

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE JUNE 15, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 795**

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**Introduced by Assembly Member ~~Low~~ Atkins**  
***(Principal coauthor: Assembly Member Low)***

February 25, 2015

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An act to ~~amend~~ *add* Section ~~90.5~~ of 12012.69 to the ~~Labor~~ Government Code, relating to ~~employment~~ *tribal gaming*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 795, as amended, ~~Low Atkins. Employment: Department of Industrial Relations: wage claims and retaliation complaints. Tribal gaming: compact ratification.~~

*Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments to tribal-state gaming compacts, between the State of California and specified Indian tribes.*

*The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on*

*the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.*

*This bill would ratify the tribal-state gaming compact entered into between the State of California and the Sycuan Band of the Kumeyaay Nation, executed on September 2, 2015. The bill would provide that, in deference to tribal sovereignty, certain actions are not projects for the purposes of CEQA.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law establishes within the Department of Industrial Relations the Division of Labor Standards Enforcement, which is vested with the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation. Existing law requires the Labor Commissioner, defined as the Chief of the Division of Labor Standards Enforcement, to establish and maintain a field enforcement unit in order to ensure that minimum labor standards are met. Existing law requires the commissioner to report annually to the Legislature, not later than March 1, concerning the effectiveness of the field enforcement unit, as specified.~~

~~This bill would require the Labor Commissioner to include in its report to the Legislature, as described above, specified information on the status of wage claims and retaliation complaints, including the average amount of time it takes for a wage claim to receive a preliminary hearing and the current backlog of claims and complaints.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1     SECTION 1. Section 12012.69 is added to the Government
- 2     Code, to read:
- 3     12012.69. (a) The tribal-state gaming compact entered into
- 4     in accordance with the federal Indian Gaming Regulatory Act of
- 5     1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec.
- 6     2701 et seq.) between the State of California and the Sycuan Band
- 7     of the Kumeyaay Nation, executed on September 2, 2015, is hereby
- 8     ratified.
- 9     (b) (1) In deference to tribal sovereignty, none of the following
- 10    shall be deemed a project for purposes of the California

1 *Environmental Quality Act (Division 13 (commencing with Section*  
2 *21000) of the Public Resources Code):*

3 *(A) The execution of an amendment to the tribal-state gaming*  
4 *compact ratified by this section.*

5 *(B) The execution of the tribal-state gaming compact ratified*  
6 *by this section.*

7 *(C) The execution of an intergovernmental agreement between*  
8 *a tribe and a county or city government negotiated pursuant to*  
9 *the express authority of, or as expressly referenced in, the*  
10 *tribal-state gaming compact ratified by this section.*

11 *(D) The execution of an intergovernmental agreement between*  
12 *a tribe and the Department of Transportation negotiated pursuant*  
13 *to the express authority of, or as expressly referenced in, the*  
14 *tribal-state gaming compact ratified by this section.*

15 *(E) The on-reservation impacts of compliance with the terms*  
16 *of the tribal-state gaming compact ratified by this section.*

17 *(F) The sale of compact assets, as defined in subdivision (a) of*  
18 *Section 63048.6, or the creation of the special purpose trust*  
19 *established pursuant to Section 63048.65.*

20 *(2) Except as expressly provided herein, this subdivision does*  
21 *not exempt a city, county, or city and county, or the Department*  
22 *of Transportation, from the requirements of the California*  
23 *Environmental Quality Act.*

24 *SEC. 2. This act is an urgency statute necessary for the*  
25 *immediate preservation of the public peace, health, or safety within*  
26 *the meaning of Article IV of the Constitution and shall go into*  
27 *immediate effect. The facts constituting the necessity are:*

28 *In order to enhance the economic development, stability, and*  
29 *self-sufficiency of the Sycuan Band of the Kumeyaay Nation and*  
30 *to protect the interests of the tribe and its members, the*  
31 *surrounding community, and the California public at the earliest*  
32 *possible time, it is necessary that this act take effect immediately.*

33 ~~SECTION 1. Section 90.5 of the Labor Code is amended to~~  
34 ~~read:~~

35 ~~90.5. (a) It is the policy of this state to vigorously enforce~~  
36 ~~minimum labor standards in order to ensure employees are not~~  
37 ~~required or permitted to work under substandard unlawful~~  
38 ~~conditions or for employers that have not secured the payment of~~  
39 ~~compensation, and to protect employers who comply with the law~~  
40 ~~from those who attempt to gain a competitive advantage at the~~

1 expense of their workers by failing to comply with minimum labor  
2 standards.

3 ~~(b) In order to ensure that minimum labor standards are~~  
4 ~~adequately enforced, the Labor Commissioner shall establish and~~  
5 ~~maintain a field enforcement unit, which shall be administratively~~  
6 ~~and physically separate from offices of the division that accept~~  
7 ~~and determine individual employee complaints. The unit shall have~~  
8 ~~offices in Los Angeles, San Francisco, San Jose, San Diego,~~  
9 ~~Sacramento, and any other locations that the Labor Commissioner~~  
10 ~~deems appropriate. The unit shall have primary responsibility for~~  
11 ~~administering and enforcing those statutes and regulations most~~  
12 ~~effectively enforced through field investigations, including Sections~~  
13 ~~226, 1021, 1021.5, 1193.5, 1193.6, 1194.5, 1197, 1198, 1771,~~  
14 ~~1776, 1777.5, 2651, 2673, 2675, and 3700, in accordance with the~~  
15 ~~plan adopted by the Labor Commissioner pursuant to subdivision~~  
16 ~~(e). Nothing in this section shall be construed to limit the authority~~  
17 ~~of this unit in enforcing any statute or regulation in the course of~~  
18 ~~its investigations.~~

19 ~~(c) The Labor Commissioner shall adopt an enforcement plan~~  
20 ~~for the field enforcement unit. The plan shall identify priorities for~~  
21 ~~investigations to be undertaken by the unit that ensure the available~~  
22 ~~resources will be concentrated in industries, occupations, and areas~~  
23 ~~in which employees are relatively low paid and unskilled, and~~  
24 ~~those in which there has been a history of violations of the statutes~~  
25 ~~cited in subdivision (b), and those with high rates of noncompliance~~  
26 ~~with Section 3700.~~

27 ~~(d) The Labor Commissioner shall annually report to the~~  
28 ~~Legislature, not later than March 1, concerning the following:~~

29 ~~(1) The effectiveness of the field enforcement unit. This part of~~  
30 ~~the report shall include, but not be limited to, all of the following:~~

31 ~~(A) The enforcement plan adopted by the Labor Commissioner~~  
32 ~~pursuant to subdivision (c), and the rationale for the priorities~~  
33 ~~identified in the plan.~~

34 ~~(B) The number of establishments investigated by the unit, and~~  
35 ~~the number of types of violations found.~~

36 ~~(C) The amount of wages found to be unlawfully withheld from~~  
37 ~~workers, and the amount of unpaid wages recovered for workers.~~

38 ~~(D) The amount of penalties and unpaid wages transferred to~~  
39 ~~the General Fund as a result of the efforts of the unit.~~

1     ~~(2) The status of wage claims and retaliation complaints. This~~  
2 ~~part of the report shall include, but not be limited to, all of the~~  
3 ~~following:~~

4     ~~(A) The average amount of time it takes for a wage claim to~~  
5 ~~receive a preliminary hearing.~~

6     ~~(B) The number of determinations issued, the number of~~  
7 ~~investigative hearings held, the number of complaints dismissed,~~  
8 ~~and the number of complaints found valid, grouped by the year in~~  
9 ~~which the complaints were filed.~~

10    ~~(C) An update on the division's current backlog of wage claims~~  
11 ~~and retaliation complaints.~~

12    ~~(e) The report required by subdivision (d) shall be provided in~~  
13 ~~compliance with the provisions of Section 9795 of the Government~~  
14 ~~Code.~~