers are still excluded from the most basic  
4 protections afforded the rest of the labor force under state and  
5 federal law, including the rights to fair wages, safe and healthy  
6 working conditions, workers' compensation, and protection from  
7 discriminatory and abusive treatment. The treatment of domestic  
8 workers under federal and state laws has historically reflected  
9 stereotypical assumptions about the nature of domestic work,  
10 specifically that the relationship between employer and "servant"  
11 was "personal," rather than commercial, in character, that  
12 employment within a household was not "real" productive work,  
13 and that women did not work to support their families.

14 (g) Given the limited legal protections historically provided to  
15 domestic workers, and bearing in mind the unique conditions and  
16 demands of this private, home-based industry, the Legislature, as  
17 an exercise of the police power of the State of California for the  
18 protection of the public welfare, prosperity, health, safety, and  
19 peace of its people, further finds that domestic workers are entitled  
20 to industry-specific protections and labor standards that eliminate  
21 discriminatory provisions in the labor laws and guarantee domestic  
22 workers basic workplace rights to ensure that domestic workers  
23 are treated with equality, respect, and dignity.

24 SEC. 2. Section 226 of the Labor Code is amended to read:

25 226. (a) Every employer shall, semimonthly or at the time of  
26 each payment of wages, furnish each of his or her employees,  
27 either as a detachable part of the check, draft, or voucher paying  
28 the employee's wages, or separately when wages are paid by  
29 personal check or cash, an accurate itemized statement in writing  
30 showing (1) gross wages earned, (2) total hours worked by the  
31 employee, except for any employee whose compensation is solely  
32 based on a salary and who is exempt from payment of overtime  
33 under subdivision (a) of Section 515 or any applicable order of  
34 the Industrial Welfare Commission, (3) the number of piece-rate  
35 units earned and any applicable piece rate if the employee is paid  
36 on a piece-rate basis, (4) all deductions, provided that all deductions  
37 made on written orders of the employee may be aggregated and  
38 shown as one item, (5) net wages earned, (6) the inclusive dates  
39 of the period for which the employee is paid, (7) the name of the  
40 employee and his or her social security number, except that by

1 January 1, 2008, only the last four digits of his or her social security  
2 number or an employee identification number other than a social  
3 security number may be shown on the itemized statement, (8) the  
4 name and address of the legal entity that is the employer, and (9)  
5 all applicable hourly rates in effect during the pay period and the  
6 corresponding number of hours worked at each hourly rate by the  
7 employee. The deductions made from payments of wages shall be  
8 recorded in ink or other indelible form, properly dated, showing  
9 the month, day, and year, and a copy of the statement or a record  
10 of the deductions shall be kept on file by the employer for at least  
11 three years at the place of employment or at a central location  
12 within the State of California.

13 (b) An employer that is required by this code or any regulation  
14 adopted pursuant to this code to keep the information required by  
15 subdivision (a) shall afford current and former employees the right  
16 to inspect or copy the records pertaining to that current or former  
17 employee, upon reasonable request to the employer. The employer  
18 may take reasonable steps to assure the identity of a current or  
19 former employee. If the employer provides copies of the records,  
20 the actual cost of reproduction may be charged to the current or  
21 former employee.

22 (c) An employer who receives a written or oral request to inspect  
23 or copy records pursuant to subdivision (b) pertaining to a current  
24 or former employee shall comply with the request as soon as  
25 practicable, but no later than 21 calendar days from the date of the  
26 request. A violation of this subdivision is an infraction.  
27 Impossibility of performance, not caused by or a result of a  
28 violation of law, shall be an affirmative defense for an employer  
29 in any action alleging a violation of this subdivision. An employer  
30 may designate the person to whom a request under this subdivision  
31 will be made.

32 ~~(d) This section does not apply to any employer of any person~~  
33 ~~employed by the owner or occupant of a residential dwelling whose~~  
34 ~~duties are incidental to the ownership, maintenance, or use of the~~  
35 ~~dwelling, including the care and supervision of children, or whose~~  
36 ~~duties are personal and not in the course of the trade, business,~~  
37 ~~profession, or occupation of the owner or occupant.~~

38 (e)

39 (d) An employee suffering injury as a result of a knowing and  
40 intentional failure by an employer to comply with subdivision (a)

1 is entitled to recover the greater of all actual damages or fifty  
2 dollars (\$50) for the initial pay period in which a violation occurs  
3 and one hundred dollars (\$100) per employee for each violation  
4 in a subsequent pay period, not exceeding an aggregate penalty of  
5 four thousand dollars (\$4,000), and is entitled to an award of costs  
6 and reasonable attorney's fees.

7 (f)

8 (e) A failure by an employer to permit a current or former  
9 employee to inspect or copy records within the time set forth in  
10 subdivision (c) entitles the current or former employee or the Labor  
11 Commissioner to recover a seven-hundred-fifty-dollar (\$750)  
12 penalty from the employer.

13 (g)

14 (f) An employee may also bring an action for injunctive relief  
15 to ensure compliance with this section, and is entitled to an award  
16 of costs and reasonable attorney's fees.

17 (h)

18 (g) This section does not apply to the state, to any city, county,  
19 city and county, district, or to any other governmental entity, except  
20 that if the state or a city, county, city and county, district, or other  
21 governmental entity furnishes its employees with a check, draft,  
22 or voucher paying the employee's wages, the state or a city, county,  
23 city and county, district, or other governmental entity shall, by  
24 January 1, 2008, use no more than the last four digits of the  
25 employee's social security number or shall use an employee  
26 identification number other than the social security number on the  
27 itemized statement provided with the check, draft, or voucher.

28 SEC. 3. Part 4.5 (commencing with Section 1450) is added to  
29 Division 2 of the Labor Code, to read:

30  
31 PART 4.5. DOMESTIC WORK EMPLOYEES

32  
33 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

34  
35 1450. This part shall be known and may be cited as the  
36 Domestic Work Employee Equality, Fairness, and Dignity Act.

37 1451. As used in this part, the following definitions apply:

38 (a) "Domestic work" means services related to the care of  
39 persons in private households or maintenance of private households  
40 or their premises. Domestic work occupations include childcare

1 providers, caregivers of sick, convalescing, or elderly persons,  
2 house cleaners, housekeepers, maids, and other household  
3 occupations.

4 (b) (1) "Domestic work employee" means an individual who  
5 performs domestic work and includes live-in domestic work  
6 employees and personal attendants.

7 (2) "Domestic work employee" does not include any of the  
8 following:

9 (A) Any person who performs services through the In-Home  
10 Supportive Services program under Article 7 (commencing with  
11 Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare  
12 and Institutions Code.

13 (B) Any person who is the parent, grandparent, spouse, child,  
14 or legally adopted child of the domestic work employer.

15 (C) Any person under 18 years of age who is employed as a  
16 babysitter for a minor child of the domestic work employer.

17 (c) (1) "Domestic work employer" means a person, including  
18 corporate officers or executives, who directly or indirectly, or  
19 through an agent or any other person, including through the  
20 services of a third-party employer, temporary service, or staffing  
21 agency or similar entity, employs or exercises control over the  
22 wages, hours, or working conditions of a domestic work employee.

23 (2) "Domestic work employer" does not include the State of  
24 California or individuals who receive domestic work services  
25 through the In-Home Supportive Services program under Article  
26 7 (commencing with Section 12300) of Chapter 3 of Part 3 of  
27 Division 9 of the Welfare and Institutions Code.

28 (d) "Emergency" means an unpredictable or unavoidable  
29 occurrence of a serious nature that occurs unexpectedly requiring  
30 immediate action.

31 (e) "Hours worked" means the time during which a domestic  
32 work employee is subject to the control of a domestic work  
33 employer, and includes all time the domestic work employee is  
34 suffered or permitted to work, whether or not required to do so.

35 (f) "Live-in domestic work employee" means a domestic work  
36 employee who lives in the establishment where he or she works.

37 (g) "Personal attendant" means a person who performs domestic  
38 work related to the supervision, feeding, or dressing of a child or  
39 other person who, by reason of advanced age, physical disability,  
40 or mental deficiency, needs supervision. Personal attendant

1 includes babysitters. The status of "personal attendant" applies if  
2 no significant amount of work other than the foregoing is required.

3 1452. The Division of Labor Standards Enforcement shall  
4 enforce this part.

5 1453. (a) Any domestic work employee aggrieved by a  
6 violation of this part may bring an administrative action pursuant  
7 to Section 98 or may bring a civil action in a court of competent  
8 jurisdiction against the domestic work employer violating this part.

9 (b) Upon prevailing, a domestic work employee bringing an  
10 action pursuant to this section shall be entitled to any legal or  
11 equitable relief as may be appropriate to remedy the violation,  
12 including the payment of any back wages unlawfully withheld,  
13 the payment of an additional sum as liquidated damages or  
14 penalties as specified in this part, reinstatement of employment,  
15 interest, or injunctive relief, or any combination of these remedies,  
16 as appropriate. A domestic work employee bringing a civil action  
17 pursuant to this section shall also be entitled to recover an award  
18 of reasonable attorney's fees and costs, including expert witness  
19 fees.

20 (c) The rights and remedies specified in this part are cumulative  
21 and nonexclusive and are in addition to any other rights or remedies  
22 afforded by contract or under other provisions of law.

23 (d) Notwithstanding any provision of this code or Section 340  
24 of the Code of Civil Procedure, to commence an action for a  
25 violation of this part a domestic work employee shall file an  
26 administrative or civil complaint within three years of the violation.

27

## 28 CHAPTER 2. DOMESTIC WORK EMPLOYEE RIGHTS

29

30 1454. Except where otherwise provided in this chapter, Section  
31 510 applies to a domestic work employee.

32 1455. (a) A domestic work employee who is required to be  
33 on duty for 24 consecutive hours or more shall have a minimum  
34 of eight consecutive hours for uninterrupted sleep, except in an  
35 emergency.

36 (b) If a domestic work employee is required to be on duty for  
37 24 consecutive hours or more, the domestic work employer and  
38 the domestic work employee may agree in writing to exclude a  
39 bona fide regularly scheduled sleeping period of not more than  
40 eight hours for uninterrupted sleep from hours worked, provided

1 that the domestic work employer otherwise complies with this  
2 section and Section 1457. If no written agreement to the contrary  
3 is present, the eight hours of sleeping time shall constitute hours  
4 worked.

5 (c) There is a rebuttable presumption that a domestic work  
6 employee did not receive eight consecutive hours for uninterrupted  
7 sleep if he or she is required to be on duty for 24 consecutive hours  
8 or more and the domestic work employer does not hire a  
9 replacement worker for at least eight consecutive hours in the  
10 24-hour work period.

11 (d) A domestic work employer shall pay a sum of fifty dollars  
12 (\$50) to the domestic work employee for each day that the domestic  
13 employer violates this section.

14 1456. (a) A live-in domestic work employee who is not  
15 required to be on duty for 24 consecutive hours or more shall have  
16 at least 12 consecutive hours free of duty during each workday of  
17 24 hours, of which a minimum of eight consecutive hours are for  
18 uninterrupted sleep. A live-in domestic work employee suffered  
19 or permitted to work during the 12 consecutive off-duty hours shall  
20 be compensated in accordance with Section 510.

21 (b) A live-in domestic work employee shall not be required to  
22 work more than five days in any one workweek without a day off  
23 of not less than 24 consecutive hours, except in an emergency. A  
24 live-in domestic work employee who is suffered or permitted to  
25 work in excess of five workdays in any workweek shall be  
26 compensated in accordance with Section 510.

27 (c) A domestic work employer shall pay a sum of fifty dollars  
28 (\$50) to the domestic work employee for each day that the domestic  
29 work employer violates this section.

30 1457. Live-in domestic work employees and domestic work  
31 employees who work 24 consecutive hours or more shall be  
32 provided sleeping accommodations that are adequate, decent, and  
33 sanitary according to usual customary standards. Domestic work  
34 employees shall not be required to share a bed.

35 1458. (a) If a domestic work employee is required to report  
36 for work and does so report but is not put to work or is furnished  
37 less than half of his or her usual or scheduled day's work, the  
38 domestic work employee shall be paid for half the usual or  
39 scheduled day's work, but in no event for less than two hours nor

1 more than four hours, at the domestic work employee's regular  
2 rate of pay, which shall not be less than the minimum wage.

3 (b) If a domestic work employee is required to report for work  
4 a second time in any one workday and is furnished less than two  
5 hours of work on the second time he or she reports for work, the  
6 domestic work employee shall be paid for two hours at the  
7 domestic work employee's regular rate of pay, which shall not be  
8 less than the minimum wage.

9 (c) Subdivisions (a) and (b) do not apply under any of the  
10 following conditions:

11 (1) Operations cannot commence or continue due to threats to  
12 domestic work employees or property.

13 (2) Operations cannot commence due to the recommendation  
14 of civil authorities.

15 (3) Public utilities fail to supply electricity, water, or gas, or  
16 there is a failure in the public utilities or sewer system.

17 (4) The interruption of work is caused by an act of God or other  
18 cause not within the domestic work employer's control.

19 (5) The domestic work employee is paid on standby status and  
20 is called to perform assigned work at a time other than the domestic  
21 work employee's scheduled reporting time.

22 1459. (a) A domestic work employee shall earn a wage  
23 increase each year on the same day of the employee's original date  
24 of hire. The increase shall be in a percentage amount corresponding  
25 to the prior year's percentage increase, if any, in the Consumer  
26 Price Index for urban wage earners and clerical workers for  
27 California as computed by the Division of Labor Statistics and  
28 Research within the department.

29 (b) In any action brought to recover unpaid annual cost of living  
30 pay increases pursuant to Section 1453, a domestic work employee  
31 shall be entitled to recover liquidated damages in an amount equal  
32 to the wages unlawfully unpaid and interest thereon.

33 (c) Notwithstanding subdivision (b), if the domestic work  
34 employer demonstrates to the satisfaction of the court or the Labor  
35 Commissioner, as applicable, that the act or omission giving rise  
36 to the action was in good faith and that the domestic work employer  
37 had reasonable grounds for believing that the act or omission did  
38 not violate subdivision (a), the court or Labor Commissioner may,  
39 in its discretion, refuse to award liquidated damages or award any

1 amount of liquidated damages not exceeding the amount specified  
2 in subdivision (b).

3 1460. (a) A domestic work employer shall not employ a  
4 domestic work employee for a work period of more than five hours  
5 per day without a meal period of not less than 30 minutes, except  
6 that if the total work period for the day of the domestic work  
7 employee is no more than six hours, the meal period may be waived  
8 by mutual consent of the domestic work employer and the domestic  
9 work employee.

10 (b) A domestic work employer shall not employ a domestic  
11 work employee for a work period of more than 10 hours per day  
12 without providing the domestic work employee with a second meal  
13 period of not less than 30 minutes, except that if the total hours  
14 worked is no more than 12 hours, the second meal period may be  
15 waived by mutual consent of the employer and the employee only  
16 if the first meal period was not waived.

17 (c) Unless the domestic work employee is relieved of all duty  
18 during a 30-minute meal period, the meal period shall be  
19 considered an on-duty meal period and counted as time worked.  
20 An on-duty meal period shall be permitted only if the nature of  
21 the work prevents a domestic work employee from being relieved  
22 of all duty and shall be by written agreement, revocable at any  
23 time by the domestic work employee, between the domestic work  
24 employer and domestic work employee.

25 (d) If a domestic work employer fails to provide to a domestic  
26 work employee a meal period in accordance with this section, the  
27 domestic work employer shall pay the domestic work employee  
28 one additional hour of pay at the domestic work employee's regular  
29 rate of compensation for each workday that the meal period is not  
30 provided.

31 1461. (a) Every domestic work employer shall authorize and  
32 permit all domestic work employees to take rest periods, which,  
33 insofar as practicable, shall be in the middle of each work period.  
34 The authorized rest period time shall be based on the total hours  
35 worked daily at the rate of 10 minutes net rest time per four hours,  
36 or major fraction thereof, of work. However, a rest period need  
37 not be authorized for domestic work employees whose total daily  
38 work time is less than three and one-half hours. Authorized rest  
39 period time shall be counted as hours worked for which there shall  
40 be no deduction from wages.



(b) If a domestic work employer fails to provide a domestic work employee a rest period in accordance with the applicable provisions of this order, the domestic work employer shall pay the domestic work employee one additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

1462. (a) A domestic work employer shall permit a domestic work employee who works five hours or more to choose the food he or she eats and to prepare his or her own meals. A domestic work employee may use the job site's kitchen facilities and kitchen appliances without charge or deduction from pay.

(b) If a domestic work employer and the domestic work employee agree that the domestic work employer will provide meals and the domestic work employer wishes to offset the costs of those meals pursuant to Industrial Welfare Commission Wage Order Number 15, the domestic work employee may request and receive specific food items for those meals.

(c) A domestic work employer who violates this section shall pay a sum of fifty dollars (\$50) to each domestic work employee for each day that he or she violated this section.

1463. (a) (1) A domestic work employee shall accrue paid vacation benefits at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this provision, whichever occurs first. A domestic work employee may use accrued paid vacation after one year of service. One year of service is completed on the 365th calendar day of employment.

(2) Unused accrued paid vacation benefits shall carry over from year to year. However, a domestic work employer may limit a domestic work employee's use of accrued paid vacation as follows:

(A) After the first year of service, a domestic work employee may use 40 hours or five days of paid vacation in each calendar year, whichever is greater.

(B) After the fifth year of service, a domestic work employee may use 80 hours or 10 days of paid vacation in each calendar year, whichever is greater.

(C) After the tenth year of service, a domestic work employee may use 120 hours or 15 days of paid vacation in each calendar year, whichever is greater.

(b) A domestic work employer shall not require, as a condition of taking paid vacation, that the domestic work employee search for or find a replacement worker to cover the hours during which the domestic work employee is on paid vacation leave.

(c) (1) A domestic work employee aggrieved by a violation of this section shall be entitled to all of the following:

(A) The amount of any paid vacation unlawfully withheld.

(B) A penalty of two hundred fifty dollars (\$250).

(C) Appropriate equitable relief.

(2) A domestic work employee is not aggrieved by a violation of this section if the domestic work employer can demonstrate that it denied a request to use paid vacation because of an emergency and provided another opportunity for the domestic work employee to take vacation time within three months of the date the domestic work employee originally requested to use paid vacation.

(d) Upon request, a domestic work employer shall provide to a domestic work employee an annual statement indicating the amount and periods of accrued vacation.

1464. (a) (1) A domestic work employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this provision, whichever occurs first. A domestic work employee may use accrued paid sick days as they are accrued, beginning on the 90th calendar day of employment

(2) Unused accrued paid sick days shall carry over from year to year. However, a domestic work employer may limit a domestic work employee's use of paid sick days to 40 hours or five days in each calendar year, whichever is greater.

(b) (1) A domestic work employee may use accumulated sick days for the diagnosis, care, or treatment of an existing health condition; preventive care; or care and services related to domestic violence or sexual assault.

(2) A domestic work employee may use accumulated sick days for himself or herself, or his or her child or legal ward; parent; sibling; grandparent; grandchild; and spouse or registered domestic partner under any state or local law. The aforementioned child, parent, sibling, grandparent, and grandchild relationships include biological relationships and relationships resulting from adoption; step-relationships; legal guardianships; foster care relationships;

1 and in loco parentis relationships. "Child" includes a child of a  
2 domestic partner.

3 (c) A domestic work employer is not required to provide  
4 compensation to a domestic work employee for accrued, unused  
5 paid sick days upon termination, resignation, retirement, or other  
6 separation from employment.

7 (d) A domestic work employer shall not require as a condition  
8 of taking paid sick days that the domestic work employee search  
9 for or find a replacement worker to cover the hours during which  
10 the domestic work employee is on paid sick days.

11 (e) A domestic work employee aggrieved by a violation of this  
12 section shall be entitled to all of the following:

13 (1) Reinstatement.

14 (2) The amount of any sick days unlawfully withheld.

15 (3) A penalty equal to the amount of the paid sick days  
16 unlawfully withheld multiplied by three, or two hundred fifty  
17 dollars (\$250), whichever amount is greater.

18 (4) Appropriate equitable relief.

19 1465. (a) (1) A domestic work employee is entitled to written  
20 notice of termination 21 days before his or her final day of  
21 employment.

22 (2) If a domestic work employer does not provide notice of  
23 termination as required by paragraph (1), the domestic work  
24 employee is entitled to his or her wages for the period of violation,  
25 up to a maximum of 21 days.

26 (b) A domestic work employer may terminate a domestic work  
27 employee without providing the notice required in paragraph (1)  
28 of subdivision (a) if the termination is based on the domestic work  
29 employee causing intentional physical or psychological harm to  
30 the person he or she cares for or intentional physical damage to  
31 the work premises.

32 SEC. 4. Section 3351 of the Labor Code is amended to read:

33 3351. "Employee" means every person in the service of an  
34 employer under any appointment or contract of hire or  
35 apprenticeship, express or implied, oral or written, whether lawfully  
36 or unlawfully employed, and includes:

37 (a) Aliens and minors.

38 (b) All elected and appointed paid public officers.

39 (c) All officers and members of boards of directors of  
40 quasi-public or private corporations while rendering actual service

1 for the corporations for pay; provided that, where the officers and  
2 directors of the private corporation are the sole shareholders  
3 thereof, the corporation and the officers and directors shall come  
4 under the compensation provisions of this division only by election  
5 as provided in subdivision (a) of Section 4151.

6 ~~(d) Except as provided in subdivision (h) of Section 3352, any~~  
7 ~~A~~ person employed by the owner or occupant of a residential  
8 dwelling whose duties are incidental to the ownership,  
9 maintenance, or use of the dwelling, including the care and  
10 supervision of children, *persons of advanced age, or persons with*  
11 *physical or mental disabilities*, or whose duties are personal and  
12 not in the course of the trade, business, profession, or occupation  
13 of the owner or occupant.

14 (e) All persons incarcerated in a state penal or correctional  
15 institution while engaged in assigned work or employment ~~as~~  
16 ~~defined in paragraph (1) of subdivision (a) of Section 10021 of~~  
17 ~~Title 8 of the California Code of Regulations~~, or engaged in work  
18 performed under contract.

19 (f) All working members of a partnership or limited liability  
20 company receiving wages irrespective of profits from the  
21 partnership or limited liability company; provided that where the  
22 working members of the partnership or limited liability company  
23 are general partners or managers, the partnership or limited liability  
24 company and the partners or managers shall come under the  
25 compensation provisions of this division only by election as  
26 provided in subdivision (a) of Section 4151. If a private corporation  
27 is a general partner or manager, "working members of a partnership  
28 or limited liability company" shall include the corporation and the  
29 officers and directors of the corporation, provided that the officers  
30 and directors are the sole shareholders of the corporation. If a  
31 limited liability company is a partner or member, "working  
32 members of the partnership or limited liability company" shall  
33 include the managers of the limited liability company.

34 (g) For the purposes of subdivisions (c) and (f), the persons  
35 holding the power to revoke a trust as to shares of a private  
36 corporation or as to general partnership or limited liability company  
37 interests held in the trust, shall be deemed to be the shareholders  
38 of the private corporation, or the general partners of the partnership,  
39 or the managers of the limited liability company.

40 SEC. 5. Section 3352 of the Labor Code is amended to read:

1 3352. "Employee" excludes the following:

2 (a) Any person defined in subdivision (d) of Section 3351 who  
3 is employed by his or her parent, spouse, or child.

4 (b) Any person performing services in return for aid or  
5 sustenance only, received from any religious, charitable, or relief  
6 organization.

7 (c) Any person holding an appointment as deputy clerk or deputy  
8 sheriff appointed for his or her own convenience, and who receives  
9 no compensation from the county or municipal corporation or from  
10 the citizens thereof for his or her services as the deputy. This  
11 exclusion is operative only as to employment by the county or  
12 municipal corporation and does not deprive any person so  
13 deputized from recourse against a private person employing him  
14 or her for injury occurring in the course of and arising out of the  
15 employment.

16 (d) Any person performing voluntary services at or for a  
17 recreational camp, hut, or lodge operated by a nonprofit  
18 organization, exempt from federal income tax under Section 501(c)  
19 501 of the Internal Revenue Code, of which he or she or a member  
20 of his or her family is a member and who receives no compensation  
21 for those services other than meals, lodging, or transportation.

22 (e) Any person performing voluntary service as a ski patrolman  
23 who receives no compensation for those services other than meals  
24 or lodging or the use of ski tow or ski lift facilities.

25 (f) Any person employed by a ski lift operator to work at a snow  
26 ski area who is relieved of and not performing any prescribed  
27 duties, while participating in recreational activities on his or her  
28 own initiative.

29 (g) Any person, other than a regular employee, participating in  
30 sports or athletics who receives no compensation for the  
31 participation other than the use of athletic equipment, uniforms,  
32 transportation, travel, meals, lodgings, or other expenses incidental  
33 thereto.

34 ~~(h) Any person defined in subdivision (d) of Section 3351 who~~  
35 ~~was employed by the employer to be held liable for less than 52~~  
36 ~~hours during the 90 calendar days immediately preceding the date~~  
37 ~~of the injury for injuries, as defined in Section 5411, or during the~~  
38 ~~90 calendar days immediately preceding the date of the last~~  
39 ~~employment in an occupation exposing the employee to the hazards~~  
40 ~~of the disease or injury for injuries, as defined in Section 5412, or~~

1 who earned less than one hundred dollars (\$100) in wages from  
2 the employer during the 90 calendar days immediately preceding  
3 the date of the injury for injuries, as defined in Section 5411, or  
4 during the 90 calendar days immediately preceding the date of the  
5 last employment in an occupation exposing the employee to the  
6 hazards of the disease or injury for injuries, as defined in Section  
7 5412.

8 (i)

9 (h) Any person performing voluntary service for a public agency  
10 or a private, nonprofit organization who receives no remuneration  
11 for the services other than meals, transportation, lodging, or  
12 reimbursement for incidental expenses.

13 (j)

14 (i) Any person, other than a regular employee, performing  
15 officiating services relating to amateur sporting events sponsored  
16 by any public agency or private, nonprofit organization, who  
17 receives no remuneration for these services other than a stipend  
18 for each day of service no greater than the amount established by  
19 the Department of Personnel Administration as a per diem expense  
20 for employees or officers of the state. The stipend shall be  
21 presumed to cover incidental expenses involved in officiating,  
22 including, but not limited to, meals, transportation, lodging, rule  
23 books and courses, uniforms, and appropriate equipment.

24 (k)

25 (j) Any student participating as an athlete in amateur sporting  
26 events sponsored by any public agency, public or private nonprofit  
27 college, university or school, who receives no remuneration for  
28 the participation other than the use of athletic equipment, uniforms,  
29 transportation, travel, meals, lodgings, scholarships, grants-in-aid,  
30 or other expenses incidental thereto.

31 (l)

32 (k) Any law enforcement officer who is regularly employed by  
33 a local or state law enforcement agency in an adjoining state and  
34 who is deputized to work under the supervision of a California  
35 peace officer pursuant to paragraph (4) of subdivision (a) of Section  
36 832.6 of the Penal Code.

37 (m)

38 (l) Any law enforcement officer who is regularly employed by  
39 the Oregon State Police, the Nevada Department of Motor Vehicles  
40 and Public Safety, or the Arizona Department of Public Safety and

1 who is acting as a peace officer in this state pursuant to subdivision  
2 (a) of Section ~~830.32~~ 830.39 of the Penal Code.

3 ~~(ii)~~

4 (m) Any person, other than a regular employee, performing  
5 services as a sports official for an entity sponsoring an  
6 intercollegiate or interscholastic sports event, or any person  
7 performing services as a sports official for a public agency, public  
8 entity, or a private nonprofit organization, which public agency,  
9 public entity, or private nonprofit organization sponsors an amateur  
10 sports event. For purposes of this subdivision, "sports official"  
11 includes an umpire, referee, judge, scorekeeper, timekeeper, or  
12 other person who is a neutral participant in a sports event.

13 ~~(o)~~

14 (n) Any person who is an owner-builder, as defined in  
15 subdivision (a) of Section 50692 of the Health and Safety Code,  
16 who is participating in a mutual self-help housing program, as  
17 defined in Section 50087 of the Health and Safety Code, sponsored  
18 by a nonprofit corporation.

19 SEC. 6. Section 3551 of the Labor Code is amended to read:

20 3551. (a) Every employer subject to the compensation  
21 provisions of this code, ~~except employers of employees defined~~  
22 ~~in subdivision (d) of Section 3351~~, shall give every new employee,  
23 either at the time the employee is hired or by the end of the first  
24 pay period, written notice of the information contained in Section  
25 3550. The content of the notice required by this section shall be  
26 prescribed by the administrative director after consultation with  
27 the Commission on Health and Safety and Workers' Compensation.

28 (b) The notice required by this section shall be easily  
29 understandable and available in both English and Spanish. In  
30 addition to the information contained in Section 3550, the content  
31 of the notice required by this section shall include:

32 (1) Generally, how to obtain appropriate medical care for a job  
33 injury.

34 (2) The role and function of the primary treating physician.

35 (3) A form that the employee may use as an optional method  
36 for notifying the employer of the name of the employee's "personal  
37 physician," as defined by Section 4600, or "personal chiropractor,"  
38 as defined by Section 4601.

39 (c) The content of the notice required by this section shall be  
40 made available to employers and insurers by the administrative

1 director. Insurers shall provide this notice to each of their  
2 policyholders, with advice concerning the requirements of this  
3 section and the penalties for a failure to provide this notice to all  
4 employees.

5 SEC. 7. Section 3708 of the Labor Code is amended to read:

6 3708. In such action it is presumed that the injury to the  
7 employee was a direct result and grew out of the negligence of the  
8 employer, and the burden of proof is upon the employer, to rebut  
9 the presumption of negligence. It is not a defense to the employer  
10 that the employee was guilty of contributory negligence, or  
11 assumed the risk of the hazard complained of, or that the injury  
12 was caused by the negligence of a fellow servant. No contract or  
13 regulation shall restore to the employer any of the foregoing  
14 defenses.

15 This section shall not apply to any employer of an employee, as  
16 defined in subdivision (d) of Section 3351, with respect to such  
17 employee, but shall apply to employers of employees described  
18 in subdivision (b) of Section 3715, with respect to such employees.

19 SEC. 8. Section 3715 of the Labor Code is amended to read:

20 3715. (a) Any employee, except an employee as defined in  
21 subdivision (d) of Section 3351, whose employer has failed to  
22 secure the payment of compensation as required by this division,  
23 or his or her dependents in case death has ensued, may, in addition  
24 to proceeding against his or her employer by civil action in the  
25 courts as provided in Section 3706, file his or her application with  
26 the appeals board for compensation and the appeals board shall  
27 hear and determine the application for compensation in like manner  
28 as in other claims and shall make the award to the claimant as he  
29 or she would be entitled to receive if the employer had secured the  
30 payment of compensation as required, and the employer shall pay  
31 the award in the manner and amount fixed thereby or shall furnish  
32 to the appeals board a bond, in any amount and with any sureties  
33 as the appeals board requires, to pay the employee the award in  
34 the manner and amount fixed thereby.

35 (b) ~~Notwithstanding this section or any other provision of this~~  
36 ~~chapter except Section 3708, any person described in subdivision~~  
37 ~~(d) of Section 3351 who is (1) engaged in household domestic~~  
38 ~~service who is employed by one employer for over 52 hours per~~  
39 ~~week, (2) engaged as a part-time gardener in connection with a~~  
40 ~~private dwelling, if the number of hours devoted to the gardening~~



1 work for any individual regularly exceeds 44 hours per month, or  
2 (3) engaged in casual employment where the work contemplated  
3 is to be completed in not less than 10 working days, without regard  
4 to the number of persons employed, and where the total labor cost  
5 of the work is not less than one hundred dollars (\$100) (which  
6 amount shall not include charges other than for personal services);  
7 shall be entitled, in addition to proceeding against his or her  
8 employer by civil action in the courts as provided in Section 3706,  
9 to file his or her application with the appeals board for  
10 compensation. The appeals board shall hear and determine the  
11 application for compensation in like manner as in other claims,  
12 and shall make the award to the claimant as he or she would be  
13 entitled to receive if the person's employer had secured the  
14 payment of compensation as required, and the employer shall pay  
15 the award in the manner and amount fixed thereby, or shall furnish  
16 to the appeals board a bond, in any amount and with any sureties  
17 as the appeals board requires, to pay the employee the award in  
18 the manner and amount fixed thereby.

19 It is the intent of the Legislature that the amendments to this  
20 section by Chapter 17 of the Statutes of 1977, make no change in  
21 the law as it applied to those types of employees covered by this  
22 subdivision prior to the effective date of Chapter 1263 of the 1975  
23 Regular Session.

24 (c)

25 (b) (1) In any claim in which it is alleged that the employer has  
26 failed to secure the payment of compensation, the director, only  
27 for purposes of this section and Section 3720, shall determine, on  
28 the basis of the evidence available to him or her, whether the  
29 employer was prima facie illegally uninsured. A finding that the  
30 employer was prima facie illegally uninsured shall be made when  
31 the director determines that there is sufficient evidence to constitute  
32 a prima facie case that the employer employed an employee on  
33 the date of the alleged injury and had failed to secure the payment  
34 of compensation, and that the employee was injured arising out  
35 of, and occurring in the course of, the employment.

36 (2) Failure of the employer to furnish within 10 days the written  
37 statement in response to a written demand for a written statement  
38 prescribed in Section 3711, addressed to the employer at its address  
39 as shown on the official address record of the appeals board, shall

1 constitute in itself sufficient evidence for a prima facie case that  
2 the employer failed to secure the payment of compensation.

3 (3) A written denial by the insurer named in the statement  
4 furnished by the employer as prescribed in Section 3711, that the  
5 employer was so insured as claimed, or the nonexistence of a valid  
6 certificate of consent to self-insure for the time of the claimed  
7 injury, if the statement furnished by the employer claims the  
8 employer was self-insured, shall constitute in itself sufficient  
9 evidence for a prima facie case that the employer had failed to  
10 secure the payment of compensation.

11 (4) The nonexistence of a record of the employer's insurance  
12 with the Workers' Compensation Insurance Rating Bureau shall  
13 constitute in itself sufficient evidence for a prima facie case that  
14 the employer failed to secure the payment of compensation.

15 (5) The un rebutted written declaration under penalty of perjury  
16 by the injured employee, or applicant other than the employee,  
17 that the employee was employed by the employer at the time of  
18 the injury, and that he or she was injured in the course of his or  
19 her employment, shall constitute, in itself, sufficient evidence for  
20 a prima facie case that the employer employed the employee at  
21 the time of the injury, and that the employee was injured arising  
22 out of, and occurring in the course of, the employment.

23 (d)

24 (c) (1) When the director determines that an employer was  
25 prima facie illegally uninsured, the director shall mail a written  
26 notice of the determination to the employer at his or her address  
27 as shown on the official address record of the appeals board, and  
28 to any other more recent address the director may possess. The  
29 notice shall advise the employer of its right to appeal the finding,  
30 and that a lien may be placed against the employer's and any parent  
31 corporation's property, or the property of substantial shareholders  
32 of a corporate employer as defined by Section 3717.

33 (2) Any employer aggrieved by a finding of the director that it  
34 was prima facie illegally uninsured may appeal the finding by  
35 filing a petition before the appeals board. The petition shall be  
36 filed within 20 days after the finding is issued. The appeals board  
37 shall hold a hearing on the petition within 20 days after the petition  
38 is filed with the appeals board. The appeals board shall have  
39 exclusive jurisdiction to determine appeals of the findings by the  
40 director, and no court of this state has jurisdiction to review, annul,

1 or suspend the findings or the liens created thereunder, except as  
2 provided by Article 2 (commencing with Section 5950) of Chapter  
3 7 of Part 4 of Division 4.

4 (e)

5 (d) (1) Any claim brought against an employer under this  
6 section may be resolved by the director by compromise and release  
7 or stipulated findings and award as long as the appeals board has  
8 acquired jurisdiction over the employer and the employer has been  
9 given notice and an opportunity to object.

10 (2) Notice may be given by service on the employer of an  
11 appeals board notice of intention to approve the compromise and  
12 release or stipulated findings and award. The employer shall have  
13 20 days after service of the notice of intention to file an objection  
14 with the appeals board and show good cause therefor.

15 (3) If the employer objects, the appeals board shall determine  
16 if there is good cause for the objection.

17 (4) If the appeals board finds good cause for the objection, the  
18 director may proceed with the compromise and release or stipulated  
19 findings and award if doing so best serves the interest of the  
20 Uninsured Employers Fund, but shall have no cause of action  
21 against the employer under Section 3717 unless the appeals board  
22 case is tried to its conclusion and the employer is found liable.

23 (5) If the appeals board does not find good cause for the  
24 objection, and the compromise and release or stipulated findings  
25 and award is approved, the Uninsured Employers Fund shall have  
26 a cause of action against the employer pursuant to Section 3717.

27 (f)

28 (e) The director may adopt regulations to implement and  
29 interpret the procedures provided for in this section.

30 SEC. 9. Section 4156 of the Labor Code is repealed.

31 ~~4156. No liability for compensation shall attach to any~~  
32 ~~employer of a person excluded by subdivision (h) of Section 3352~~  
33 ~~from the definition of "employee" for an injury to or the death of~~  
34 ~~a person so excluded which occurs on or after the effective date~~  
35 ~~of this section if such employer elected to come under the~~  
36 ~~compensation provisions of this division pursuant to subdivision~~  
37 ~~(a) of Section 4151 prior to the effective date of this section by~~  
38 ~~purchasing or renewing a policy providing comprehensive personal~~  
39 ~~liability insurance containing a provision for coverage against~~  
40 ~~liability for the payment of compensation, as defined in Section~~

1 3207 of the Labor Code, to any person defined as an employee by  
2 subdivision (d) of Section 3351 of the Labor Code; provided,  
3 however, nothing in this section shall prohibit an employer from  
4 providing compensation pursuant to the provisions of this chapter.

5 SEC. 10. Section 6303 of the Labor Code is amended to read:

6 6303. (a) "Place of employment" means any place, and the  
7 premises appurtenant thereto, where employment is carried on,  
8 except a place where the health and safety jurisdiction is vested  
9 by law in, and actively exercised by, any state or federal agency  
10 other than the division.

11 (b) "Employment" includes the carrying on of any trade,  
12 enterprise, project, industry, business, occupation, or work,  
13 including all excavation, demolition, and construction work, or  
14 any process or operation in any way related thereto, in which any  
15 person is engaged or permitted to work for hire, except household  
16 domestic service.

17 (c) "Employment," for purposes of this division only, also  
18 includes volunteer firefighting when covered by Division 4  
19 (commencing with Section 3200) pursuant to Section 3361.

20 (d) Subdivision (c) shall become operative on January 1, 2004.

21 SEC. 11. Section 6314 of the Labor Code is amended to read:

22 6314. (a) To make an investigation or inspection, the chief of  
23 the division and all qualified divisional inspectors and investigators  
24 authorized by him or her shall, upon presenting appropriate  
25 credentials to the employer, have free access to any place of  
26 employment to investigate and inspect during regular working  
27 hours, and at other reasonable times when necessary for the  
28 protection of safety and health, and within reasonable limits and  
29 in a reasonable manner. The chief or his or her authorized  
30 representative may, during the course of any investigation or  
31 inspection, obtain any statistics, information, or any physical  
32 materials in the possession of the employer that are directly related  
33 to the purpose of the investigation or inspection, conduct any tests  
34 necessary to the investigation or inspection, and take photographs.  
35 Photographs taken by the division during the course of any  
36 investigation or inspection shall be considered to be confidential  
37 information pursuant to the provisions of Section 6322, and shall  
38 not be deemed to be public records for purposes of the California  
39 Public Records Act.

1 (b) If permission to investigate or inspect the place of  
2 employment is refused, or the facts or circumstances reasonably  
3 justify the failure to seek permission, the chief or his or her  
4 authorized representative may obtain an inspection warrant  
5 pursuant to the provisions of Title 13 (commencing with Section  
6 1822.50) of the Code of Civil Procedure. Cause for the issuance  
7 of a warrant shall be deemed to exist if there has been an industrial  
8 accident, injury, or illness reported, if any complaint that violations  
9 of occupational safety and health standards exist at the place of  
10 employment has been received by the division, or if the place of  
11 employment to be inspected has been chosen on the basis of  
12 specific neutral criteria contained in a general administrative plan  
13 for the enforcement of this division.

14 (c) The chief and his or her authorized representatives may issue  
15 subpoenas to compel the attendance of witnesses and the  
16 production of books, papers, records, and physical materials,  
17 administer oaths, examine witnesses under oath, take verification  
18 or proof of written materials, and take depositions and affidavits  
19 for the purpose of carrying out the duties of the division.

20 (d) In the course of any investigation or inspection of an  
21 employer or place of employment by an authorized representative  
22 of the division, a representative of the employer and a  
23 representative authorized by his or her employees shall have an  
24 opportunity to accompany him or her on the tour of inspection.  
25 Any employee or employer, or their authorized representatives,  
26 shall have the right to discuss safety and health violations or safety  
27 and health problems with the inspector privately during the course  
28 of an investigation or inspection. Where there is no authorized  
29 employee representative, the chief or his or her authorized  
30 representatives shall consult with a reasonable number of  
31 employees concerning matters of health and safety of the place of  
32 employment.

33 (e) During any investigation of an industrial accident or  
34 occupational illness conducted by the division pursuant to the  
35 provisions of Section 6313, the chief or his or her authorized  
36 representative may issue an order to preserve physical materials  
37 or the accident site as they were at the time the accident or illness  
38 occurred if, in the opinion of the division, it is necessary to do so  
39 in order to determine the cause or causes of the accident or illness,  
40 and the evidence is in potential danger of being removed, altered,

1 or tampered with. Under these circumstances, the division shall  
2 issue that order in a manner that will avoid, to the extent possible,  
3 any interference with normal business operations.

4 A conspicuous notice that an order has been issued shall be  
5 prepared by the division and shall be posted by the employer in  
6 the area or on the article to be preserved. The order shall be limited  
7 to the immediate area and the machines, devices, apparatus, or  
8 equipment directly associated with the accident or illness.

9 Any person who knowingly violates an order issued by the  
10 division pursuant to this subdivision shall, upon conviction, be  
11 punished by a fine of not more than five thousand dollars (\$5,000).

12 *(f) (1) In the case where the place of employment is a residential*  
13 *dwelling, the chief of the division or his or her authorized*  
14 *representative shall initiate telephone contact with the employer*  
15 *as soon as possible, but not later than three working days after*  
16 *receipt of a complaint charging a serious violation, as described*  
17 *in Section 6309, and not later than 14 calendar days after receipt*  
18 *of a complaint charging a nonserious violation.*

19 *(2) When telephone contact is successfully made, the chief of*  
20 *the division or his or her authorized representative shall do all of*  
21 *the following:*

22 *(A) Notify the employer of the existence of any allegedly unsafe*  
23 *or unhealthful conditions.*

24 *(B) Describe the alleged hazard and any specific regulatory*  
25 *standard alleged to have been violated.*

26 *(C) Inform the employer that he or she is required pursuant to*  
27 *Section 6401.7 to investigate and abate any hazard discovered*  
28 *during the investigation.*

29 *(D) Inform the employer by letter sent by facsimile or electronic*  
30 *mail, or by certified mail if the domestic work employer cannot*  
31 *receive facsimile or electronic mail, of each alleged hazard and*  
32 *each specific standard alleged to have been violated.*

33 *(E) Inform the employer that if the division determines that the*  
34 *employer's response is unsatisfactory for any reason, the division*  
35 *shall seek permission from the employer to enter the residential*  
36 *dwelling to investigate the matter, and, if permission is denied,*  
37 *may secure a court order to conduct an onsite inspection of the*  
38 *residential dwelling.*

39 *(F) Provide the complainant with copies of the regulation*  
40 *alleged to have been violated, the division's letter to the employer,*

1 *and all subsequent correspondence concerning the investigation*  
2 *of any hazards.*

3 *(3) An employer subject to investigation shall do both of the*  
4 *following:*

5 *(i) Provide to the division, within 14 days of the employer's*  
6 *receipt of the division's letter, a letter describing the results of the*  
7 *employer's investigation of the alleged hazards and a description*  
8 *of all actions taken, in the process of being taken, or planned to*  
9 *be taken, by the employer to abate the alleged hazard, including*  
10 *any applicable measurements or monitoring results, invoices for*  
11 *equipment purchased, and photographs or video that document*  
12 *correction of the alleged hazard.*

13 *(ii) Provide a copy of the division's letter to the employer, and*  
14 *all subsequent correspondence from and to the employer, to the*  
15 *affected employee, or prominently post the letter and*  
16 *correspondence in the method prescribed by subdivision (a) of*  
17 *Section 6318.*

18 SEC. 12. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.

## **INTRODUCTION FORM**

By a member of the Board of Supervisors or the Mayor

Time Stamp or  
Meeting Date

I hereby submit the following item for introduction:

- ☐ 1. For reference to Committee:  
An ordinance, resolution, motion, or charter amendment
- ☒ 2. Request for next printed agenda without reference to Committee
- ☐ 3. Request for Committee hearing on a subject matter
- ☐ 4. Request for letter beginning "Supervisor \_\_\_\_\_ inquires..."
- ☐ 5. City Attorney request
- ☐ 6. Call file from Committee
- ☐ 7. Budget Analyst request (attach written motion).
- ☐ 8. Substitute Legislation File Nos.
- ☐ 9. Request for Closed Session
- ☐ 10. Board to Sit as A Committee of the Whole

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- |                                                         |                                              |
|---------------------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Small Business Commission      | <input type="checkbox"/> Youth Commission    |
| <input type="checkbox"/> Ethics Commission              | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Building Inspection Commission |                                              |

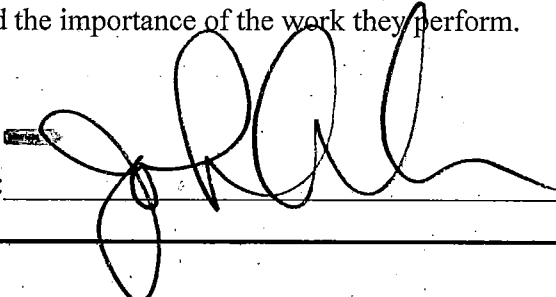
**Note:** For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

**Sponsor(s):** Supervisor Avalos

**SUBJECT:** Domestic Worker Bill of Rights

The text is listed below or attached:

Resolution urging the California legislature and the Governor of California to pass the "Domestic Worker Bill of Rights" as an expression of respect for the dignity and equality of domestic workers and the importance of the work they perform.

Signature of Sponsoring Supervisor: 

**For Clerk's Use Only:**

110411