

Assembly Bill No. 2613

Passed the Assembly August 7, 2006

Chief Clerk of the Assembly

Passed the Senate June 29, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 515.8 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2613, Mullin. Employment: overtime compensation: teachers.

Existing law provides that 8 hours of labor constitutes a day's work. Under existing law, any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek and the first 8 hours worked on the 7th day of work in any one workweek is required to be compensated at the rate of no less than 1½ times the regular rate of pay for an employee.

Existing law authorizes the Industrial Welfare Commission to establish exemptions from the requirement that an overtime rate of compensation be paid for executive, administrative, and professional employees primarily, as defined, engaged in exempt duties and if certain conditions are met.

This bill would provide that these overtime compensation requirements not apply to an individual employed as a teacher, as defined, at a private elementary or secondary academic institution teaching students in kindergarten or grades 1 to 12, inclusive, and would further provide that this exemption not otherwise modify the exemptions from overtime compensation established by the Industrial Welfare Commission for professional, executive, and administrative employees.

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

SECTION 1. Section 515.8 is added to the Labor Code, to read:

515.8. (a) Section 510 does not apply to an individual employed as a teacher at a private elementary or secondary academic institution in which pupils are enrolled in kindergarten or any of grades 1 to 12, inclusive.

(b) For purposes of this section, "employed as a teacher" means that the employee meets all of the following requirements:

(1) The employee is primarily engaged in the duty of imparting knowledge to pupils by teaching, instructing, or lecturing.

(2) The employee customarily and regularly exercises discretion and independent judgment in performing the duties of a teacher.

(3) The employee earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment.

(4) The employee has attained at least one of the following levels of professional advancement:

(A) A baccalaureate or higher degree from an accredited institution of higher education.

(B) Current compliance with the requirements established by the California Commission on Teacher Credentialing, or the equivalent certification authority in another state, for obtaining a preliminary or alternative teaching credential.

(c) This section does not apply to any tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or other similar employee.

(d) The exemption established in subdivision (a) is in addition to, and does not limit or supersede, any exemption from overtime established by a Wage Order of the Industrial Welfare Commission for persons employed in a professional capacity, and does not affect any exemption from overtime established by that commission pursuant to subdivision (a) of Section 515 for persons employed in an executive or administrative capacity.

Approved _____, 2006

Governor