

10/28/71

Memorandum 71-83

Subject: 1971 Legislative Program

The following is the status of the 1971 Legislative Program:

Resolutions Adopted

SCR 22 (continues authority to study previously authorized topics) Res. Ch. 74

SCR 23 (authorizes study of two new topics) Res. Ch. 75

Bills Enacted

AB 333 (inverse condemnation insurance) Ch. 140

SB 201 (revision of pleading rules) Ch. 244

SB 953 (joinder of parties) Ch. 950

Passed First House

SB 594 (discharge from employment)

This bill was approved by the Assembly Labor Relations Committee on October 27 and was re-referred to the Assembly Ways and Means Committee. I see no problems in the enactment of the bill.

I previously sent you a letter from the representative of the California Conference of Employer Association objecting to the bill and requesting various amendments. I was able to persuade this association to withdraw its opposition in return for making the change set out as Amendment 2 on attached Exhibit I. (Also attached is a copy of the bill in the form to which the amendments are directed.) I believe that this amendment is consistent with the general feeling of the Commission and does not harm the bill. The first amendment set out in Exhibit I merely deletes unnecessary words that might be misconstrued.

Respectfully submitted,

John H. DeMouly
Executive Secretary

OCT 19 1971
Req. #20459

Memorandum 71-83

EXHIBIT I

AMENDMENTS TO SENATE BILL NO. 594
AS AMENDED IN ASSEMBLY SEPTEMBER 30, 1971

AMENDMENT 1

On page 2 of the printed bill, as amended in Assembly September 30, 1971, strike out line 34 and in line 35, strike out "been subjected to garnishment"

AMENDMENT 2

On page 2, line 52, after the period, insert:

*
A discharged employee shall not be permitted to recover wages under this subdivision if a criminal prosecution based on the same discharge has been commenced for violation of Section 304 of the Consumer Credit Protection Act of 1968 (15 U.S.C. Sec. 1674).

AMENDED IN ASSEMBLY SEPTEMBER 30, 1971

SENATE BILL

No. 594

Introduced by Senator Song
(Coauthor: Assemblyman McAlister)

March 17, 1971

REFERRED TO COMMITTEE ON INDUSTRIAL RELATIONS

An act to amend Sections 96, 2922, and 2924 of, and to add Section 2929 to, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 594, as amended, Song (I.R.). Employment.

Amends Secs. 96, 2922, 2924, adds Sec. 2929, Lab.C.

Prohibits an employer from discharging any employee because garnishment of his wages have been threatened or because his wages have been subjected to garnishment for one judgment rather than prohibiting such discharge for one garnishment of wages prior to a final order or judgment of a court. States any employment contract which provides an employee with less protection against discharge in this regard is against public policy and void.

Makes related changes.

Vote—Majority; Appropriation—No; Fiscal Committee—Yes.

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

- 1 SECTION 1. Section 96 of the Labor Code is amended to
- 2 read:
- 3 96. The Labor Commissioner and his deputies and repre-
- 4 sentatives authorized by him in writing may take assign-
- 5 ments of:
- 6 (a) Wage claims and incidental expense accounts and ad-
- 7 vances.
- 8 (b) Mechanics' and other liens of employees.
- 9 (c) Claims based on "stop orders" for wages and on bonds
- 10 for labor.
- 11 (d) Claims for damages for misrepresentations of condi-
- 12 tions of employment.
- 13 (e) Claims for unreturned bond money of employees.
- 14 (f) Claims for penalties for nonpayment of wages.
- 15 (g) Claims for the return of workmen's tools in the illegal
- 16 possession of another person.

1 (h) Claims for vacation pay, severance pay, or other com-
2 pensation supplemental to a wage agreement.

3 (i) Awards for workmen's compensation benefits in which
4 the Workmen's Compensation Appeals Board has found that
5 the employer has failed to secure payment of compensation
6 and where the award remains unpaid more than 10 days after
7 having become final.

8 (j) Claims for loss of wages as the result of discharge from
9 employment for the garnishment of wages.

10 Sec. 2. Section 2922 of the Labor Code is amended to read:
11 2922. An employment, having no specified term, may be
12 terminated at the will of either party on notice to the other.
13 Employment for a specified term means an employment for a
14 period greater than one month.

15 Sec. 3. Section 2924 of the Labor Code is amended to read:
16 2924. An employment for a specified term may be termi-
17 nated at any time by the employer in case of any willful breach
18 of duty by the employee in the course of his employment, or
19 in case of his habitual neglect of his duty or continued inca-
20 pacity to perform it.

21 Sec. 4. Section 2929 is added to the Labor Code, to read:
22 2929. (a) As used in this section:

23 (1) "Garnishment" means any judicial procedure through
24 which the wages of an employee are required to be withheld
25 for the payment of any debt.

26 (2) "Wages" has the same meaning as that term has under
27 Section 200.

28 (b) No employer may discharge any employee by reason of
29 the fact that the garnishment of his wages has been threat-
30 ened. No employer may discharge any employee by reason of
31 the fact that his wages have been subjected to garnishment for
32 the payment of one judgment. A provision of a contract of
33 employment that provides an employee with less protection
34 against discharge by reason of the fact that his wages have
35 been subjected to garnishment than is provided by this sub-
36 division is against public policy and void.

37 (c) Unless the employee has greater rights under the con-
38 tract of employment, the wages of an employee who is dis-
39 charged in violation of this section shall continue until rein-
40 statement notwithstanding such discharge, but such wages shall
41 not continue for more than 30 days and shall not exceed the
42 amount of wages earned during the 30 calendar days imme-
43 diately preceding the date of the levy of execution upon the
44 employee's wages which resulted in his discharge. The em-
45 ployee shall give notice to his employer of his intention to
46 make a wage claim under this subdivision within 30 days after
47 being discharged; and, if he desires to have the Labor Com-
48 missioner take an assignment of his wage claim, the employee
49 shall file a wage claim with the Labor Commissioner within
50 60 days after being discharged. The Labor Commissioner may,
51 in his discretion, take assignment of wage claims under this
52 subdivision as provided for in Section 96. ★

1 (d) Nothing in this section affects any other rights the em-
2 ployee may have against his employer.

3 (e) This section is intended to aid in the enforcement of
4 the prohibition against discharge for garnishment of earnings
5 provided in the Consumer Credit Protection Act of 1968 (15
6 U.S.C. Secs 1671-1677) and shall be interpreted and applied
7 in a manner which is consistent with the corresponding provi-
8 sions of such act.