
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT

Senator Dave Cortese, Chair

2023 - 2024 Regular

Bill No:	SB 332	Hearing Date:	September 7, 2023
Author:	Cortese		
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Urgency:	Yes	Fiscal:	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Minor league baseball players

KEY ISSUE

Should the Legislature exempt minor league baseball players covered by a valid collective bargaining agreement (CBA), meeting specified criteria, from wage, overtime, and meal period requirements of existing law?

ANALYSIS

Existing law:

- 1) Requires an employer, semimonthly or at the time of payment of wages, to furnish an employee an accurate, itemized, written statement generally containing specified information regarding the amounts earned, hours worked, and the employee's identity, among other things. An itemized wage statement furnished by an employer is not required to show total hours worked by the employee if, among other things, *the employee is exempt from the payment of minimum wage and overtime*. (Labor Code §226)
- 2) Sets California's minimum wage at \$15.50 an hour for all employers and specifies that after January 1, 2023, the minimum wage rate will be adjusted annually for inflation based on the national consumer price index for urban wage earners and clerical workers (CPI-W). (Labor Code §1182.12)
- 3) Provides that eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. (Labor Code §510)
- 4) Permits, upon the proposal of an employer, the employees of an employer to adopt a regularly scheduled alternative workweek that authorizes work by the affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation. A proposal to adopt an alternative workweek schedule shall be deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of affected employees in a readily identifiable work unit. (Labor Code §511(a))
- 5) Prohibits, with limited exceptions, an employer from employing an employee for a work period of more than five hours per day without providing the employee with a meal period of

not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. (Labor Code §512)

- 6) Regulates the wages, hours, working conditions of persons employed in the amusement and recreation industry. Exempts from wage and hour provisions employees who are employed in administrative, executive, or professional capacities. (Industrial Wage Commission Order No. 10-2001)
- 7) Establishes the Department of Industrial Relations (DIR) in the Labor and Workforce Development Agency (LWDA), and vests it with various powers and duties to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment. (Labor Code §50.5)
- 8) Establishes the Administrative Procedures Act to, among other things, govern the procedures for the adoption, amendment, or repeal of regulations by state agencies. (Gov. Code §11340 et seq.)

This bill:

- 1) Exempts from the requirement to provide an employee an itemized wage statement any person who has entered into a contract to play baseball at the minor league level who satisfies the requirements set forth in 2) below.
- 2) Provides that labor code provisions regarding the payment of overtime and meal periods (Labor Code section 510, 511 and 512) do not apply to a person who is covered by a contract to play baseball at the minor league level with a labor organization that has at least 10 years of experience representing baseball players and who is compensated pursuant to the terms of a valid collective bargaining agreement (CBA) that expressly provides for:
 - a) Wages, hours of work, and working conditions of employees;
 - b) Payment for time worked during the off-season and spring training; and
 - c) Final and binding arbitration of disputes.
- 3) Requires, within three months after the effective date of this bill, the Department of Industrial Relations to amend and republish Wage Order No. 10-2001, concerning the Amusement and Recreation Industry, to provide that Sections 3 to 7 and sections 9 to 12, inclusive, of the wage order *do not apply to a minor league baseball player* subject to 2) above. These wage order sections cover the following:

Section 3: Hours and Days of Work

Section 4: Minimum Wages

Section 5: Reporting Time Pay

Section 6: Licenses for Disabled Workers

Section 7: Records

Section 9: Uniforms and Equipment

Section 10: Meals and Lodging

Section 11: Meal Periods

Section 12: Rest Periods

- 4) Provides that an amendment and republication, of a wage order, pursuant to this bill are exempt from the rulemaking provisions of the Administrative Procedure Act and specified wage order and Industrial Welfare Commission related labor code provisions, as specified.
- 5) States that this act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The bill notes that the facts constituting the necessity are:
 - a) In order to protect minor league baseball players from working in unregulated or unlawful conditions, it is necessary for the provisions of this act, and particularly the requirement to amend and republish Wage Order No. 10-2001, to take effect as quickly as possible, making the limitations imposed by this act necessary to protect the interests of minor league baseball players.

COMMENTS

1. Background: Minor League Baseball Players Organize

A lawsuit first filed in 2014 by Aaron Senne and 42 other minor league baseball players (*Aaron Senne v. Office of the Commissioner of Baseball*¹) culminated in a settlement of \$185 million in 2022. Minor league players alleged that the Major League Baseball (MLB) suppressed minor leaguers' wages in violation of federal and state law. According to court documents, "most minor leaguers earn between around \$3,000 and \$7,500 for the entire year despite routinely working over 50 hours per week (and sometimes 70 hours per week) during the roughly five-month championship season. They receive no overtime pay, and instead routinely receive less than minimum wage during the championship season." Specific to California, the case argued that players were working in violation of minimum wage and overtime provisions of the Labor Code and sought civil penalties under California's Private Attorneys General Act.

The federal court ruled that minor league baseball players are employees and must be treated as such under California's wage and hour laws. The judge also ruled that players must be compensated for time traveling on buses to games and for preseason practice. In addition, he found that the MLB violated itemized wage statement requirements. As part of the decision, the players were awarded \$1,882,650 million in penalties.² The case progressed through the courts for eight years until the summer of 2022 when the MLB agreed to pay minor leaguers \$185 million to settle the lawsuit. Final approval of the settlement came days after news surfaced that the MLB Players Association (MLBPA) was working with minor league players to begin the process of unionizing.

¹ Senne et al v. Office of the Commissioner of Baseball, et al: ORDER RE DISPOSITIVE MOTIONS, MOTIONS TO EXCLUDE, AND MOTION TO STRIKE (Dkt. Nos. 969, 971, 979, 980, 986, 987, 988, 1025). Signed by Judge Joseph C. Spero on March 10, 2022. (jcsle1, COURT STAFF) (docketbird.com).

² "Minor League Baseball Players are MLB Employees, Owed Damages, Judge Rules," by Scott Polacek, Bleacher Report, March 15, 2022.

On March 29, 2023, MLBPA announced the union had reached a tentative five-year collective bargaining agreement (CBA) with MLB, the first such deal in minor league baseball history, to represent the 5,500 minor league baseball players. Prior to securing this agreement, the subpar working conditions of minor league players forced many of them to subsidize their baseball earnings by working other jobs. According to the uniform player contract, from April to October 2021, most minor league players made between \$8,000 and \$14,000.³ Some teams offered no housing assistance, even in high rent areas. Players received a meager per diem of \$25 dollars a day to cover meals.⁴

According to the MLBPA, this CBA codified significant improvements in salaries, medical benefits, retirement benefits, home and road housing/lodging, transportation, nutrition, protection for injured players, protections for released players, impartial arbitration, and fundamental due process for players subject to investigation or discipline.⁵ In recognition of the historic CBA, this bill exempts these minor league players from specified state labor law provisions.

As noted in the Assembly Labor and Employment Committee’s analysis of this bill:

It bears noting that the Legislature has taken a cautious approach to granting exemptions to state wage and hour law. For example, exemptions for meal and rest breaks historically have been for narrowly defined categories of employees in a specific industry who are unable to take breaks due to the unique nature of their working conditions. Here, it is nonviable for minor league players to take breaks during a scheduled baseball game. Similarly, in a few highly specialized occupations, such as crew members on commercial fishing boats, employers are exempt from recording total hours worked for the purpose of complying with wage statement requirements due to impracticability. This measure would exempt MLB minor league teams from this requirement based on a similar rationale.

2. Need for this bill?

According to the author, “SB 332 upholds the first ever nationwide collective bargaining agreement for minor league baseball players by exempting the 362 California-based minor league baseball players from certain wage, overtime, rest period, record keeping and meal periods as long as there is a CBA. Under this nationwide agreement between MLB and the labor union that represents all domestic minor league players, the MLBPA, minor league players are salaried employees with a host of additional new benefits. SB 332 ensures that these players can continue to pursue their dreams of possibly becoming a major league baseball player.”

The author additionally notes that, “under the terms of the new collective bargaining agreement (CBA), players uniformly across the country are treated as salaried employees and receive weekly salaries throughout the calendar year. However legislation must be passed to

³ “Can a union fix this? Minor leaguers say poverty-level pay, poor housing are driving a ‘mental health crisis’” ESPN online, September 30, 2021, available at: *Can a union fix this? Minor leaguers say poverty-level pay, poor housing are driving a ‘mental health crisis’ - ESPN*.

⁴ Ted Berg, “\$12,000 a year; A minor leaguer takes his fight for fair pay public,” USA TODAY SPORTS, Jan. 31, 2017. Available at: *\$12,000 a year: A minor leaguer takes his fight for fair pay public | For The Win (usatoday.com)*.

⁵ <https://www.mlbplayers.com/mlb-players>

treat players as “exempt” salaried professionals by providing a narrowly tailored exemption from some aspects of the state’s wage-and-hour laws (including minimum wage, overtime, mandatory meal periods, mandatory rest periods, and recordkeeping requirements).”

3. Proponent Arguments:

According to proponents, “this bill is critical to the successful operation of the nine minor league baseball teams in California (San Jose Giants, Sacramento River Cats, Fresno Grizzlies, Inland Empire “San Bernardino” 66ers, Stockton Ports, Modesto Nuts, Visalia Rawhide, Rancho Cucamonga Quakes and Lake Elsinore Storm) and the 362 minor league players assigned to their rosters.” They continue, “The MLBPA and Major League Baseball (“MLB”) recently negotiated and ratified the first-ever Collective Bargaining Agreement (“CBA”) for the benefit of all domestic minor league players governing salaries and benefits on a national scale that correspond with the different levels described above. In addition to substantial salary increases, the CBA provided for enhanced benefits, including improved health care coverage, retirement benefits, housing subsidies, meal allowances and tuition assistance. The critical underlying assumption of both players and management as reflected in the CBA, is that all players be compensated as salaried, exempt employees.”

They conclude by stating that, “Without the passage of Senate Bill 332, California minor league teams would be subject to state wage and hour laws that are fundamentally incompatible with the CBA, with the player development process and with exhibiting an actual baseball game. For example, without the exemption, players in California would be required to take rest and lunch breaks even if they interrupted the playing of a game. And to reasonably manage overtime expenses, teams in California would be forced to restrict players from engaging in voluntary extra training or activities that the players themselves strongly desire in order to improve their skills and enhance their ability to advance to the major leagues. Senate Bill 332 outlines a limited, common-sense approach to compensating minor league players and honors the terms of the CBA negotiated by MLB and the MLBPA.”

4. Opponent Arguments:

None received.

5. Prior and Related Legislation:

SB 41 (Cortese, Chapter 2, Statutes of 2023) provided an exemption from meal and rest period requirements for airline cabin crew employees that are covered by a valid collective bargaining agreement when that agreement includes an alternate provision addressing meal and rest breaks, as specified. This bill also prevents such flight attendants from filing new lawsuits for meal and rest break violations starting the day this bill was introduced (December 5, 2022) while allowing all litigation already pending at that time to run its natural course.

AB 1031 (Blanca Rubio, 2023) would have exempted from the requirement that an employee be relieved of all duties an employee providing direct support to an individual with an intellectual or developmental disability in an integrated community setting, under prescribed circumstances. The bill would require, if a nonexempt employee is affirmatively required to interrupt their rest period to respond to the needs of a consumer, that another rest period be

authorized and permitted reasonably promptly after the circumstances that led to the interruption have passed. This bill did not receive a hearing in its first policy Committee.

SB 1334 (Bradford, Chapter 845, Statutes of 2022) extends existing meal and rest period rights and remedies available to private sector employees to those who provide direct patient care or support direct patient care in general acute care hospitals, clinics or public health settings who are directly employed by specified public sector employers.

AB 1512 (Carrillo, Chapter 343, Statutes of 2020), until January 1, 2027, authorizes a person employed as a security officer, as specified, and whose employer is a registered private patrol operator, to be required to remain on the premises during rest periods and to remain on call during rest periods but only if they are covered by a valid collective bargaining agreement meeting specified criteria.

AB 2605 (Gipson, Chapter 584, Statutes of 2018), provides that specified employees who hold a safety-sensitive position at a petroleum facility, as defined, are exempt from rest and recovery period requirements.

SUPPORT

Inland Empire 66ers of San Bernardino
Los Angeles Angels
Los Angeles Dodgers LLC
Rancho Cucamonga Quakes
San Diego Padres
San Francisco Giants
San Jose Giants

OPPOSITION

None received

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