

7-10-1974

## Employee Wages And Termination.

Follow this and additional works at: [http://repository.uchastings.edu/ca\\_ballot\\_inits](http://repository.uchastings.edu/ca_ballot_inits)

---

### Recommended Citation

Employee Wages And Termination. California Initiative 106 (1974).  
[http://repository.uchastings.edu/ca\\_ballot\\_inits/275](http://repository.uchastings.edu/ca_ballot_inits/275)

This Initiative is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Initiatives by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact [marcusc@uchastings.edu](mailto:marcusc@uchastings.edu).

EVELLE J. YOUNGER  
ATTORNEY GENERAL

STATE OF CALIFORNIA



OFFICE OF THE ATTORNEY GENERAL

**Department of Justice**

555 CAPITOL MALL, SUITE 550  
SACRAMENTO 95814

**FILED**

In the office of the Secretary of State  
of the State of California

JUL 10 1974

EDMUND G. BROWN Jr., Secretary of State

By *Cashmere M. Apperson*  
Deputy Secretary of State

July 9, 1974

Hon. Edmund G. Brown, Jr.  
Secretary of State  
111 Capitol Mall  
Sacramento, California 95814

Re: Employee Wages and Termination. Initiative.

Dear Mr. Brown:

Pursuant to the provisions of section 3507 of the Elections Code, you are hereby informed that on this day we mailed to Mr. Patrick H. O'Shaughnessy and Ms. Bunny Roth, as proponents, the following title and summary:

EMPLOYEE WAGES AND TERMINATION. INITIATIVE. Repeals Labor Code sections 2924-2928 dealing with conditions for termination of employment by employer or employee and with docking employee's pay. Adds Labor Code sections 2924-2931. With minor exceptions, requires \$3.25 minimum hourly wage. Except for wilful misconduct or strict economic necessity, as defined in measure, prohibits discharge or wage reduction of year-round employee after 30 day probationary period or discharge of seasonal employee during season. Unless Labor Commissioner gives prior approval, wrongfully discharged employee shall receive back pay for period of interrupted employment. Labor Commissioner shall administer provisions of measure. If the proposed initiative is adopted, undefined additional financing from state sources will be required in the approximate amount of \$26,000,000 per year.

Enclosed herewith is a declaration of mailing thereof, and a copy of the proposed measure.

Very truly yours,

EVELLE J. YOUNGER  
Attorney General

*[Signature]*  
J. M. SANDERSON  
Deputy Attorney General

JMS:PH  
Encs.

DECLARATION OF SERVICE BY MAIL

I, Pauline Hutson, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action; my place of employment and business address is: 555 Capitol Mall, Suite 550, Sacramento, California 95814.

On July 9, 1974, I served the attached Letter to Secretary of State in re the title and summary and the proposed initiative.

by placing a true copy thereof in an envelope addressed to the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States Mail at Sacramento, California, with postage thereon fully prepaid. There is delivery service by United States Mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed:

Mr. Patrick H. O'Shaughnessy  
76 Third Street, No. 725  
San Francisco 94103

Ms. Bunny Roth  
317 Tenth Street  
San Francisco, CA

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 9, 1974, at Sacramento, California 95814.

  
/s/ Pauline Hutson  
Declarant

July 11, 1974

TO THE REGISTRARS OF VOTERS AND COUNTY CLERKS:

Pursuant to Section 3507 of the Elections Code, there is transmitted herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

EMPLOYEE WAGES AND TERMINATION. INITIATIVE.

Circulating and Filing Schedule:

1. Minimum number of signatures required . . . . . 325,504  
Constitution IV, 22(b).
2. Official Summary Date . . . . . 7/9/74  
Elections Code Section 3507.
3. Petition Sections:
  - a. First day Proponent can circulate Sections for signatures . . . . . 7/9/74  
Elections Code Section 3507.
  - b. Proponent may file petition sections with the Registrar of Voters at any time, and at as many times as he wishes during the 150 day period. The Registrar of Voters must determine within 30 days of any filing the number of qualified electors who have signed the petition.  
Elections Code Section 3520(a)(b).
  - c. Each Registrar of Voters where Proponents have filed any section of the petition shall transmit his Certificate to the Secretary of State. The Certificate is to show the number of valid signatures determined as of that date. The following are the dates on which the Certificates must be sent to the Secretary of State:  
Elections Code Section 3520(c).

60 Day . . . . . 9/10/74\*

90 Day . . . . . 10/7/74

120 Day . . . . . 11/6/74

140 Day . . . . . 11/26/74

\*date adjusted for official deadline which falls on a Saturday, Sunday or Holiday.  
Code of Civil Procedure, Section 12.

3. Petition Sections (continued)

- d. Last day Proponent can circulate and file with the County . . . . .12/6/74  
Elections Code Sections 3507, 3520(a).
- e. Last day for County to transmit Certificate as to number of valid signatures on Initiative Petition . . . .1/3/75\*  
Elections Code Section 3520(c).

4. Campaign Statements

- a. If the measure qualifies for the ballot:  
Last day for Proponent to file a Statement of Receipts and Expenditures for period ending 1/31/75 . . . .2/7/75  
(If the Secretary of State qualified the measure for the ballot on a date other than 1/3/75, the last day is the 35th calendar day after the date the measure qualified.)  
Elections Code Section 11552(a).
- b. If the measure does not qualify for the ballot:  
Last day for Proponent to file a Statement of Receipts and Expenditures for period ending 1/3/75. . . .1/10/75  
Elections Code Section 11552(b).

5. The Proponents of the above measure are:

Mr. Patrick H. O'Shaughnessy  
76 Third Street, No. 725  
San Francisco, CA 94103

Ms. Bunny Roth  
317 Tenth Street  
San Francisco, CA



PHILLIP J. MENDES  
Chief, Elections Division

PJM:msl

NOTE TO PROPONENT: Your attention is directed to Elections Code Sections 3500.1, 3502, and 3502.5 for appropriate format and type considerations in printing, typing or otherwise preparing your initiative petition for circulation and signing.

**Proposed Amendment**  
**To The**  
**LABOR CODE OF THE STATE OF CALIFORNIA**

1 CALIFORNIA FOUNDATION FOR ECONOMIC JUSTICE  
76 Third Street #725  
2 San Francisco, California 94103  
Telephone: (415) 362-9210  
3  
4  
5

6 REQUEST TO THE ATTORNEY GENERAL FOR TITLE  
7 AND SUMMARY OF PROPOSED INITIATIVE MEASURE  
8  
9

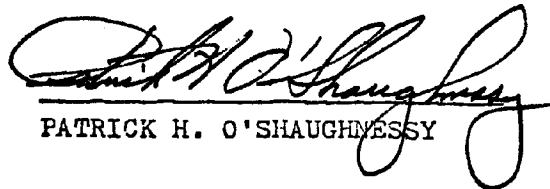
10 TO THE ATTORNEY GENERAL OF CALIFORNIA:  
11

12 We, the undersigned, being the proponents of the attached  
13 initiative measure, hereby submit the draft of the measure and  
14 request that you prepare a title and a summary of its principal  
15 points and purposes.

16 The foregoing is submitted pursuant to Article IV, Section  
17 1 of the Constitution of the State of California.  
18

19 Dated: March 22, 1974.

20  
21 Signed:

  
PATRICK H. O'SHAUGHNESSY

  
BUNNY ROTH

1  
2 INITIATIVE MEASURE TO BE SUBMITTED  
3 DIRECTLY TO THE ELECTORS  
4

5  
6 Proposed Amendment  
7 To The  
8 LABOR CODE OF THE STATE OF CALIFORNIA  
9  
10

11 Chapter 3 of Division 3 of this Code is hereby amended to  
12 provide as follows:  
13

14 Section 2924. The provisions of Sections 2924 through  
15 2928 are repealed.

*Robert W. O'Shaughnessy*  
*Bunny Roth* Section 2925. With the exception of newspaper carriers *(and baby sitters)*  
18 under the age of eighteen years, no person employed to perform  
19 services within this State shall be compensated at less than ~~two~~ *three*  
20 ~~dollars and seventy-five cents (\$2.75)~~ *dollars and twenty-five cents (\$3.25)* per hour. The foregoing  
21 shall apply to every type of employment including farm and domes-  
22 tic labor, and the status of independent contractor shall be li-  
23 mited to persons licensed as such for a period of 180 days prior  
24 to the date when performance upon such a contract is first under-  
25 taken. The foregoing provision shall not be subject to waiver.

*Robert W. O'Shaughnessy*  
*Bunny Roth* Section 2926. No person employed within this State to per-  
28 form work which is normally conducted on a year-round basis ~~shall~~ *(shall have his wages reduced or*  
29 be discharged from his job after completing a probationary period  
30 of thirty calendar days unless the discharge is founded either in  
31 the employee's wilful misconduct or is compelled as a matter of  
32 strict economic necessity to the employer. An employee who is



1 engaged to perform seasonal labor such as farm or recreational em-  
2 ployment shall not be discharged during the season for which he  
3 was hired unless the discharge is in accordance with the foregoing  
4 provisions, and every employee who is furloughed at the end of one  
5 employment season shall be re-hired at the beginning of the next  
6 season at not less than his former rate of pay. Every right which  
7 is set forth within this Section shall be deemed to be fully vest-  
8 ed in the employee, notwithstanding sale of the business to a new  
9 employer.

10  
11 Section 2927. To sustain an employee's discharge, "wilful  
12 misconduct" shall be limited exclusively to the following acts:

13 1. Failure to report for work except after having given  
14 notice to the employer of such illness as makes the employee rea-  
15 sonably unable to perform his normal work assignment. But report-  
16 ing late by more than thirty minutes shall be the same as not hav-  
17 ing reported at all;

18 2. Reporting late for work, but by no more than thirty  
19 minutes, more than twice within the same calendar month or more  
20 than six times within the same calendar year;

21 3. Refusal by the employee to perform a reasonable job as-  
22 signment, but not including failure to cross a lawful picket line;

23 4. Such intoxication as makes the employee unable to per-  
24 form his work in the normal manner;

25 5. Theft from anyone while the employee is on the job or  
26 from the employer at any time;

27 6. Striking another person while on the job under circum-  
28 stances where the employee might reasonably be convicted of a  
29 battery;

30 7. Threatening physical injury to another while on the job  
31 under circumstances where the employee would clearly be convicted  
32 of an assault; or

1           8. Development of a physical incapacity such as makes  
2 the employee no longer able to perform any work assignment for the  
3 employer without causing the discharge of another employee.

4  
5           Section 2928. The discharge of an employee under claim  
6 of strict economic necessity to the employer will be sustained  
7 only when the employer's adjusted gross income fails to equal the  
8 arithmetical product of the median wage of all the employer's em-  
9 ployees, in accordance with the following table:

<u>Number of Employees</u>	<u>Ratio of Adjusted Gross Income to Median Employee Earnings</u>
Five or less	300 per cent
6 to 15	500 per cent
16 to 25	700 per cent
26 to 50	800 per cent
51 to 100	1000 per cent
101 to 300	2000 per cent
301 to 500	3000 per cent
501 to 1000	5000 per cent
More than 1000	10,000 per cent

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23           In application of the foregoing table the employer's ad-  
24 justed gross income shall be the amount earned from all sources.  
25 In the case of a corporation which is either controlled or wholly  
26 owned by another corporation the adjusted gross income shall be  
27 that of the parent and subsidiary when combined. In the case of  
28 a closely held corporation which is controlled by four or fewer  
29 shareholders the corporation's adjusted gross income shall not be  
30 less than the personal adjusted gross income of any of its "con-  
31 trolling" shareholders.

32           \* \* \* \* \*

1           Section 2929. The Labor Commissioner of the Division of  
2 Labor Law Enforcement of the State Department of Industrial Rela-  
3 tions shall have authority to enforce the foregoing employment  
4 security provisions, and the Labor Commissioner shall prescribe  
5 rules for the administrative adjudication of any employee claim  
6 which is filed pursuant to this Section. All such proceedings  
7 shall be in compliance with the Administrative Procedure Act as  
8 the Act is set forth in the Government Code beginning at Section  
9 11500. If an employee contends that a discharge which occurred pri-  
10 or to the effective date of these provisions was motivated by the  
11 employer's attempt to avoid responsibility under these provisions,  
12 and the commissioner determines that there is no other valid ex-  
13 planation for the employee's discharge, the Commissioner shall or-  
14 der that the employee be reinstated, but without back pay. If an  
15 employee is discharged in violation of any of these provisions and  
16 the discharge occurs subsequent to the enactment of the foregoing  
17 Sections, however, the employee shall be reinstated to his job  
18 with full pay for the period during which his employment was inter-  
19 rupted.

20  
21           Section 2930. Any employer contemplating the discharge of  
22 an employee may seek a determination from the Labor Commissioner  
23 that the discharge is in accordance with these provisions, and  
24 such a determination shall preclude liability for payment of back  
25 wages if the determination is later invalidated by judicial action.

26  
27           Section 2931. Each provision of the foregoing Sections is  
28 enacted to effect its purpose independently of every other provi-  
29 sion, and the invalidation of any provision appearing herein shall  
30 not be construed to compel repeal of those provisions which remain.

31           \* \* \* \* \*

32           \* \* \* \* \*





