

Introduced by Senator Murray
(Coauthors: Senators Chesbro and Karnette)
(Coauthors: Assembly Members Alquist, Washington, and Wright)

January 7, 2002

An act to amend Section 2855 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1246, as introduced, Murray. Employment: personal service contracts.

Existing law provides that, except as specified, a contract to render personal service may not be enforced against an employee beyond 7 years from the commencement of service under the contract. However, an employee who is a party to a contract to render personal services in the production of specified phonorecords may not invoke this provision without first giving written notice to the employer, as specified, that the employee will no longer render service under the contract by reason of the above provision. Existing law also specifies the rights of the parties to recover damages for certain breaches of contracts related to the production of phonorecords.

This bill would delete the provisions relating to personal services in the production of phonorecords and the recovery of damages for certain breaches of contracts related to the production of phonorecords.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



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

1 SECTION 1. Section 2855 of the Labor Code is amended to
2 read:

3 2855. ~~(a) Except as otherwise provided in subdivision (b), a~~
4 A contract to render personal service, other than a contract of
5 apprenticeship as provided in Chapter 4 (commencing with
6 Section 3070), may not be enforced against the employee beyond
7 seven years from the commencement of service under it. Any
8 contract, otherwise valid, to perform or render service of a special,
9 unique, unusual, extraordinary, or intellectual character, which
10 gives it peculiar value and the loss of which can not be reasonably
11 or adequately compensated in damages in an action at law, may
12 nevertheless be enforced against the person contracting to render
13 the service, for a term not to exceed seven years from the
14 commencement of service under it. If the employee voluntarily
15 continues to serve under it beyond that time, the contract may be
16 referred to as affording a presumptive measure of the
17 compensation.

18 ~~(b) Notwithstanding subdivision (a):~~

19 ~~(1) Any employee who is a party to a contract to render~~
20 ~~personal service in the production of phonorecords in which~~
21 ~~sounds are first fixed, as defined in Section 101 of Title 17 of the~~
22 ~~United States Code, may not invoke the provisions of subdivision~~
23 ~~(a) without first giving written notice to the employer in~~
24 ~~accordance with Section 1020 of the Code of Civil Procedure,~~
25 ~~specifying that the employee from and after a future date certain~~
26 ~~specified in the notice will no longer render service under the~~
27 ~~contract by reason of subdivision (a):~~

28 ~~(2) Any party to such a contract shall have the right to recover~~
29 ~~damages for a breach of the contract occurring during its term in~~
30 ~~an action commenced during or after its term, but within the~~
31 ~~applicable period prescribed by law.~~

32 ~~(3) In the event a party to such a contract is, or could~~
33 ~~contractually be, required to render personal service in the~~
34 ~~production of a specified quantity of the phonorecords and fails to~~
35 ~~render all of the required service prior to the date specified in the~~
36 ~~notice provided in paragraph (1), the party damaged by the failure~~
37 ~~shall have the right to recover damages for each phonorecord as to~~
38 ~~which that party has failed to render service in an action which;~~



1 ~~notwithstanding paragraph (2), shall be commenced within 45~~
2 ~~days after the date specified in the notice.~~

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4 CORRECTIONS

5 **Heading — Line 1.**

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