SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 294	**Hearing Date:**	April 23, 2025
Author:	Reyes		
Version:	March 17, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: The Workplace Know Your Rights Act

KEY ISSUE

This bill 1) requires employers to provide a stand-alone written notice annually to each employee informing them of their rights under state and federal law, as specified; 2) directs the Labor Commissioner to develop separate videos for employers and employees informing them of their responsibilities and rights under state and federal law, as specified; 3) requires employers to contact an employee's designated emergency contact if the employee is arrested or detained pursuant to an enforcement action; 4) authorizes an employee's emergency contact to collect all wages owed to an employee and to file a wage claim on the employee's behalf if the wages are not lawfully paid; and 5) authorizes various penalties for noncompliant employers.

ANALYSIS

Existing law:

1) Requires, under the California Occupational Safety and Health Act, an employer to:

    a. Furnish employment and a place of employment that is safe and healthful.
    b. Furnish and use safety devices and safeguards, as well as adopt and use practices, means, methods, operations, and processes that are reasonably adequate to render employment and the place of employment safe and healthful.
    c. Do everything reasonably necessary to protect the life, safety, and health of employees. (Labor Code §6300 et seq.)

2) Establishes within the Department of Industrial Relations (DIR), various entities including the Division of Labor Standards Enforcement under the direction of the Labor Commissioner (LC), and empowers the LC with ensuring a just day's pay in every workplace and promoting economic justice through robust enforcement of labor laws. (Labor Code §79-107)

3) Requires that employers, at the time of hire, provide each employee with a written notice, in the language the employer normally uses to communicate employment-related information, containing the following:

    a. The rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any applicable overtime.
    b. Allowances, if any, including meal or lodging.
    c. The regular payday designated by the employer.
    d. The name of the employer, including any "doing business as" names used.
    e. The physical address of the employer's main office or principal place of business, a mailing address, if different, and the telephone number.

f. The name, address, and telephone number of the employer's workers' compensation insurance carrier.
g. The right to accrue and use sick leave and file a complaint against an employer that retaliates for the use of sick leave.
h. Any other information the Labor Commissioner deems material and necessary.
(Labor Code §2810.5)

4) Requires the LC to develop a template notice for 3), above, and make it available to employers. (Labor Code §2810.5)

5) Requires every employer who is subject to an order of the Industrial Welfare Commission, regulating wages hours and working conditions, to post a copy of the order and keep it posted in a conspicuous location frequented by employees during the hours of the workday. (Labor Code §1183(d))

6) Requires in each workplace of the employer, the employer to display a poster in a conspicuous place containing information on paid sick leave entitlement and usage, as specified. (Labor Code §247)

7) Requires eligible employers to keep posted conspicuously at the place of work a notice on family care and medical leave, as specified. (California Code of Regulations §7297.9)

8) Requires every employer to keep posted conspicuously at the place of work, if practicable, or otherwise where it can be seen as employees come and go to their places of work, or at the office or nearest agency for payment kept by the employer, a notice specifying the regular pay days and the time and place of payment. (Labor Code §207)

9) Requires every employer subject to the compensation provisions of Division 4 of the Labor Code to post and keep posted in a conspicuous location frequented by employees, and where the notice may be easily read by employees during the hours of the workday, a notice that states the name of the current compensation insurance carrier of the employer, or when appropriate, that the employer is self-insured, and who is responsible for claims adjustment. (Labor Code §3550)

10) Requires an employer to provide a notice to each current employee, by posting in the language the employer normally uses to communicate employment-related information to the employee, of any inspections of I-9 Employment Eligibility Verification forms or other employment records conducted by an immigration agency within 72 hours of receiving notice of the inspection. Written notice shall also be given within 72 hours to the employee's authorized representative, if any. (Labor Code §90.2)

11) Requires an employer to provide to each current affected employee, and to the employee's authorized representative, if any, a copy of the written immigration agency notice that provides the results of the inspection of I-9 Employment Eligibility Verification forms or other employment records within 72 hours of its receipt of the notice, as specified. (Labor Code §90.2)

12) Requires all employers to display a poster on workplace discrimination and harassment. (Government Code §12900 et seq.)

13) Specifies when wages must be paid for work performed in various positions and industries. (Labor Code §§202, 204, 208)

This bill:

1) Provides that it is the intent of the Legislature that California workers have a strong understanding of their rights as workers, as well as their civil rights under state and federal law.

Definitions

2) Defines "constitutional rights when interacting with law enforcement at the workplace" as a person's rights under the United States Constitution, including an employee's Fourth Amendment right to be free from unreasonable searches and seizures, Fifth Amendment right against self-incrimination, and Fifth Amendment right to due process of law.

3) Defines "Fifth Amendment right against self-incrimination" to mean a person cannot be forced to incriminate themselves. It also includes the right to remain silent and the right to counsel.

4) Defines "Fifth Amendment right to due process of law" to mean that a person cannot be deprived of life, liberty, or process without due process of law.

5) Defines "Fourth Amendment right to be free from unreasonable searches and seizures" to mean a person's right to be secure in their person, property, paper, and effects. It also includes the right to be free from unreasonable searches from law enforcement, unreasonable seizures from law enforcement, and unreasonable arrests from law enforcement.

Notification Requirement

6) Requires an employer to annually provide a stand-alone written notice to each current employee, and to each new employee upon hire, of workers' rights under state and federal law. Written notice shall also be given to the employee's authorized representative, if any.

7) Requires the notice to contain a description of workers' rights in the following areas:

    a. Protection against misclassification of an employee as an independent contractor.
    b. General health and safety protections under California regulations, including, but not limited to, outdoor heat illness prevention, indoor heat illness prevention, and injury and illness prevention.
    c. Wage and hour protections.
    d. Workers' compensation.
    e. Unemployment insurance.
    f. Paid sick days, paid family leave, state disability insurance, and the California Family Rights Act.
    g. The right to notice of inspection by immigration agencies.
    h. Protection against unfair immigration-related practices against a person exercising protected rights.
    i. Rights under data privacy laws that govern the sale and sharing of data with third parties.

j. Protection against retaliation by an employer if a worker exercises a right guaranteed by law.
k. The right to organize a union in the workplace
l. Rights and protections applicable during natural disasters and emergency conditions.
m. Constitutional rights when interacting with law enforcement at the workplace.
n. A list of the state agencies at which an employee may file a labor, fair employment, data privacy, or civil rights claim.

8) Requires on or before July 1, 2026, the LC to develop a template notice that an employer shall use to comply with the notice requirement in 6), above. The LC shall post the template notice on its internet website so that it is accessible to an employer.

9) Requires the template notice to be written in plain terminology that is easily understood by a worker. The LC shall make the template notice available in different languages, including, but not limited to, English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

10) Requires, on or before July 1, 2026, the LC to develop a video for employees advising them of their rights under the areas included in the notice.

11) Requires, on or before July 1, 2026, the LC to develop a video for employers advising them of their requirements under the areas included in the notice.

Emergency Contact Requirements

12) Requires, if any employee has designated an emergency contact with the employer, the employer to notify the designated emergency contact in the event of an enforcement action against the employee in which the employee is arrested or detained.

13) Authorizes the designated emergency contact to collect all wages owed to the employee if the employee is arrested or detained pursuant to an enforcement action and may file a wage claim on the employee's behalf if the wages are not lawfully paid.

Anti-Retaliation and Enforcement

14) Provides that parties subject to these provisions may provide, by collective bargaining agreement, that the agreement supersedes the requirements of this part, in whole or in part, if the waiver is explicitly set forth in the agreement in clear and unambiguous terms.

15) Provides that an employer shall not discharge, threaten to discharge, demote, suspend, or in any manner discriminate or retaliate against an employee for exercising or attempting to exercise their rights under these provisions, filing a complaint with the LC alleging a violation of these provisions, cooperating in an investigation or prosecution of an alleged violation of these provisions, or for any action taken by an employee to invoke, or assist in any manner in, the enforcement of these provisions.

16) Requires the LC to enforce these provisions, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing, as specified.

17) Authorizes, as an alternative to 16), above, any employee who has suffered a violation of these provisions, or their exclusive representative, to bring a civil action in a court of competent jurisdiction for damages caused by that adverse action, including punitive damages.

18) Provides that these provisions may also alternatively be enforced by a public prosecutor, as specified.

19) Provides that in any civil action brought pursuant to 16) through 18), above, in a superior court in any county wherein the violation is alleged to have occurred, or where the person resides or transacts business, the petitioner may seek appropriate temporary or preliminary injunctive relief, including punitive damages, and reasonable attorney's fees and costs as part of the costs of any action for damages.

20) Requires in addition to any other remedy, an employer who violates these provisions to be subject to a civil penalty of five hundred dollars per employee for each violation.

21) Provides that these provisions do not preempt any city, county, or city and county ordinance that provides equal or greater protection to employees.

COMMENTS

1. Background:

Workplace Notices and Postings

In California, all employers must meet specified workplace notice and posting obligations. At the time of hiring, employers are required to provide each nonexempt employee a written notice with, among other things, the following information: the rate of pay, the regular payday designated by the employer, the name, address, and telephone of the employer, information on sick leave, and the existence of a federal or state emergency or disaster declaration applicable to the county where the employee will be employed and that was issued within 30 days before the employee's start date. Employees admitted under the H-2A agricultural visa program receive the above notification as well as a separate and distinct section containing non-duplicative information that succinctly describes an agricultural employee's additional rights and protections under California law and regulations. Employers are able to use template notices prepared by the LC to fulfill the above requirements.[1]

Additionally, newly hired employees must receive pamphlets on a variety of topics. Pamphlets provide further information on workers' compensation, unemployment insurance, disability insurance, paid family leave, sexual harassment, and the rights of victims of domestic violence, sexual assault, and stalking.[2] Employers can access required pamphlets on DIR's and the Civil Rights Department's websites.

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[1] DIR, "Notice to Employee, Labor Code Section 2810.5," https://www.dir.ca.gov/dlse/lc_2810.5_notice.pdf

[2] DIR, Division of Workers' Compensation, "Time of Hire Notice," https://www.dir.ca.gov/dwc/DWCPamphlets/TimeOfHireNotice.pdf;
EDD, Employee Benefit Rights, "For Your Benefit: California's Programs for the Unemployed," https://edd.ca.gov/siteassets/files/pdf_pub_ctr/de2320.pdf;
Civil Rights Department, "Sexual Harassment" https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2020/03/Sexual-Harassment-Fact-Sheet_ENG.pdf;

Employers are also required to comply with workplace posting requirements. DIR requires employers to post information related to wages, hours, and working conditions in an area frequented by employees where the posting can be easily read during the workday. Workplace postings are usually available at no cost from the requiring agency. When posting content changes occur, DIR announces them on its website. In the absence of any changes, employers do not need to replace postings annually. Additional posting requirements may apply to some workplaces, depending on the industry. The existing law section of this analysis provides a sample of the different types of postings required under the Labor Code, Government Code, and Code of Regulations.

Despite the above notification and posting requirements, many workers struggle to assert their rights in the workplace and navigate government assistance programs.

SB 294 would add an additional notification, requiring employers to provide a stand-alone written notice to each current employee annually, and to each new employee upon hire, of workers' rights under state and federal law, as specified. Written notice would also be given to the employee's authorized representative, if any. The LC would also be required to develop a video for employees advising them of their rights under the specified topics included in the notice. The LC would develop a separate video for employers advising them of their requirements under the specified topics included in the notice.

Workplace Immigration Raids

According to the latest statistics available from the Pew Research Center, businesses employed some 8.3 million workers without legal status in 2022, just under 5 percent of U.S. workers and an increase from three years prior.[3] Many of these 8.3 million workers are in the agriculture and food production, construction, hospitality, and manufacturing industries.[4] They are a vital part of the economy and communities across the country. On the campaign trail, President Trump pledged to conduct mass deportations; thus far, his administration has taken steps to implement this pledge.

The Trump Administration's aggressive efforts to target immigrant communities have led to widespread fear, panic, and confusion. In California's Central Valley, workers have stayed home, school attendance has dropped, Catholic mass attendance is down, and community events have decreased.[5] Adding to the uncertainty, a new Department of Homeland Security policy authorizes immigration authorities to enter schools, healthcare facilities, and places of worship to conduct arrests. A January 7, 2025 immigration raid in Kern County, one day after Congress certified President Trump's election win, targeted farmworkers.[6] Border Patrol reported arresting 78 people from a "predetermined list of targets, many of whom had

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DIR, the LC's Office, "Rights of Victims," https://www.dir.ca.gov/dlse/victims_of_domestic_violence_leave_notice.pdf

[3] Jeffrey S. Passel and Jens Manuel Krogstad, Pew Research Center, "What We Know About Unauthorized Immigrants Living in the US," July 22, 2024, What we know about unauthorized immigrants living in the U.S. | Pew Research Center

[4] Ibid.

[5] Nigel Duara, CalMatters, "Raid or Rumor? Reports of Immigration Sweeps are Warping Life in California's Central Valley," March 31, 2025, https://calmatters.org/justice/2025/03/immigration-raids-rumors/

[6] Sergio Olmos and Wendy Fry, CalMatters, "Border Patrol Said it Targeted Known Criminals in Kern County. But it Had No Record on 77 of 78 arrestees," April 8, 2025, https://calmatters.org/economy/2025/04/border-patrol-records-kern-county/

criminal records."[7] A subsequent CalMatters investigation found that Border Patrol misrepresented their actions and had no prior knowledge of criminal or immigration history for 77 of the 78 people arrested.[8] Once someone has been detained, it can be difficult for their family members to track them down. Immigration authorities shuffle people around and hold them in rural areas far from where they were arrested or living.

In response to increased immigration raids, volunteer groups and nonprofits have ramped up efforts to educate people on their rights. The nonprofit Immigrant Legal Resource Center distributes red, pocket-sized, know your rights cards to immigrants in California and across the country.[9] The cards come in nineteen languages and highlight certain protections under the Constitution that are particularly relevant to immigrants. This includes the Fifth Amendment right to remain silent and the Fourth Amendment right to refuse entry to the home unless an agent has a warrant signed by a judge. Although the cards have been around for almost two decades, interest in them has exploded under the second Trump Administration.[10]

SB 294 would emulate the pocket-sized cards discussed above. To address the difficulties families face when attempting to locate workers picked up in enforcement actions, SB 294 would also require an employer to notify an employee's designated emergency contact in the event of an enforcement action against the employee in which the employee is arrested or detained. The designated emergency contact would also be authorized to collect all wages owed to an employee if the employee is arrested or detained pursuant to an enforcement action and to file a wage claim on the employee's behalf if the wages are not lawfully paid.

2. Committee Comments:

As noted above, this is a particularly difficult time for immigrant communities. Now more than ever, workers should be well informed of their rights and empowered to assert them. That being said, as conversations on this bill continue, the author and sponsors may wish to consider the following:

- The proposed annual notice would require information on thirteen separate topics as well as a list of state agencies at which an employee can file a labor, fair employment, data privacy, or civil rights claim. *Does the magnitude of the notice make it difficult for workers to easily reference and carry with them? Should the notice be narrowed, so that it is distinct from time of hire notices and workplace postings?*

- The LC would be required to develop a template notice that employers will use to comply with the provisions of this bill. The annual notice requires information on topics the LC does not have expertise in, like data privacy. *Should the LC consult with other agencies and departments to develop the template?*

- An employer would be required to notify an employee's designated emergency contact in the event of an enforcement action against the employee in which the employee is

[7] Ibid.
[8] Ibid.
[9] Miriam Jordan, New York Times, "For Fearful Immigrants, It's the Card They All Want Right Now," February 23, 2025, https://www.nytimes.com/2025/02/23/us/immigration-red-card.html
[10] Ibid.

arrested or detained. *Should employees be notified of this requirement or given the opportunity to opt-in? What if an employee does not want their emergency contact notified for privacy concerns? What level of access do immigration authorities have to HR documents? Does notifying an employee's emergency contact potentially put the contact at risk?*

- An employee's emergency contact would be authorized to collect all wages owed to an employee if the employee is arrested or detained pursuant to an enforcement action and to file a wage claim on the employee's behalf if the wages are not lawfully paid. The Labor Code governs the regular payment of wages. Employers that violate the prescribed timelines face penalties.

  When an employee quits without giving 72 hours prior notice, all of their wages, including accrued vacation, must be paid within 72 hours of quitting. An employee can receive payment by mail if they request and designate a mailing address. If an employer willfully fails to pay the wages of an employee who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced, but the wages shall not continue for more than 30 days.

  SB 294 would assume that an arrested or detained employee is not coming back to collect their paycheck. Given the country's recent immigration enforcement actions, this is not an unreasonable assumption for undocumented employees. The bill does not address final wage timelines and penalties. *Should employers have more than 72 hours to distribute an employee's final wages to their emergency contact in the aftermath of an enforcement action? Should an employer face penalties for the failure of an emergency contact to collect final wages within 72 hours? Should a unique penalty scheme be developed to address the situations created under SB 294?*

3. Need for this bill?

According to the author:

"Because the new administration has already attempted to drastically change the federal legal landscape, and because California law often exceeds the minimum requirements in federal law, California workers are not always fully aware of the rights and protections to which they are entitled. And, because the federal administration's policies are targeting the most vulnerable workers, the confusion over state and federal laws often scares workers into remaining silent. Or even worse, vulnerable workers are subjected to blatant civil and labor law violations, and confusion about their rights, or fear, keeps workers from asserting them…

Workers who put their lives on the line during and after disasters like wildfires, are also frequently exploited because they are not aware of state law or are hired by private contractors. Or, workers whose jobs are in the vicinity of the fires and suffer from harmful smoke inhalation while on the job are often unaware of their right to refuse unsafe work. Now, more than ever, it is imperative that workers and employers know their rights under California and federal law.

SB 294 will educate workers and employers on their labor and civil rights under state and federal law to increase labor law enforcement and ensure equal and just treatment under the

law. This bill will also require employers to provide workers with a stand-alone written notice that describes workers' rights in areas such as general health and safety, wage and hour protections, right to a notice of inspection by immigration agencies, and constitutional rights when interacting with law enforcement in the workplace."

4. Proponent Arguments:

The sponsors of the measure, the California Federation of Labor Unions, Central American Resource Center, and SEIU California State Council, argue:

"The federal administration has enacted a wave of executive orders that weaken civil and labor protections, making it difficult for employers to know how to best comply with existing law and for workers to understand what their rights are under California law versus changes at the federal level. In addition, the federal administration has started mass layoffs of federal workers, including at the agencies tasked with enforcing federal labor and civil rights laws such as the Department of Labor, Equal Employment Opportunity Commission, and the National Labor Relations Board. Given the enforcement challenges at both the state and federal level, worker and employer understanding of labor laws are critical so that workers can speak up or report when there are violations in their workplace…

Past experiences with worksite raids by Immigration and Customs Enforcement (ICE) demonstrate the likelihood of raids violating employees' due process and the importance of workers and employers understanding their rights and obligations in those instances. It is common for ICE to detain workers regardless of status when conducting workplace raids. ICE has used individual arrest warrants or administrative warrants to question and detain many workers – including U.S. citizens and lawfully present workers in a workplace. When workers are not aware of their fundamental constitutional rights, such as the Fourth Amendment's protections against unreasonable search and seizure or the Fifth Amendment's right to remain silent, it is much more likely that those rights will be violated.

SB 294 will give employers and workers the information they need to avoid violations and secure their rights in the workplace by educating them on labor and civil rights under state and federal law. The bill will require employers to provide workers with a stand-alone written notice that describes workers' rights in areas such as general health and safety, wage and hour protections, right to a notice of inspection by immigration agencies, and constitutional rights when interacting with law enforcement in the workplace. The bill will also require the Labor Commissioner's Office to develop a template available in the most frequently spoken languages to ensure comprehension, and to develop a video for workers and employers to know and understand their rights. The notice will help employers learn how to remain in compliance amidst a changing landscape, and the model template will make it easier for employers to provide this critical information to their employees."

5. Opponent Arguments:

A coalition of opponents, including the California Chamber of Commerce, argue:

"Nearly all of the required notices under SB 294 are already accounted for under existing law by way of workplace postings, new hire pamphlets and employer policies. For example, at the time of hire, an employer must provide the employee with a pamphlet about their

Workers' Compensation rights and benefits, state disability insurance benefits, Paid Family Leave benefits, sexual harassment prevention, and an employee wage notice to name a few.

In addition, all employers must post in a conspicuous location where employees gather, a total of twenty-one postings that include state, federal, and local laws."

In regard to the LC's draft notice:

"SB 294's required notices will be confusing because many employers have policies that are different from minimum standards required by law or include employer-specific provisions or procedures [*see coalition letter for examples*]…

To add to this concern, the Labor Commissioner's office is tasked with drafting these notices with no input from employers and the employers are required to use those templates pursuant to proposed section 1554(a). Further, many of these topics are not necessarily under the Labor Commissioner's jurisdiction, such as data privacy (CPPA), certain retaliation laws (CRD), CFRA (CRD), the right to organize (NLRB or ALRB), and more. The Labor Commissioner would be tasked with drafting notices about laws they have no role in enforcing or interpreting."

In regard to final pay concerns:

"SB 294 would require an employer to notify an employee's emergency contact if an employee is arrested or detained due to an 'enforcement action' and allow the emergency contact to collect the employee's final paycheck. If the employer does not provide the final paycheck, then the emergency contact may file a wage claim against the employer.

Labor Code Section 202 contains very specific final pay requirements that expose employers to penalties and lawsuits if not followed. When an employee quits with no notice, the employer has 72 hours to prepare the final paycheck. If the employee requests and designates a mailing address, the check can be mailed; otherwise, the employer must hold the check until the employee picks it up.

SB 294 presumes that an employee who is arrested or detained due to an undefined 'enforcement action' is simultaneously quitting their job, which may not be the case. What if the employee does not want their emergency contact notified about the arrest? Similarly, what if the employee does not want their emergency contact to collect their final paycheck? What if the emergency contact is estranged from the employee? There are too many questions and scenarios that will expose an employer to costly litigation and fines if the final paycheck is given to the wrong person, given against the employee's request or not given at all."

5. Double Referral:

This bill has been double referred and if approved by this Committee today, will be sent to Senate Judiciary Committee for a hearing.

6. Prior Legislation:

SB 578 (Smallwood-Cuevas, 2025) would direct DIR, upon appropriation of funds for this purpose, to establish the California Workplace Outreach Program (Program) to promote awareness of, and compliance with, workplace protections by contracting out with qualified organizations for worker outreach and the creation of educational materials. *SB 578 is pending in Appropriations Committee.*

SB 526 (Limón, 2023) would have required DIR to develop and prepare a poster on domestic violence prevention that employers may download from the department's website and display in their workplace. *SB 526 was held in Senate Appropriations Committee.*

AB 636 (Kalra, Chapter 451, Statutes of 2023) required agricultural employers to provide employees at the time of hire, information on the existence of a federal or state disaster declaration applicable to the county or counties where the employee will be employed if the emergency or disaster may affect the employee's health and safety during employment. Additionally, this bill required an H-2A visa employer to provide an employee, on their first day of work or upon transfer, the notice of basic employment related information with a separate section in Spanish, and if requested by the employee, in English, describing an agricultural employee's rights and protections.

AB 2068 (Haney, Chapter 485, Statutes of 2022) required employers to post notices that they have received citations for specified Labor Code violations and any special orders or actions issued to the employer by the Division of Occupational Safety and Health in each language in the top seven non-English languages indicated by the US Census.

AB 450 (Chiu, Chapter 492, Statutes of 2017) among other things, required an employer to provide a notice to each current employee, by posting in the language the employer normally uses to communicate employment-related information to the employee, of any inspections of I-9 Employment Eligibility Verification forms or other employment records conducted by an immigration agency within 72 hours of receiving notice of the inspection.

SUPPORT

California Federation of Labor Unions (Co-sponsor)
Central American Resource Center (Co-sponsor)
Service Employees International Union, California State Council (Co-sponsor)
Actors Equity Association
California Alliance for Retired Americans
California Coalition for Worker Power
California Conference of Machinists
California Faculty Association
California Federation of Teachers
California Immigrant Policy Center
California Professional Firefighters
California Rural Legal Assistance Foundation
Communications Workers of America, District 9
Consumer Attorneys of California
Courage California
International Association of Machinists

International Federation of Professional and Technical Engineers, Local 21
International Union of Painters and Allied Trades, District Council 36
National Employment Law Project
National Union of Healthcare Workers
Orange County Employees Association
SAG-AFTRA
San Diego Building and Construction Trades Council
San Mateo Central Labor Council
Service Employees International Union, Local 1000
SMART, Sheet Metal Workers' Union, Local 104
SMART, Transportation Division
State Building and Construction Trades Council of California
United Auto Workers, Region 6
United Food and Commercial Workers, Local 770
United Food and Commercial Workers, Western States Council
United Teachers of Los Angeles, AFT, Local 1021
Worksafe

OPPOSITION

Acclamation Insurance Management Services
Allied Managed Care
Associated General Contractors
Associated General Contractors San Diego
California Alliance of Family Owned Businesses
California Association of Health Facilities
California Association of Winegrape Growers
California Attractions and Parks Association
California Chamber of Commerce
California Farm Bureau
California Hospital Association
California League of Food Producers
California Restaurant Association
California Retailers Association
Civil Justice Association of California
Coalition of Small and Disabled Veteran Businesses
Flasher Barricade Association
National Association of Theatre Owners of California
National Federation of Independent Business
Society for Human Resource Management
Western Electrical Contractors Association

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SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 521	**Hearing Date:**	April 23, 2025
Author:	Gonzalez		
Version:	March 26, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: Public employment: disqualification

KEY ISSUE

This bill would add a felony involving a conflict of interest to the crimes that would disqualify a public employee from any public employment for five years.

The bill would also disqualify permanently a city manager, city legal counsel, or any person acting under contract for those services, convicted of specified crimes, from any future public employment in an equivalent role.

ANALYSIS

Existing law:

1) Disqualifies a public employee convicted of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as a public employee for five years from any public employment, including, but not limited to, employment with a city, county, district, or any other public agency of the state. (Government Code §1021(a))

2) Defines "public employee" for purposes of the five-year ban to mean any person employed at will for the purposes of providing services to an elected public officer who takes public office, or is reelected to public office, on or after January 1, 2013. (Government Code §1021(c))

3) Prohibits Members of the Legislature, state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Also, prohibits state, county, district, judicial district, and city officers or employees from being purchasers at any sale or vendors at any purchase made by them in their official capacity. (Government Code §1090 (a)).

4) Prohibits an individual from aiding or abetting a Member of the Legislature or a state, county, district, judicial district, or city officer or employee in violating the conflict of interest provisions above. (Government Code §1090 (b))

5) Provides that every officer or person prohibited by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip or other evidences of indebtedness, including any member of the governing

board of a school district, who willfully violates any of the provisions of those laws, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state. (Government Code §1097 (a))

6) Provides that an individual who willfully aids or abets an officer or person in violating a prohibition by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, including any member of the governing board of a school district, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state. (Government Code §1097 (b))

7) Provides that all persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission, and all persons counseling, advising, or encouraging children under the age of fourteen years, or persons who are mentally incapacitated, to commit any crime, or who, by fraud, contrivance, or force, occasion the drunkenness of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command, or coercion, compel another to commit any crime, are principals in any crime so committed. (Penal Code §31)

8) Makes punishable every person *who gives or offers* to give a bribe to any Member of the Legislature, any member of the legislative body of a city, county, city and county, school district, or other special district, or to another person for the member, or attempts by menace, deceit, suppression of truth, or any corrupt means, to influence a member in giving or withholding his or her vote, or in not attending the house or any committee of which he or she is a member, by imprisonment in the state prison for two, three or four years. (Penal Code §85)

9) Makes punishable every Member of either house of the Legislature, or any member of the legislative body of a city, county, city and county, school district, or other special district, *who asks, receives, or agrees to receive*, any bribe, upon any understanding that his or her official vote, opinion, judgment, or action shall be influenced thereby, or shall give, in any particular manner, or upon any particular side of any question or matter upon which he or she may be required to act in his or her official capacity, or gives, or offers or promises to give, any official vote in consideration that another Member of the Legislature, or another member of the legislative body of a city, county, city and county, school district, or other special district shall give this vote either upon the same or another question, by imprisonment in the state prison for two, three, or four years and, in cases in which no bribe has been actually received, by a restitution fine of not less than four thousand dollars ($4,000) or not more than twenty thousand dollars ($20,000) or, in cases in which a bribe was actually received, by a restitution fine of at least the actual amount of the bribe received or four thousand dollars ($4,000), whichever is greater, or any larger amount of not more than double the amount of any bribe received or twenty thousand dollars ($20,000), whichever is greater. (Government Code §86)

10) Provides that every Member of the Legislature, and every member of a legislative body of a city, county, city and county, school district, or other special district convicted of any of the specified crimes defined, in addition to the punishment prescribed, forfeits their office and is

forever disqualified from holding any office in this state or a political subdivision thereof. (Government Code §88)

This bill:

1) Adds any felony involving "*conflict of interest"* to the list of specified crimes for which a conviction disqualifies a public employee for five years from any public employment, including, but not limited to, employment with a city, county, district, or any other public agency of the state.

2) Disqualifies a city manager or legal counsel for a city, including a person acting under contract with the city for those services, from any future public employment in an equivalent role if the person is convicted of any felony involving accepting or giving, or offering to give, any bribe, conflict of interest, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of their official duties as a public employee.

3) Makes legislative findings and declarations that the integrity of public employees is a matter of statewide concern and is not a municipal affair as Section 5 of Article XI of the California Constitution uses that term. Therefore, the bill's provisions apply to all cities, including charter cities.

COMMENTS

1. Need for this bill?

According to the author:

"Conflict of interest is among the most common crimes that local officials are charged with in public integrity violation cases. However, existing law does not make clear that public employees convicted of felony conflict of interest are barred from public service. Senior level staff, such as city managers and attorneys, have substantial responsibility over local government decision-making and public dollars. Holding these senior-level staff to a higher standard when they commit crimes that violate public trust is essential, just as the elected officials they serve who, when convicted of conflict of interest, are barred from holding office for life."

2. Committee Comments

This bill expands coverage of existing prohibitions against the abuse of office by high-level staff to local governmental officials by doing the following:

- Including "conflict of interest" in the list of crimes for which a felony conviction triggers a five-year ban from public employment.
- Creating a new category of city employees (i.e., city manager, city legal counsel, or contracted managers or legal counsel) covered under the prohibitions and for whom violation of the prohibitions would lead to a permanent ban in "equivalent positions".

Conflict of Interest
The bill does not specifically define "conflict of interest" but instead applies: 1) if the person is criminally convicted of a felony violation of *any* state statute or local ordinance prohibiting certain conduct that constitutes a conflict of interest under that specified statute or ordinance; or 2) if the person is criminally convicted of a felony charge of aiding and abetting such prohibited conduct.

Public Employee Definition
Under existing law, "public employee", for purposes of the five-year ban, is defined to mean any person *employed at will* for the purposes of *providing services to an elected public officer* who takes public office, or is reelected to public office, *on or after January 1, 2013*. This definition limits the bill's liability for felony violations of conflict of interest laws to non-civil service employees, typically highly placed aides to elected government officials. Otherwise, the bill's provisions could implicate conflicts with the due process rights and collective bargaining rights of civil service employees.

City Manager and Legal Counsel Definitions
The author's office has indicated that the bill's permanent ban for city managers and legal counsel, or the outside contractors operating in lieu of those positions, is meant to address, specifically, corrupt conduct by the highest levels of city government employees. However, the bill does not precisely define those positions. Thus, as currently drafted, the bill could capture entry-level department program managers or city attorney staff who reasonably conclude that, being subject to attorney-client privilege, they may not provide certain privileged information demanded by criminal investigators, particularly if their supervisors countermand such a demand.

Moreover, since the bill creates a new Government Code section 1021.6, the definition of "public employee" in existing section 1021.5 (as discussed above) limiting the law's application to *at-will* employees does not appear to apply in the new section 1021.6 and thus, seems to implicate a broader application of the bill's provision than the author intends.

Therefore, to avoid any confusion, the committee recommends defining the positions affected by the specific terms "city manager" and "city attorney" (instead of "legal counsel") and referencing existing government code sections defining those terms.

Ex Post Facto Laws
Both the state and federal constitution prohibit making conduct criminal retroactively (i.e., Ex post facto laws). Presumably, this bill also intends to attach liability to public employees for criminal conflict of interest conduct under 1021.5, but only for persons employed on or after January 1, 2026 (i.e., the bill's effective date if signed into law this year). Otherwise, the bill would likely implicate those ex-post facto prohibitions.

3. Committee Amendments

SEC. 2. Section 1021.6 is added to the Government Code, to read:

1021.6. (a) A city manager or ~~**legal counsel for a**~~ city **attorney**, including ~~**a person**~~ **an individual** acting under contract with the city for those services, who is convicted of any felony set forth in Section 1021.5 shall be disqualified from any future public employment in an equivalent role.

(b) For purposes of this section, the following definitions apply:
(1) "City attorney" means any person employed pursuant to Section 41801 on or after January 1, 2026.
(2) "City manager" means any person employed pursuant to Section 34851 on or after January 1, 2026.

4. Proponent Arguments

According to the Los Angeles District Attorney's Office:

"City Managers and city attorneys are among the most senior level positions in municipal government and have enormous decision-making power over local government policy decisions and the appropriation of government funds. Because of the substantial power that these senior level staff have, when they betray the public trust and commit crimes covered by Section 1021.5 it undermines the public trust in government.

There is no policy or legal reason to exclude felony conflict of interest convictions from the list of public corruption related offenses that trigger a five-year ban on public employment. It is also appropriate to prohibit a person employed as a city manager or city attorney convicted of a felony offense listed in California Government Code Section 1021.5 from future employment in an equivalent role."

According to the California District Attorneys Association:

"SB 521…would ensure that those who take advantage of their public employment responsibilities to engage in criminal conduct be disqualified from future public employment for at least five years.

Currently law imposes a five-year disqualification period for public employees being rehired into public service following a felony conviction involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of their duties as a public employee. This list notably omits a conviction under California's conflict of interest laws. SB 521 corrects that oversight and ensures that a conviction for conflict of interest carries the same disqualification penalty."

5. Opponent Arguments:

None received.

6. Prior Legislation:

SB 1439 (Glazer, Chapter 848, Statutes of 2022) expanded specified ethics laws for state officials to include local government officials, creating restrictions on accepting political donations from entities with business before the local agency.

SB 952 (Torres, Chapter 483, Statutes of 2014) prohibited an individual from aiding or abetting a public officer or person in violating the law prohibiting financial conflicts of

interest, and extended the penalties under existing law to apply to the individual who willfully aids or abets, as specified.

AB 1654 (Cook, Chapter 54, Statutes of 2012) required the disqualification of public employees from public employment for five years following conviction for certain felonies involving their official duties.

SUPPORT

Los Angeles County District Attorney's Office (Sponsor)
California District Attorneys Association

OPPOSITION

None received.

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 536	**Hearing Date:**	April 23, 2025
Author:	Archuleta		
Version:	February 20, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Workers' compensation insurance fraud reporting

KEY ISSUE

This bill 1) requires an insurer or licensed rating organization to notify the Employment Development Department (EDD) of suspected workers' compensation fraudulent acts related to premium fraud for the purpose of notification and investigation, and 2) requires EDD, upon written request, to release detailed payroll information, including payroll summary totals, to insurers or licensed rating organizations that would allow the insurer or licensed rating organization to compare the records with the information they are otherwise entitled to receive from employers in workers' compensation claims, as specified.

ANALYSIS

Existing law:

1) Establishes a comprehensive system of workers' compensation that provides a range of benefits for an employee who suffers from an injury or illness that arises out of and in the course of employment, regardless of fault. This system requires all employers to insure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by obtaining insurance from a company authorized by the state. (Labor Code §§3200-6002)

2) Specifies that failure to have workers' compensation coverage, or make a false or fraudulent statement to obtain or deny any compensation, is a criminal and civil offense; including a misdemeanor or felony, punishable by imprisonment, and/or fines ranging from $10,000 to $100,000; as well as civil penalties, including stop orders, and personal liability. (Labor Code §§3700-3823)

3) Establishes the Workers' Compensation Insurance Fraud Reporting Act. (Insurance Code §§1877-1877.5)

    a. Requires insurers and licensed rating organizations to release relevant information deemed important to the authorized governmental agency that the insurer or licensed rating organization may possess relating to any specific worker's compensation insurance fraud investigations to an authorized government agency, upon written request.
    b. Requires, under specified circumstances, an insurer or licensed rating organization to notify the local district attorney's office and the Fraud Division of the Department of Insurance of suspected fraud relating to a workers' compensation insurance claim or a workers' compensation insurance policy.

c. Authorizes, under specified circumstances, an insurer or licensed rating organization to notify any other authorized governmental agency of suspected fraud.
d. Requires the Employment EDD to release relevant information that the EDD may possesses relating to any specific worker's compensation insurance fraud investigation to an authorized governmental agency, upon written request.
e. Requires an authorized governmental agency that is provided with information pursuant to these provisions to release or provide that information in a confidential manner to any other authorized governmental agency for purposes of investigation, production, or prevention of insurance fraud of worker's compensation fraud, unless it would violate federal law or otherwise compromise an investigation.

    i. Defines "authorized governmental agency" as the district attorney of any county, any city attorney whose duties include criminal prosecutions, any law enforcement agency investigating workers' compensation fraud, the office of the Attorney General, the Department of Insurance, the Department of Industrial Relations, the EDD, the Department of Corrections and Rehabilitation, the Public Employees' Retirement System, any licensing agency governed by the Business and Professions Code, and any licensing agency governed by the Chiropractic Initiative Act.
    ii. Defines "insurer" as an insurer admitted to transact workers' compensation insurance in this state, the State Compensation Insurance Fund, an employer that has secured a certificate of consent to self-insure pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code, or a third-party administrator that has secured a certificate pursuant to Section 3702.1 of the Labor Code.
    iii. Defines "licensed rating organization" as a rating organization licensed by the Insurance Commissioner pursuant to Section 11750.1.

4) Prohibits an insurance institution, agent, or insurance-support organization from disclosing any personal or privileged information about an individual in connection with an insurance transaction unless the disclosure is, among other things, to a person whose only use of the information will be in connection with the marketing of a product or service, as specified. (Insurance Code §791.13)

This bill:

1) Requires an insurer or licensed rating organization to notify the EDD of suspected fraudulent acts related to premium fraud for the purpose of notification and investigation.

2) Requires EDD, upon written request, to release detailed payroll information, including payroll summary totals, to insurers or licensed rating organizations that would allow the insurer or licensed rating organization to compare the records with the information they are otherwise entitled to receive from employers in worker's compensation claims.

3) Specifies the documents provided under this subdivision are prohibited from being used in connection with the marketing of a product or service, as specified.

COMMENTS

1. Background:

Workers' compensation fraud
Under the California workers' compensation system, if a worker is injured on a job, the employer must pay for the worker's medical treatment, and provide monetary benefits if the injury is permanent. In return for receiving free medical treatment, the worker surrenders the right to sue the employer for monetary damages in civil court. In California, all employers are required to either purchase a workers' compensation insurance policy from a licensed insurer authorized to write policies in California or become self-insured.

Failing to have workers' compensation coverage is a criminal offense: it is a misdemeanor punishable by either a fine of up to $10,000 or imprisonment in the county jail for up to one year, or both. Additionally, the state issues penalties of up to $100,000 against illegally uninsured employers. If a worker has a work-related injury or illness and their employer is not insured, the employer is responsible for paying all bills related to the worker's injury or illness. If an employer is illegally uninsured and a worker has a work-related injury or illness, the worker can file a civil action against their employer in addition to filing a workers' compensation claim.

Workers' compensation fraud costs California billions each year. Workers' compensation fraud can take many forms, including for example, health care providers billing for services never performed, employers under-reporting payroll, and attorneys or claims adjusters facilitating fraud.

Workers' compensation fraud notifications to authorized governmental agencies
Currently, insurers and licensed rating organizations are required to notify the local district attorney's office and the Fraud Division of the Department of Insurance of any suspected workers' compensation fraud. Insurers and licensed rating organizations are also *permitted* to notify authorized governmental agencies, which includes EDD, among others, of any suspected workers' compensation fraud. The author and sponsors want to *require* that insurers notify the local district attorney's office, the Fraud Division of the Department of Insurance, *and EDD* of suspected workers' compensation fraud.

Existing processes for authorized governmental agencies to share relevant workers' compensation fraud information
Under existing law, the Workers' Compensation Insurance Fraud Reporting Act,[1] an authorized governmental agency that has information relevant to suspected workers' compensation fraud is required to provide that information in a confidential manner to any other authorized governmental agency for purposes of investigation, production, or prevention of insurance fraud of worker's compensation fraud, unless it would violate federal law or otherwise compromise an investigation. An authorized governmental agency includes:

- the district attorney of any county,
- any city attorney whose duties include criminal prosecutions,
- any law enforcement agency investigating workers' compensation fraud,
- the office of the Attorney General,
- the Department of Insurance,

[1] Insurance Code §§1877-1877.5

- the Department of Industrial Relations,
- the Employment Development Department,
- the Department of Corrections and Rehabilitation,
- the Public Employees' Retirement System,
- any licensing agency governed by the Business and Professions Code, and
- any licensing agency governed by the Chiropractic Initiative Act.

These agencies are required to exchange relevant information related to suspected workers' compensation fraud. EDD is also required, upon written request, to release to a requesting authorized governmental agency relevant information EDD has relating to a workers' compensation fraud investigation. This information must be released or provided to the requesting authorized governmental agency in a confidential manner.

If an authorized governmental agency seeks to disclose this information to any other governmental agency that is not authorized to receive that information pursuant to existing law, that agency has to submit a request to EDD for approval prior to disclosure.

Currently, the State Compensation Insurance Fund (State Fund) can also identify premium fraud due to an existing agreement with EDD that allows the exchange of certain tax information strictly for the purpose of detecting and preventing workers' compensation fraud.

Additionally, according to the State Fund, any insurer or carrier may currently obtain relevant records from EDD. If there is a fire, for example, or any other circumstance where insurers may need this information, an insurer can request EDD records, upon submission of an authorization signed by the policyholder, to obtain payroll records, or signed by the injured worker to obtain wage records.

2. Committee Comments:

Expanding EDD information sharing requirements to insurers
The author and sponsors would like to require EDD to share payroll data with insurers and licensed rating organizations who request it. This proposal would expand an existing information sharing process that exists between agencies, to include non-governmental entities. As noted above, any authorized governmental agency that shares relevant workers' compensation fraud information with another authorized governmental agency must do so in a confidential manner.

Under existing law, the Insurance Information and Privacy Protection Act (IIPPA)[2] ensures that insurance institutions, agents, or insurance-support organizations do not *disclose* any personal or privileged information about an individual that is collected or received in connection with an insurance transaction, except under certain circumstances.

While this bill, SB 536, prohibits the information that an insurer would obtain from EDD from being used to market a product or service, this bill also requires EDD to release detailed payroll and payroll summary totals to insurers or licensed rating organizations. This information would allow the insurer or licensed rating organization to compare their records with the information they are otherwise entitled to receive from employers in worker's

[2] Insurance Code §§791-791.29

compensation claims information (which may include birth dates, and social security numbers).

Workers' compensation insurers currently receive payroll information from policyholders in order to determine the premium owed. This information may include employee name, social security number, and detailed payroll information (wages, taxes, net pay, employer taxes/contributions, etc). The author and sponsors claim this bill, SB 536, only allows insurers to check what has been reported directly to them with what has been reported to EDD to identify misreporting, whether because of fraud, abuse, or mistake.

Sharing data that can include sensitive information must be done in an appropriate and confidential way, especially data that is released by a government agency. With the exception of the marketing prohibition, the author and sponsors claim that the protections of the IIPPA that currently apply to personal information *received from the employer* will apply equally to the information *received from EDD* for insurers. However, the IIPPA primarily deals with data that is provided to the insurer directly, not information that is provided to the government and then shared with the insurer. It is not clear what protections exist for an authorized governmental agency (in this case EDD) to *release* information to an insurer.

Should EDD be required to share detailed payroll data to insurers? Should there be additional privacy protections or guardrails to ensure the information EDD provides to the insurer or licensed rating organization is limited and provided in a confidential manner?

3. Need for this bill?

According to the author:

"SB 536 is needed due to substantial underreporting or misreporting of payroll to insurers by dishonest employers, which directly impacts the competitiveness of honest employers. Employers who accurately report their payroll potentially face rates three to ten times higher in the high-risk classifications than they would face if all employers reported accurately. California sees underreporting of payroll in the tens of millions of dollars each year, providing an unfair advantage to employers cheating the system.

Underreporting of payroll also impacts the collection of taxes, and in California that may add up to more than $10 billion a year.

In 2011, a pilot program was initiated with the State Compensation Insurance Fund (the State Fund) and for over a decade, this program has allowed State Fund to effectively identify premium fraud and recover significant amounts of premium each year via restitution. The pilot has been successful, and it should be expanded to the other 90% of the market so that all insurers can verify that premium is based on accurate payroll reporting."

4. Proponent Arguments:

According to the sponsors, the American Property Casualty Insurance Association (APCIA):

"Employers who accurately report their payroll probably face rates three to ten times higher in the high-risk classifications than they would face if all employers reported accurately.

California sees an underreporting of payroll in the tens of millions of dollars each year, providing an unfair advantage to those cheating the system.

Fortunately, SB 536 addresses the type of premium fraud in which employers underreport payroll for purposes of workers' compensation insurance while separately reporting alternate amounts of payroll for state tax purposes. This bill would allow for the provision of EDD data directly to insurers, allowing them to quickly identify premium fraud.

Importantly, this bill would create a new obligation for insurers to report suspected fraud directly back to the EDD (in addition to the Department of Insurance (CDI) and relevant district attorneys), which would alert the EDD to conduct further investigations of potential fraud. Where an employer commits insurance fraud, they are more likely to commit tax fraud. Once this process is established, the EDD can take advantage of the fraud fighting efforts of all California insurers to increase tax recoveries in California. As this reporting would also go to CDI, CDI already is empowered to monitor insurer follow-up to assure that insurers investigate and use information from EDD appropriately."

5. Opponent Arguments:

None received.

6. Prior Legislation:

AB 2046 (Daly, Chapter 709, Statutes of 2018) required, among other things, an authorized governmental agency that is provided with specified information, upon request, to release information deemed important related to workers' compensation fraud. It also required an authorized governmental agency that seeks to disclose this information to any other governmental agency that is not authorized to receive that information to obtain EDD approval prior to disclosure, as specified.

SUPPORT

American Property Casualty Insurance Association (Sponsor)
African American Farmers of California
Almond Alliance
Almond Alliance of California
American Pistachio Growers
California Association of Joint Powers Authorities (CAJPA)
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Coalition on Workers Compensation
California Cotton Ginners and Growers Association
California District Attorneys Association
California Farm Bureau
California Fresh Fruit Association
California Hotel & Lodging Association
California League of Food Producers
California Pool & Spa Association
California State Council of Laborers

California Walnut Commission
Grower-shipper Association of Central California
Independent Insurance Agents & Brokers of California, INC.
Nisei Farmers League
Riverside County District Attorney
Ventura County Office of the District Attorney
Western States Regional Council of Carpenters
Western Tree Nut Association

OPPOSITION

None received.

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 628	**Hearing Date:**	April 23, 2025
Author:	Grove		
Version:	April 2, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: Employment: employer contributions: employee withholdings: credit: agricultural employees

KEY ISSUE

This bill would create a payroll tax credit to reimburse agricultural employers for overtime wages paid to their agricultural employees.

ANALYSIS

Existing law:

1) Requires employers to withhold specified amounts from their employee payroll and transfer those amounts to the Employment Development Department (EDD) for purpose of paying the Unemployment Insurance Tax (UI), State Disability Insurance Tax (SDI), Employment Training Tax (ETT) and the California Personal Income Tax (PIT). (Unemployment Insurance Code (UIC) §13020 et seq.)

2) Establishes the Phase-In Overtime for Agricultural Workers Act of 2016 that provided a four-year implementation schedule for larger employers and a three-year delay for smaller employers to effectively eliminate the previous exemption of agricultural workers from overtime pay requirements. (Labor Code §857 et seq,)

This bill:

1) Authorizes an employer whose employees are covered by Wage Order No. 14-2001 of the Industrial Welfare Commission to claim a credit, as specified.

2) Provides that the amount of the credit shall be equal to the amount of overtime wages paid for that quarter to agricultural workers, as specified.

3) Limits the total amount the employer may claim in any given quarter to the amount that the employer would have remitted for that quarter to EDD for employee withholdings.

4) Provides that the employer shall claim the credit in a form and manner prescribed by EDD pursuant to either of the following:

    a. On the report of contributions, quarterly return, and report of wages required under UIC §1088.
    b. In an electronic funds transfer pursuant to UIC §1110 (f) or §13021

5) Makes the following clarifications regarding the credit:

    a. It does not change the amount of taxes the employer is required to withhold from employees and report to the employee, EDD, the Franchise Tax Board, and the Internal Revenue Service.
    b. It does not require the employee to pay additional taxes or otherwise alter the employee's tax liability.
    c. It makes a declaration that the Legislature intends that the bill's operation does not require an appropriation of moneys by reducing moneys remitted by the employer to the EDD that would otherwise be deposited in the General Fund.

6) Authorizes EDD to adopt rules and regulations necessary or appropriate to implement the bill's provisions.

7) Makes the following definitions:

    a. "Employee" has the same meaning as that term is used in Sections 3205, 3205.1, 3205.2, and 3205.3 of Title 8 of the California Code of Regulations, as those sections read on January 1, 2023.
    b. "Overtime wages" means the difference between the employees' overtime rate of pay and their regular rate of pay.
    c. "Quarterly return" means the form on which the employer reports its employer contributions and employee withholdings pursuant to this code.

8) Makes the following Legislative Findings and Declarations:

    a. California's agricultural industry is facing historic economic challenges. A few thousand California farmers and ranchers will likely go out of business in the next two or three years.
        i. Climate change-induced drought has caused California's irrigated farmland to shrink by 752,000 acres in the last five years. According to the United States Department of Agriculture's 2022 Census of Agriculture, the number of California farms fell 10.5 percent between 2017 and 2022, a decrease of 7,387 farms. In 2024, the United States Secretary of Agriculture called the numbers in the 2022 Census of Agriculture a "wake-up call."
        ii. The Department of Food and Agriculture reported that in 2023, California's farms and ranches received $59.4 billion in cash receipts for their output. This represents a 1.4-percent increase in cash receipts compared to the previous year. This was significantly behind California's inflation rate in 2023 that was 3.9 percent as measured by the California Consumer Price Index. This means that in 2023, California's agricultural industry was $1.5 billion behind simply keeping up with inflation, which would have been breaking even.
        iii. In January 2024, at the State of the Industry at the Unified Wine and Grape Symposium, the California wine industry was urged to remove 50,000 acres of grapevines statewide to correct the oversupply issue. In 2024, the French government saw the same problem and allocated €120,000,000 in subsidies aimed at funding the permanent removal of vineyards. Their objective was to remove up to 100,000 hectares of vineyards in France. In 2023, the French government provided $215,000,000 in funding to wineries to sell off their

surplus wine. To date, California has provided no similar financial support for California wineries and vineyards that are competing in a global market.

iv. In August 2024, AgWest Farm Credit reported high interest rates, falling farm income, shifting water availability, and regulations are among the main drivers lowering agricultural land values in California.

v. In September 2024, AgWest Farm Credit conducted a profitability analysis of its core commodities and reported that only the cattle industry is "profitable."

b. California's 400,000 agricultural employees face incredible challenges and need help.

i. The Public Policy Institute of California in 2022 reported, "A trend taking shape over decades is the increasingly settled nature of farm work, with workers living in the United States year-round. In the past, patterns of settling were quite different by immigration status." This report highlights the need of agricultural employees for year-round services including health care.

ii. A November 2024 report from the Rural Health Information Hub stated, "The challenges that rural residents face in accessing healthcare services contribute to health disparities." The barriers to healthcare access include distance and transportation, healthcare workforce shortages, cost of insurance, and lack of access to broadband, privacy, and health literacy.

iii. Work in vineyards, orchards, and fields is hard work. Section 858 of the Labor Code states, "Agricultural employees engage in back-breaking work every day. Few occupations in today's America are as physically demanding and exhausting as agricultural work." Yet Section 3441 of Title 8 of the California Code of Regulations is a barrier to using technology to make the work safer and less labor intensive.

iv. Agricultural employees have a difficult time finding housing in California as the state has some of the highest housing prices in the nation. In the coastal area of the Counties of Monterey and Santa Cruz, a consortium of local agencies released a housing report in 2018 that found that about 73,000 agricultural employees live in the Salinas and Pajaro Valleys year round. An estimated 77 percent live in overcrowded or extremely overcrowded conditions, with multiple families sharing bedrooms. Little has been done by the State of California to help create new agricultural housing.

v. Regarding other state's approach to addressing this issue:

1. Recognizing the needs and importance of supporting its agricultural employees, the Oregon Legislature approved House Bill 4002 in April 2024. The measure requires agricultural employers to pay certain workers for overtime hours worked and created a refundable personal or corporate income tax credit for employers for a percentage of wages paid as overtime pay to agricultural workers for calendar years 2023 through 2028.
2. The State of New York has also created a farm employer overtime credit. The credit is 118 percent of the overtime hours the agricultural employer paid multiplied by the difference between the employees' overtime rate of pay and their regular rate of pay.

c. In 2016, the Legislature passed legislation that was intended to increase the take-home pay of California agricultural employees who are working overtime.

i. It was the intent of the Legislature, "to enact the Phase-In Overtime for Agricultural Workers Act of 2016 to provide any person employed in an

agricultural occupation in California, as defined in Order No. 14-2001 of the Industrial Welfare Commission (revised 07-2014) with an opportunity to earn overtime compensation under the same standards as millions of other Californians."

ii. According to a 2023 study by the University of California, Berkeley, California farmworkers have made less money since the Phase-In Overtime for Agricultural Workers Act of 2016 became law. The study concluded, "This early evidence suggests that the law may not be benefiting the workers they aim to protect."

iii. The USDA Farm Labor Survey found that the average weekly hours of directly hired California workers fell relative to the average weekly hours of all United States directly hired farm workers. In 2016, California's directly hired farm workers averaged 2.7 more hours a week than all United States farm workers. That fell to 1.9 more hours a week in 2019, 0.1 more hours in 2021, and one less hour in 2023, which means that directly hired California farm workers averaged an one hour less per week in 2023 than all United States farm workers.

d. As California's agricultural industry faces economic challenges causing the reduction of overtime hours available to employees, the unintended consequence of the Phase-In Overtime for Agricultural Workers Act of 2016 is that employees are losing money. Therefore, it is in the public interest to support agricultural employees through public financial support of overtime wages.

i. The intent of enacting Section 13200 of the Unemployment Insurance Code is to recognize the findings and declarations in subdivisions (a) through (c), inclusive, and to provide a much-needed investment in the well-being of agricultural employees.

ii. In September, 2024, Governor Gavin Newsom stated, "Farmworkers are the backbone of California's nation-leading agricultural industry and play a critical role in ensuring the stability of the state, nation and world's food supply. Investing in their well-being is investing in California's success."

COMMENTS

1. Need for this bill?

According to the author:

"AB 1066 was approved in 2016 and required that farm workers receive overtime wages for overtime hours. The law was built on an assumption that employers would keep providing the same amount of overtime hours to be worked. However, data has shown that agricultural employers could not afford to pay those wages. Consequently, those overtime hours were reduced substantially."

2. Proponent Arguments

According to the California Association of Winegrape Growers and the California Farm Bureau:

"The agricultural overtime law was intended to help farm workers. The law specifically states, it was the intent of the Legislature, 'to enact the 'Phase-In Overtime for Agricultural Workers Act of 2016' to provide any person employed in an agricultural occupation in California, as defined in Order No. 14-2001 of the Industrial Welfare Commission (revised 07-2014) with an opportunity to earn overtime compensation under the same standards as millions of other Californians.'

But as predicted during the debate on AB 1066, and for the reasons enumerated in the UC report, that opportunity has not been realized. This is because when agricultural employers cannot afford to pay overtime wages, overtime hours will not be available to employees.

This means that the agricultural overtime law has not only failed to meet the needs of farm employees, but it is also causing financial harm to those same farm employees while hurting ag employers and rural communities as well."

3. Opponent Arguments:

According to the California Federation of Labor Unions:

"Ultimately, SB 628 would set a harmful precedent for California, as it would require the state to pay employers to follow existing law. The Legislature passes, and the Governor signs into law, bills with which they intend and expect residents and businesses to comply, regardless of economic or other circumstances. Instead of honoring the hard-won protections in AB 1066, this bill represents employers' further attempts to exempt themselves from labor law, only this time they also want the state to foot the bill. At a time when the California legislature is debating how to allocate tax dollars to fund all the state's priorities in education, housing, health and human services, infrastructure, energy, etc., this proposal is additionally harmful. Farm workers deserve equal rights and protections in law, and employers should not have to be subsidized to comply."

4. Prior Legislation:

AB 3056 (Gallagher, 2024) sought to repeal the specified provisions of the phase-in of overtime for agricultural workers and provide that agricultural workers shall be entitled to one-half times their regular rate of pay for all hours worked over 45 hours in any workweek, or over 48 hours if the employer employees 25 or fewer employees. *The bill died in the Assembly Labor and Employment Committee.*

SB 375 (Alvardo-Gil, 2023) would have provided a tax credit, as specified, to employers for their costs to comply with Cal/OSHA's COVID-19 Prevention / Non-Emergency Standard regulation. *The bill died in the Senate Appropriations Committee.*

AB 1066 (Gonzalez, Chapter 313, Statutes of 2016), enacted the Phase-In Overtime for Agricultural Workers Act of 2016, as specified.

AB 1313 (Allen, 2011) would have made daily overtime statutory provisions that require overtime for hours worked in excess of eight hours in one workday applicable to agricultural employees, as specified. *The bill died in the Assembly on concurrence.*

SB 1121 (Florez, 2010, Vetoed) would have removed the exemption on agricultural workers from overtime and meal period requirements. *The Governor vetoed the measure.*

SUPPORT

California Association of Winegrape Growers (Co-sponsor)
California Farm Bureau (Co-sponsor)
Agricultural Council of California
Almond Alliance
American Pistachio Growers
CA Cotton Ginners & Growers Association
California Avocado Commission
California Chamber of Commerce
California Cotton Ginners & Growers Association
California Fresh Fruit Association
California League of Food Producers
California Rice Commission
California State Beekeepers Association
California Walnut Commission
Central Valley Community Foundation
County of Fresno
Family Winemakers of California
Fowler Packing Company, INC.
Greater Bakersfield Chamber of Commerce
Grower-shipper Association of Central California
Kern County Farm Bureau
Kern County Supervisor 2nd District
Kern County Supervisor Jeff Flores
Kern County Veterans Chamber of Commerce
Kern Economic Development Foundation
Milk Producers Council
National Federation of Independent Business
Tulare County Farm Bureau
Western Growers Association
Western Tree Nut Association
Wine Institute

OPPOSITION

California Federation of Labor Unions

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 642	**Hearing Date:**	April 23, 2025
Author:	Limón		
Version:	April 10, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Employment: payment of wages

KEY ISSUES

This bill aims to strengthen California's Equal Pay Act by 1) revising the definition of "pay scale" for purposes of existing job posting requirements; 2) defining "wages" for purposes of the Act; 3) increasing the statute of limitations on when civil actions for employer violations can be commenced; 4) specifying what constitutes a cause of action for violations; and 5) establishing that a series of discriminatory wage payments are actionable as a continuing violation.

ANALYSIS

Existing federal law:

1) Establishes the Equal Pay Act (EPA) of 1963 which prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions. (29 U.S.C. § 201 et seq.)

2) Under the EPA, the term "wages" includes all payments made to [or on behalf of] an employee as remuneration for employment. The term includes all forms of compensation irrespective of the time of payment, whether paid periodically or deferred until a later date, and whether called wages, salary, profit sharing, expense account, monthly minimum, bonus, uniform cleaning allowance, hotel accommodations, use of company car, gasoline allowance, or some other name. Fringe benefits are deemed to be remuneration for employment. (29 CFR § 1620.10)

Existing state law:

3) Establishes within the Department of Industrial Relations, various entities including the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC with ensuring a just day's pay and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)

4) Under the California Equal Pay Act, prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where the employer demonstrates a wage differential based on one or more factors, as specified. (Labor Code §1197.5)

5) Prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where the employer demonstrates a wage differential based on one or more factors, as specified. (Labor Code §1197.5)

6) Establishes exceptions to these prohibitions where the employer demonstrates the wage differential is based upon one or more of the following factors:

   a. A seniority system;
   b. A merit system;
   c. A system that measures earnings by quantity or quality of production;
   d. A bona fide factor other than sex, such as education, training, or experience which applies only if the employer demonstrates the factor is not based on or derived from a sex-based or race/ethnicity based differential in compensation, is job related, and is consistent with a business necessity, as defined. (Labor Code §1197.5)

7) Authorizes an employee receiving less than the wage to which the employee is entitled under these provisions file a complaint with the DLSE, who is then required to prosecute a civil action on behalf of the aggrieved employee(s), or, alternatively, authorizes the employee to file a civil action in court. Employees can recover the balance of wages owed, including interest thereon, and an equal amount as liquidated damages, together with the costs of the suit and reasonable attorney's fees, as specified. (Labor Code §1197.5 (f)-(j))

8) Provides that a civil action to recover wages owed may be commenced no later than *two years* after the cause of action occurs, except that a cause of action arising out of a willful violation may be commenced no later than *three years* after the cause of action occurs. (Labor Code §1197.5 (i))

9) Prohibits an employer from discharging, or in any manner discriminating or retaliating against, any employee by reason of any action taken by the employee to invoke or assist in any manner the enforcement of these provisions. (Labor Code §1197.5 (k))

10) Makes it a misdemeanor, punishable by a fine of up to $10,000 or by imprisonment, or both, for an employer, as specified, except for a public employer, to pay or cause to be paid to any employee a wage less than the rate paid to an employee of the opposite sex, race, or ethnicity or who reduces the wages of any employee in order to comply with wage protections for an employee of the opposite sex per Section 1197.5. (Labor Code §1199.5)

11) Prohibits an employer from relying on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant. Additionally, prohibits an employer from, orally or in writing, personally or through an agent, seeking salary history information, including compensation and benefits, about an applicant for employment. (Labor Code §432.3)

12) Requires an employer, upon reasonable request, to provide the pay scale for a position to an applicant applying for employment or to an employee that is currently employed. Additionally, requires an employer with 15 or more employees to include the pay scale for a position in any job posting. A violation of these provisions authorizes an aggrieved person to

file a complaint with the LC, bring a civil action for injunctive relief, and imposes civil penalties upon the employer, as specified. (Labor Code §432.3)

13) Defines, for purposes of the pay scale provisions described above, "pay scale" to mean the salary or hourly wage range that the employer reasonably expects to pay for the position. (Labor Code §432.3)

14) Requires an employer to maintain records of a job title and wage rate history for each employee for the duration of the employment plus three years after the end of the employment in order for the LC to determine if there is a pattern of wage discrepancy. (Labor Code §432.3)

15) Authorizes persons aggrieved by an employers' violation of the pay history or pay scale posting provisions described above, to file a claim with the LC and authorizes the LC to order a civil penalty of no less than one hundred dollars ($100) and no more than ten thousand dollars ($10,000) per violation, as specified. (Labor Code §432.3)

16) Requires, on or before the second Wednesday of May of each year, a private employer that has 100 or more employees, as well as a private employer that has 100 or more employee hired through labor contractors, to submit a pay data report to the Civil Rights Department (CRD). The report is required to include, among other things, the following information:

    a. The number of employees by race, ethnicity, and sex in specified job categories.
    b. Within each job category, for each combination of race, ethnicity, and sex, the median and mean hourly rate.
    c. The total number of hours worked by each employee, as specified. (Government Code §12999)
    d. Requires CRD to develop, publish on an annual basis, and publicize aggregate reports based on the data obtained through the employer submitted reports, provided that the aggregated reports are reasonably calculated to prevent the association of any data with any individual business or person. (Government Code §12999 (i))

This bill:

1) Revises the definition of "pay scale," for purposes of the salary history and pay scale in job postings provisions of existing law, to mean *a good faith estimate of* the salary or hourly wage range that the employer reasonably expects to pay for the position.

2) Revises the equal pay act provisions to prohibit an employer from paying employees at wage rates less than the rates paid to employees of "another" sex instead of "the opposite" sex as currently described in existing law.

3) Increases the statute of limitations on when civil actions can be commenced for violations of the Equal Pay Act from two to three years after a cause of action occurs, and for willful violations, from three to four years after the cause of action occurs.

4) Specifies that a cause of action occurs when any of the following occur:

    a. A discriminatory compensation decision or other practice is adopted.

b. An individual becomes subject to a discriminatory compensation decision or other practice.
c. When an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from the decision or other practice.

5) Makes a series of discriminatory wage payments actionable as a continuing violation if the discriminatory wage payments arise in whole or in part from an ongoing discriminatory compensation decision or practice.

6) Adds the following definitions to the provisions of the Equal Pay Act:

a. "Sex" has the same meaning as defined in Section 12926 of the Government Code.
b. "Wages" and "wage rates" include all forms of pay, including, but not limited to, salary, overtime pay, bonuses, stock, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.

COMMENTS

1. Background:

Pay Equity:
There have been numerous studies dedicated to calculating disparities in earnings between men and women in the workplace over the last fifty years. In 1963, women who worked full-time year-round made 59 cents on average for every dollar earned by a man according to the American Association of University Women (AAUW). In 2023, women working full time in the United States typically were paid just 83 percent of what men were paid - $55,240 compared to $66,790 - leaving women and their families at a persistent financial disadvantage.[1] According to the AAUW, the pay gap challenges grow even more complex for women of color, LGBTQ+ women, and women with disabilities, who face compounded inequities.[2]

The wage gap is even larger for women of color. As noted by the AAUW, America's history of slavery, segregation, and immigration policies has created deeply rooted systemic inequalities that persist today. Among women who hold full-time, year-round employment in the United States in 2023, black women earned 66 percent for every dollar earned by white, non-Hispanic men, while Latinas earned 58 percent for every dollar. Asian women earned 94 percent and white, non-Hispanic women earned 80 percent for every dollar earned by a man.[3]

Legislative Efforts to Address Pay Inequity:
In recognition of the pay inequities that continue to plague our country, over the past decade, the California Legislature has passed several efforts attempting to close the gender pay gaps.

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[1] American Association of University Women, "The Not So Simple Truth About the Gender Pay Gap," 2025 Update. https://www.aauw.org/app/uploads/2025/03/The_Simple_Truth_Gender_Pay_Gap_2025_3.28.pdf

[2] Ibid.
[3] Ibid.

Originally enacted in 1949, California's Equal Pay Act prohibited employment of any individual at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs. The vagueness of the law allowed employers to find loopholes to underpay women for decades. In 2015, SB 358 (Jackson, Chapter 546, Statutes of 2015) enacted the California Fair Pay Act, which strengthened the Equal Pay Act in a number of ways and signaled California's commitment to achieving real gender pay equity. SB 358 reinforced the employer prohibition of paying any of its employees at wage rates less than those paid to employees of the opposite sex for substantially similar work and revised the employer defenses to such pay differentials.

In 2020, California enacted SB 973 (Jackson, Chapter 363, Statutes of 2020) requiring, among other things, California employers with 100 or more employees to compile data showing how much they pay their employees, broken down by rough category of work performed and cross-referenced by race, ethnicity, and gender. Covered employers are required to submit this pay data to the Civil Rights Department (CRD) annually on or before the second Wednesday of May. CRD is required to keep each individual employer's data confidential but must also develop and publish a yearly report based on the aggregate data.

Other legislative efforts have addressed the salaries of workers specifically. AB 1676 (Campos, Chapter 856, Statutes of 2016) specified that prior salary cannot, by itself, justify any disparity in compensation under the bona fide factor exception in the Equal Pay Act law. AB 168 (Eggman, Chapter 688, Statutes of 2017) prohibited employers, including the Legislature, the state, and local governments, from seeking salary history information about an applicant for employment and requires an employer to provide the pay scale for a position to an applicant upon reasonable request.

SB 1162 (Limon, Chapter 559, Statutes of 2022) built upon previous efforts by expanding pay data reporting requirements to, among other things, cover contracted employees hired through labor contractors and required employers to make pay scale information for positions available to employees and included in job postings.

Is it working?

As noted above, in 2023, women working full time in the United States typically were paid just 83 percent of what men were paid - $55,240 compared to $66,790. In California, the numbers show a more positive sign. According to a 2025 report on the status of women and girls in California[4]:

- Back in 2000, women working full time in California earned about 78% of what men made. By 2023, that number had risen to 87%, narrowing the gap by nearly 12%. While women's earnings have been steadily catching up to men's, the rate of change has slowed and the gap stubbornly remains.

- California women's median earnings vary significantly across racial and ethnic groups when compared to both ALL men and specifically White men. In 2023, the

[4] The Art of Change: Women, Leadership and the Power of Representation, The Report On The Status of Women And Girls In California 2025. Center for the Advancement of Women, Mount Saint Mary's University. https://www.msmu.edu/media/website/learning-amp-research-communities/center-for-the-advancement-of-women/MSMU_RSWG_2025_FNL.pdf

> median earnings of ALL California's full-time working women was 63% of what White men earned. When we disaggregate by race, White and Asian women earned 81% of what White men earned, African American women earned 62%, and Latinas earned 44%. Over the past decade, the wage gap has narrowed for most women, except for full-time working African American women.

Pay inequity continues and more needs to be done. According to a CNBC article, at this rate, it could take 134 years to close the global gender pay gap, according to estimates by the World Economic Forum.[5] California will likely get there sooner, but sadly, not soon enough.

This bill is another attempt to strengthen California's Equal Pay Act by revising the definition of "pay scale" for purposes of existing pay scale job posting requirements, defining "wages" for purposes of the Act, increasing the statute of limitations on when civil actions for employer violations can be commenced, and making a series of discriminatory wage payments actionable as a continuing violation, as specified.

Staff Note: The author and sponsors of the measure state that the definition of "wages" in the bill would be consistent with federal law. Committee staff notes that the definition, although not identical, follows the same concept that all wages, allowances, fringe and other benefits should be afforded equally to all individuals doing the same work and therefore should be included under the protections of California's Equal Pay Act. Staff notes that the federal law includes "fringe benefits," defined as including medical, hospital, accident, life insurance and retirement benefits; profit sharing and bonus plans; leave; and other such concepts. This bill specifically includes stock, stock options, and life insurance among the list of what constitutes wages.

2. Need for this bill?

According to the author:

"On average, women nationwide lose a combined total of almost $1.7 trillion every year due to the wage gap. This impacts the ability of women to afford basic necessities like housing, food, and childcare, and also jeopardizes women's long-term financial security by hindering retirement savings. Research suggests that women have approximately 30 percent lower income in retirement than men and women receive Social Security benefits that are, on average, 80 percent of those men receive.

In California, the wage gap persists at 79 cents to the dollar for women overall in the state, with much larger gaps for women of color. It is imperative that we continue to proactively address gaps and loopholes in the law.

SB 642 makes reforms to the California Equal Pay Act to ensure workers can effectively enforce their rights. Strengthening protections in California is crucial given uncertainty of pay equity and pay transparency laws at the federal level."

3. Proponent Arguments:

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[5] Dickler, Jessica. "Women are never, ever going to catch up, researcher says." CNBC, March 25, 2025. https://www.cnbc.com/2025/03/25/equal-pay-day-highlights-stalled-progress-on-closing-gender-pay-gap.html

According to the sponsors of the measure, the California Employment Lawyers Association, Equal Rights Advocates, and the California Commission on the Status of Women and Girls:

"This bill will help strengthen the California Fair Pay Act by: (1) revising outdated gender binary language, (2) clarifying what constitutes 'wages,' (3) harmonizing the statute of limitations with other wage and antidiscrimination statutes, (4) allowing workers to recover lost wages for all discriminatory paychecks, and (5) providing limits on how wide pay ranges may be in public job postings.

Eliminating Gender Binary Language
The California Equal Pay Act prohibits an employer from paying any of its employees at wage rates that are less than what it pays employees of 'the opposite sex' for substantially similar work. This binary language does not reflect the realities of our workforce and therefore does not adequately address some forms of sex-based pay discrimination…SB 642 will replace 'the opposite sex' with 'another sex,' making it consistent with the parallel race provision in the Equal Pay Act, which prohibits employers from paying any of its employees at wage rates that are less than what it pays employees of 'another race.'

Clarifying What Constitutes "Wages"
Recently in *Shah v. Skillz, Inc. (*2024) 101 Cal.App.5th 285, 314 the First District Court of Appeal held that stock options do not constitute 'wages' under the Labor Code. The court reasoned that 'stock options are not wages because they 'are not 'amounts.' They are not money at all. They are contractual rights to buy shares of stock.' Id., quoting *International Business Machines Corp. V. Bajorek (9th Cir. 1999)* 191 F.3d 1033, 1039. In doing so, the Shah court rejected as dicta the California supreme court's statement in *Schachter v. Citigroup, Inc.* (2009) 47 Cal.4th 610, 614 that restricted stock are wages. The court of appeal noted, 'While we recognize that companies, especially startups like Skillz, often award stock options to incentivize employees to join and stay with the company for less cash pay, this does not make them 'wages' under the Labor Code because those wages must be fixed or ascertainable 'amounts.'' Shah, 101 Cal.App.5th at 315.

Under the federal Equal Pay Act, wages are more broadly defined…In the class action matter of *McCracken et al v Riot Games et al*, the named plaintiffs (five of seven of whom are women of color) and the California Civil Rights Department discovered and exposed that the bulk of the sex-based equal pay violations was through equity compensation, including stock options, rather than base wages. Equity is a common form of compensation that may exponentially increase sex-based and race-based wage disparities. Companies can and frequently do mask equal pay violations by compensating male and non-minority employees significantly more than female and minority employees through equity, including through stock options, while keeping their base wages similar. This bill will ensure that companies do not award stock options as a work around to their obligations under the Equal Pay Act.

[Continuing Violations]
Historically, companies have tried to keep worker compensation secret. Because of this secrecy, workers do not become aware of equal pay violations unless and until their coworkers voluntarily disclose their compensation information that is otherwise kept a secret. When workers discover they are not paid equally to their coworkers of a different sex, race, or ethnicity, it is often too late to seek unpaid wages for many years of the equal pay violations…

This bill will also apply the 'continuing violations' doctrine to the Equal Pay Act, allowing workers to recover *all* of the pay that they have lost because of their employer's ongoing discriminatory compensation decision or practice. Generally, the continuing violations doctrine allows workers to seek recovery for unlawful conduct that takes place outside the statute of limitations, so long as that conduct is sufficiently connected to conduct that took place within the limitations period. *See Richards v. CH2M Hill, Inc.* (2001) 26 Cal. 4th 798, 798. This provision will ensure workers can recover all of the pay that they have lost because of their employer's ongoing discriminatory compensation decision or practice."

Limiting Pay Ranges in Job Postings
In 2022, the Legislature passed SB 1162 (Limón), which requires companies with 15 or more employees to include the pay scale for a position in any job posting. The legislation did not provide any outer limits on the pay scale that must be provided, allowing companies to post meaningless pay scales and still be in compliance. For example, one job posting gave a salary range of $65,000 USD to $400,000 USD annually - a $335,000 range. This bill places reasonable limits on how wide the range can be…"

They conclude by stating that, "Shoring up protections in California is especially important now as we are already seeing rollbacks on pay equity and pay transparency happening at the federal level."

4. Opponent Arguments:

A coalition of employer organizations, including the California Chamber of Commerce, are opposed and argue:

"Our primary concern with SB 642 is proposed (i)(3). That language would effectively eliminate the statute of limitations. The proposed language provides that 'a series of discriminatory wage payments shall be actionable as a continuing violation if the discriminatory wage payments arise in whole or in part from an ongoing discriminatory compensation decision or practice.' In practice, there would be no need to bring a claim in a timely manner. For example, where an employee claims they were hired at a lower salary than a colleague, the claim would never be time barred. Each new paycheck under proposed section (i)(2) would be the new beginning of a statute of limitations period *and the claim would reach back to the time of hiring when the decision at issue was made*. In this example, the employee could file one, five, or ten years later and the impact would be the same- they could recover wages going back to the date of hire. Statute of limitations are critical both for ensuring memories and evidence are fresh and to ensure illegal behavior is promptly reported and vanquished.

We do not object to increasing the statute of limitations for Equal Pay Act claims from two to three years so that it is in line with discrimination claims under the Fair Employment and Housing Act (FEHA). An employee with an Equal Pay Act claim would also likely bring a discrimination claim and it therefore makes sense that the two statutes of limitations would be consistent. However, we therefore believe there is no need to continue to have a 'willful' statute of limitations that is longer than the discrimination claim. If an employee proves a claim for discrimination under FEHA, that must include, at least to some degree, that the discriminatory treatment was intentional. It therefore makes sense that the same statute of limitations would apply to both claims: three years. Further, practically speaking, every claim is going to allege that the conduct was willful in order to conduct discovery on that issue.

Therefore, all claims will trigger the proposed longer four-year statute of limitations. Effectively then, the impact of SB 642 would be to give Equal Pay Act claims a four-year statute of limitations. We believe these claims and FEHA discrimination claims should be treated the same with a three-year statute of limitations.

The Proposed Definition of "Wages" Includes Items That are Not Wages
We request that the proposed definition of 'wages' and 'wage rates' be modified so that it only applies to items that are truly 'wages,' such as hourly rates, salary, or overtime pay. Labor Code Section 200 defines wages as 'all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.' For example, a 'wage' under the California Labor Code does not include items like reimbursement for travel expenses or stock options. *See* Labor Code Section 2802 (governs when expenses must be reimbursed); *Shah v. Skillz Inc.*, 101 Cal. App. 5th 285 (2024) (stock options are not wages). If an employee believed they were not adequately compensated for reimbursements, they would pursue that as a failure to reimburse claim under Labor Code Section 2802. Classifying items here as 'wages' when they are not could have broader implications for other obligations under the Labor Code as well as the Tax Code that are specific only to wages."

5. Double Referral:

This bill has been double referred and if approved by this Committee today, will be sent to Senate Judiciary Committee for a hearing.

6. Prior/Related Legislation:

SB 464 (Smallwood-Cuevas, 2025) would revise existing workforce demographic pay data reporting requirements of employers to 1) include sexual orientation of employees; 2) require CRD to publish private employer pay data reports; and 3) expand the pay data reporting requirements to public employers. *SB 464 is pending in this Committee.*

AB 1251 (Berman, 2025) would require private employers that publicly advertise a job posting to include in the posting a conspicuous statement disclosing whether the posting is for an existing vacancy or not. The bill makes a violation of these provisions an unfair competition and authorizes the California Privacy Protection Agency to issue an administrative fine or cease and desist order. The bill requires the Labor Commissioner to investigate alleged violations. *AB 1251 is pending in Assembly Appropriations Committee.*

SB 1162 (Limon, Chapter 559, Statutes of 2022), among other things, expanded pay data reporting requirements to cover contracted employees and required employers to make pay scale information for positions available to employees and included in job postings.

SB 973 (Jackson, Chapter 363, Statutes of 2020) required employers with 100 or more employees to provide the Department of Fair Employment and Housing (now the Civil Rights Department) with pay data for specified job categories broken down by race, ethnicity, and sex.

AB 2282 (Eggman, Chapter 127, Statutes of 2018) made clarifying changes to the prohibition on requesting a job applicant's prior salary and prohibits the use of prior salary to

justify any disparity in compensation. The bill also clarified that an employer is authorized to ask applicants about their salary expectations for the position.

AB 46 (Cooper, Chapter 776, Statutes of 2017) specified that the Equal Pay Act provisions which prohibit employers from paying a lower wage rate to employees on the basis of gender, race, or ethnicity apply to both public and private employers.

AB 168 (Eggman, Chapter 688, Statutes of 2017) prohibited employers, including the Legislature, the state, and local governments, from seeking salary history information about an applicant for employment and requires an employer to provide the pay scale for a position to an applicant upon reasonable request.

AB 1209 (Gonzalez, 2017, Vetoed) would have required employers of 500 or more employees in California to collect specified information on gender wage differentials for exempt employees and board members located in California and submit it to the Secretary of State (SOS) for publishing on its Internet site. *AB 1209 was vetoed by Governor Brown.*

AB 1676 (Campos, Chapter 856, Statutes of 2016) specified that prior salary cannot, by itself, justify any disparity in compensation under the bona fide factor exception in the existing Equal Pay Act law.

SB 1063 (Hall, Chapter 866, Statutes of 2016) expanded the prohibitions in the Equal Pay Act regarding gender, to include discrimination based on race or ethnicity.

SB 358 (Jackson, Chapter 546, Statutes of 2015) prohibited an employer from paying any of its employees at wage rates less than those paid to employees of the opposite sex for substantially similar work and revised the employer defenses to such pay differentials.

SUPPORT

California Commission on the Status of Women and Girls (Co-Sponsor)
California Employment Lawyers Association (Co-Sponsor)
Equal Rights Advocates (Co-Sponsor)
Alliance of Californians for Community Empowerment (ACCE) Action
Asian Americans Advancing Justice Southern California
California National Organization for Women
Consumer Attorneys of California
Courage California
End Child Poverty CA
Friends Committee on Legislation of California
Fund Her
Golden State Opportunity
Indivisible CA: StateStrong
Initiate Justice
Mujeres Unidas y Activas
National Council of Jewish Women California
Parent Voices California
TechEquity Action
VALOR
Women's Foundation California

OPPOSITION

California Association of Winegrape Growers
California Chamber of Commerce
California Farm Bureau
California Retailers Association
Civil Justice Association of California
Housing Contractors of California
National Federation of Independent Business

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 668	**Hearing Date:**	April 23, 2025
Author:	Hurtado		
Version:	February 20, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Workers' compensation: medical-legal expenses: fee schedule

KEY ISSUE

This bill 1) requires the Administrative Director of the Division of Workers' Compensation to revise the medical-legal expenses fee schedule at the same time they adopt and revise the reasonable maximum fees for the medical fee schedule, as specified, and at least every 2 years; and 2) authorizes the Administrative Director to adjust the medical-legal expenses fee schedule every 2 years based on an evaluation of medical practice costs, as specified.

ANALYSIS

Existing law:

1) Establishes a comprehensive system of workers' compensation that provides a range of benefits for an employee who suffers from an injury or illness that arises out of and in the course of employment, regardless of fault. This system requires all employers to insure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by obtaining insurance from a company authorized by the state. (Labor Code §§3200-6002)

2) Requires disputes over compensability of an injury to be resolved by medical evaluation by a qualified physician. Specifies the procedure by which a qualified medical evaluator (QME) is selected with employer and employee input. (Labor Code §4062.2)

3) Requires the Administrative Director of the Division of Workers' Compensation (Administrative Director), after a public hearing, to adopt and revise periodically an official medical fee schedule that shall establish reasonable maximum fees paid for medical services other than physician services, drugs and pharmacy services, health care facility fees, home health care, and all other treatment, care, services, and goods, as specified. (Labor Code §5307.1)

4) Requires the Administrative Director to adopt and revise a fee schedule for medical-legal expenses, as specified, that shall be prima facie evidence of the reasonableness of fees charged for medical-legal expenses, as specified. (Labor Code §5307.6)

5) Requires the Administrative Director to adopt and revise the fee schedule for medical-legal expenses at the same time they adopt and revises the medical fee schedule, as specified. (Labor Code §5307.6)

This bill:

1) Requires the Administrative Director to revise the medical-legal expenses fee schedule at the same time they adopt and revise the reasonable maximum fees for the medical fee schedule, as specified, and at least every 2 years.

2) Authorizes the Administrative Director to adjust the medical-legal expenses fee schedule every 2 years based on an evaluation of medical practice costs, including consideration of increases in the conversion factor and the per-page cost of reviewing records as informed by the most current Medicare Economic Index.

COMMENTS

1. Background:

Medical-legal fee schedules in the workers' compensation system
The Division of Workers' Compensation (DWC) is responsible for creating and updating a variety of fee schedules in California's workers' compensation system for medical services. These fee schedules are designed to increase stability in California's workers' compensation system by setting rates for medical services. Payors know what they will pay for medical services, and medical service providers know what they will be paid for providing their services.

In particular, the *medical-legal fee schedule* sets rates for payment of medical-legal expenses. In this case, a "medical-legal expense" refers to any costs or expenses incurred by or on behalf of any party or parties, the Administrative Director, or the appeals board for medical services (such as X-rays, laboratory fees, other diagnostic tests, medical reports, medical records, medical testimony, and as needed, interpreter's fees) for the purpose of proving or disproving a contested claim.

The *medical fee schedule* establishes reasonable maximum fees for medical services other than physician services, drugs and pharmacy services, health care facility fees, home health care, and all other treatment, care, services, and goods. Currently, the Administrative Director is required to adopt and revise the medical-legal expenses fee schedule at the same time they adopt and revise the medical fee schedule.

Qualified Medical Examiners
The DWC Medical Unit certifies Qualified Medical Examiners (QMEs), who are qualified physicians, to examine injured workers, evaluate disability and write medical-legal reports. These reports are used to determine an injured worker's eligibility for workers' compensation benefits. QMEs include medical doctors, osteopaths, chiropractors, dentists, optometrists, podiatrists, psychologists, and acupuncturists. QMEs are appointed to evaluate medical-legal disputes, such as disputes over the extent to which an injured worker's injuries are disabling or work-related. The requesting party to a workers' compensation claim specifies the type of expertise needed to resolve the dispute, and the DWC appoints a panel. Then, a single QME is selected from that panel.

In 2019, the California State Auditor released an audit of the DWC related to its oversight and regulation of QMEs in response to a request by the Joint Legislative Audit Committee. The audit found, in part, that DWC had not "adequately ensured that is has enough QMEs to meet demand." Without an adequate number of QMEs, injured workers may experience

delays in evaluations, and therefore a delay in receiving their benefits. The audit recommended that updating the rates of its medical-legal fee schedule could help the DWC attract and retain QMEs and stated "to ensure that DWC maintains a sufficient supply of QMEs and appropriately compensates these individuals, the Legislature should amend state law to specify that DWC review and, if necessary, update the medical-legal fee schedule at least every two years based on inflation."[1]

In 2021, the DWC adopted an updated medical-legal fee schedule after several years of review and consultation with stakeholders. Prior to this, the medical-legal fee schedule was last updated in 2006. The author and sponsors argue this legislation is necessary to authorize additional updates to the medical-legal fee schedule.

2. Committee Comments:

The author and sponsors note that their intent is to *allow*, rather than *mandate*, the Administrative Director to revise the medical-legal fee schedule every 2 years based on specified factors. However, this bill, SB 668, as currently drafted requires the Administrative Director to revise the schedule every 2 years, and authorizes the Administrative Director to additionally adjust the fee schedule every 2 years, as specified.

In order to align the bill's text with its intent, the author has agreed to make the following changes:

> **5307.6.** (a) (1) The administrative director shall adopt a fee schedule for medical-legal expenses as defined by Section 4620 that shall be prima facie evidence of the reasonableness of fees charged for medical-legal expenses. The schedule shall be adopted and revised at the time the administrative director adopts and revises the medical fee schedule pursuant to Section 5307.1~~**, and, in any case, at least every two years**~~.

By striking out the requirement that the Administrative Director adopt and revise the medical-legal fee schedule every 2 years, this bill would instead be permissive and authorize the Administrative Director to adjust the fee schedule.

3. Need for this bill?

According to the author:

"The workers' compensation system has a number of fee schedules which set the prices that service providers may charge. However, the medical legal provider fee schedule often lags behind others resulting in a disincentive for health care providers to participate in the workers' compensation system. Fewer health care professionals participating in the workers' compensation system only exacerbate the delay of workplace injured Californians from receiving help and as a result, injured workers often face longer wait times to receive medical assessments, which can delay treatment and prevent timely return to work. […]

[1] California State Auditor, "Department of Industrial Relations: Its Failure to Adequately Administer the Qualified Medical Evaluator Process May Delay Injured Workers' Access to Benefits," 2019. https://information.auditor.ca.gov/reports/2019-102/auditresults.html

The proposed legislation helps the Department of Industrial Relations to focus on fee inequalities by requiring the Department to adhere to a regular schedule of reviewing the medical fee schedule every two years. The bill does not obligate the DIR to adjust the fee schedule, but rather, asks the program's Administrative Director to evaluate medical practice costs according to the Medicare Economic Index and make any adjustments as the Director sees fit."

4. Proponent Arguments:

According to the sponsors, the California Society of Industrial Medicine and Surgery (CSIMS):

"SB 668 would strengthen California's Worker' Compensation System by authorizing the Administrative Director to adjust the fee schedule every 2 years based on an evaluation of certain medical practice costs, including increases in the conversation factor and the per-page cost of reviewing records, as specified. […]

SB 668 address a number of key issues including:

- Workforce shortages in the Workers' Compensation System by incentivizing health care providers to participate in the system
- Equity and Economic Justice by ensuring timely and adequate medical-legal assessments regardless of economic status
- Administrative Oversight and Accountability by requiring the Department of Industrial Relations (DIR) to regularly review the medical fee schedule every two years to reflect current economic conditions
- Alignment with Medicare Economic Index (MEI) by mandating a structured review process using MEI to guide updates, allowing for a more fairer and transparent system

For these reasons, we strongly support SB 668 and respectfully request your support."

5. Opponent Arguments:

According to a coalition of opposition, including the American Property Casualty Insurance Association:

"[SB 668] would require the state Division of Workers' Compensation (DWC) to biannually increase the rate of reimbursements under the medical legal fee schedule. The DWC's Administrative Director has existing authority to review and adjust this fee schedule as necessary, and it did a significant revision to the fee schedule in 2021. […]

SB 668 only addresses one part of the audit report – updating the fee schedule – and does so in a manner that is inconsistent with the audit report.

The audit report recommendation applicable to SB 668 is found on page 25 of the report: 'To ensure that DWC maintains a sufficient supply of QMEs and appropriately compensates these individuals, the Legislature should amend state law to specify that DWC review and, if necessary, update the medical-legal fee schedule at least every two years based on inflation. DWC's review of the medical-legal fee schedule should be separate from its review of the Official Medical Fee Schedule.'

SB 668 is inconsistent with the specific recommendation made by the auditor in the following ways:

- The audit report recommends that the DWC be given discretion to "review and, if necessary, update the medical-legal fee schedule at least every two years based on inflation." This suggests that the Administrative Director be vested with discretion to adjust the fee schedule, or not. SB 668 does not provide discretion to the regulator. Instead, it simply requires an increase every year and would not allow the regulator to exercise discretion based on other factors.
- The audit report recommends that the DWC review and increase, if necessary, the medical-legal fee schedule every two years. SB 668 instead requires a biannual increase in the fee schedule, even if the Administrative Director believes it's unnecessary.

SB 668 would increase fees under the medical-legal fee schedule and eliminate regulatory discretion. The bill would result in higher costs for employers, including the State of California which is the largest payer in the workers' compensation system, but does nothing to improve the quality of reports."

6. Prior Legislation:

AB 404 (Salas, 2021) would have required the medical-legal fee schedule be reviewed every 2 years, and updated if necessary, to increase the conversion factor by the percentage increase in the most recent federal Medicare Economic Index. *This bill was held under submission in the Senate Appropriations Committee.*

AB 1815 (Daly and Salas, 2019) would have required the Division of Workers' Compensation to adopt and revise the medical-legal fee schedule for QMEs at least every two years and to do so separate and apart from adopting and revising the fee schedule for medical treatment. *The bill was not set for hearing in the Senate Committee on Labor, Public Employment and Retirement.*

AB 1832 (Salas, 2019) would have updated the medical-legal fee schedule for QMEs as specified. *The bill was not set for hearing in the Assembly Insurance Committee.*

SUPPORT

California Society of Industrial Medicine and Surgery (CSIMS) (Sponsor)
California Chiropractic Association

OPPOSITION

American Property Casualty Insurance Association
California Association of Joint Powers Authorities
California Chamber of Commerce
California Coalition on Workers' Compensation
California Food Producers
Urban Counties of California

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 747	**Hearing Date:**	April 23, 2025
Author:	Wiener		
Version:	March 24, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: Wages: behavioral health and medical-surgical employees

KEY ISSUE

This bill requires Kaiser Permanente to report to the Department of Industrial Relations (DIR) the compensation it provides to behavioral health employees and to medical-surgical employees. It also authorizes DIR to seek an order requiring Kaiser to comply with the bill's provisions and entitles DIR to recover the costs associated with seeking the order. Furthermore, the bill authorizes civil penalties not to exceed $100 per employee for first-time violations of the bill's reporting requirements and up $200 per employee for subsequent violations.

ANALYSIS

Existing law:

1) Prevents, under federal law through the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), group health plans and health insurance issuers that provide mental health or substance use disorder (MH/SUD) benefits from imposing less favorable benefit limitations on those benefits than on medical/surgical benefits. (29 U.S. Code §1185a)

2) Regulates, under state law, wages, hours, and working conditions offered by employers to employees in this state, as specified. (Labor Code §1171 et seq.)

3) Requires every person employing labor in this state to furnish to DIR, at its request, reports or information that it requires to perform its duties, as specified. (Labor Code §1174)

4) Makes every employer or other person acting either individually or as an officer, agent, or employee of another person guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars ($100) or by imprisonment for not less than 30 days, or by both, who, inter alia, violates or refuses or neglects to comply with any provision, as specified, regulating wages, hours and working conditions in this state. (Labor Code §1199)

This bill:

1) Requires a covered employer to report to DIR the compensation it provides to behavioral health employees and to medical-surgical employees and defines covered employer in a manner that exclusively applies to Kaiser Permanente (see below).

2) Authorizes DIR to seek an order requiring Kaiser to comply with the bill's provisions and entitles DIR to recover the costs associated with seeking the order from Kaiser if DIR does not receive the required report.

3) Authorizes a court, upon DIR's request, to impose a civil penalty not to exceed one hundred dollars ($100) per employee upon any employer in violation of the bill's requirements and not to exceed two hundred dollars ($200) per employee upon Kaiser for any subsequent violations.

4) Provides that a violation does not constitute a misdemeanor under Labor Code Section 1199 for refusing or neglecting to comply with specified provisions of the Labor Code regulating wages; hours and working conditions; or any order or ruling of the commission.

5) Defines the following terms:

   a) "Behavioral health employee" means an employee engaged in a profession regulated by the Board of Psychology or the Board of Behavioral Sciences, a psychiatric or mental health nurse regulated by the Board of Registered Nursing, a counselor for alcohol or drug dependency with a certification approved by the State Department of Health Care Services, or a qualified autism service provider.

      "Behavioral health employee" includes a contracted or subcontracted individual under either of the following circumstances:

      1. The individual provides behavioral health care services or services supporting the provision of behavioral health care as a contractor to the covered employer.

      2. The individual provides the covered employer with behavioral health care services or services supporting the provision of behavioral health care as an employee of, or as a contractor to, an entity that contracts with the covered employer.

   b) "Covered employer" means either of the following:

      1. A medical group exclusively contracted by a nonprofit health care service plan with at least 3,500,000 enrollees that owns or operates its own pharmacies to provide medical services to its enrollees within a specified geographic region.

      2. A health care service plan with at least 3,500,000 enrollees that owns or operates its own pharmacies and that provides health care services to enrollees in a specific geographic area through a mutually exclusive contract with a single medical group.

   c) "Medical-surgical employee" means an employee engaged in a profession regulated by the Physician Assistant Board, the California Board of Occupational Therapy, the Physical Therapy Board of California, the California Board of Recreation Therapy Certification, the California Board of Occupational Therapy, the Respiratory Care Board of California, the Radiologic Health Branch within the State Department of Public Health, or the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, or an employee engaged in a profession regulated by the Board of Registered Nursing that provides medical-surgical care.

COMMENTS

1. Committee Comments

This bill, like many before it, implicates conflicting state priorities. In this case, the committee must consider its remit to ensure that California employers appropriately compensate their employees, including behavioral health employees, for their labor and not inappropriately discriminate against them in favor of other employees doing like work with substantially equivalent skill sets.

However, the committee's responsibilities include a number of other policy considerations, including the proper functioning of collective bargaining, to the extent not preempted by federal law; the process of contracting for health benefits for state and local public employees; and the appropriate role of the state as a market participant in negotiating those benefits. The latter issue raises similar considerations with respect to the state's MediCal and Covered California programs, although those programs are not this committee's jurisdiction.

The bill's supporters ask us to focus on the state's important policy priority to increase patient access to behavioral healthcare. Technically, that policy concern does not fall within this committee's jurisdiction. However, the imposition of regulatory requirements on employers regarding their employees' compensation does fall within this committee's jurisdiction. The author and sponsor argue this bill is necessary to extrapolate from the required compensation data, specifically from Kaiser, to determine if and why compensation inequality between behavioral health employees and medical/surgical employees in the larger health care sector continues to exist and to what extent that disparity limits access to behavioral healthcare for the state's residents. This is certainly important work.

Nevertheless, the committee cannot ignore that this bill presents itself in the middle of contract negotiations and an existing labor dispute between Kaiser and the bill's sponsor. The committee understands that the sponsor's members have been participating in a labor action against Kaiser South since October 2024, and that this follows on a previous labor action against Kaiser North by the sponsor that was also substantial. Ideally, our collective bargaining system should provide an efficient mechanism for employers and employees to reach mutually acceptable terms and conditions of employment without constant legislative interference in those negotiations.

Thus, it is appropriate to cautiously consider whether the timing of this bill intrinsically inserts the legislature into private parties' negotiations and interferes with the collective bargaining process in a manner that might result in legal or regulatory action under federal law. Such a conflict would likely be resource intensive just when the state's resources face substantial challenges from the Los Angeles fires, ongoing inflation, the potential impact of a trade war, the prospect of a potential recession, the federal government's focus on cost reductions, and the stock and bond markets' recent volatility.

The bill certainly places great pressure on Kaiser. Kaiser could suffer substantial penalties should it fail to comply, and yet, complying could substantially damage Kaiser's competitive market and negotiating positions (as discussed below). Moreover, the bill is vague as to what exactly meets compliance. What data exactly must Kaiser provide? How and who determines whether Kaiser's submissions are sufficient? Is there a cure period if Kaiser unintentionally excludes some employees' data? How exactly, does Kaiser avoid the substantial civil

penalties the bill authorizes? Are these penalties discretionary by DIR or by the courts or are they required upon any finding that Kaiser is in violation, no matter how technical, of the reporting requirement? Such vagueness implicitly places Kaiser into an untenable position.

To complicate matters, the state is not a neutral, uninterested party in this field. The state has an important policy priority of ensuring that California public employees receive the best possible health coverage to retain skilled employees and to maintain a healthy workforce to serve the people of this state. That policy priority includes the objective of limiting those healthcare costs through market negotiation so that more state and local agency dollars can go to public services. Kaiser is the largest healthcare benefit provider for state employees. Through the California Public Employees' Retirement System (CalPERS), whose operations do fall in this committee's jurisdiction, the state negotiates with Kaiser to provide health care benefits to state and local public employees.

Thus, the state acts as a market participant in relation to Kaiser and may directly benefit from the required disclosure the bill seeks to impose on Kaiser since that private data is instrumental in determining Kaiser's price of contracted services. This relation creates the perception that the state is impermissibly exercising its police power to get a commercial advantage.

Paradoxically, this bill may also negatively affect the state in its procurement of health benefits. Kaiser competes with other health plans for the state's business. This bill would allow Kaiser's competitors to obtain key cost inputs in Kaiser's bid formations and either adjust their own bids to underprice Kaiser or, in the case where Kaiser pays greater compensation, raise their inputs closer to, but still lower, than Kaiser's, thus eliminating possible savings to the state from CalPERS' negotiations. Put plainly, this bill could result in increased health care costs to the state and local governments, and to their public employees and retirees. Premiums could potentially increase due to increased compensation to healthcare employees or decreased competition among the health plans, or both. That outcome would lead to less support available for public services just as the demand for public services is likely to increase.

In outlining the policy concerns above it is not the committee's intent to diminish the bill's important policy objectives to expand behavioral healthcare services. The author's concerns are legitimate and important. This is especially true given the state's experience with behavioral health issues and the impact that the unavailability of appropriate care has had on our state's residents. Deciding which of its several policy responsibilities the committee should prioritize in assessing this bill is an especially difficult decision.

The committee recommends amendments that could address several of its concerns by doing the following:

- Require that the raw data reported by Kaiser to DIR remain designated for exclusive, confidential use by DIR officials.
- Task DIR to analyze and incorporate that data in a manner to produce non-specific aggregated data and to produce a report to the Legislature identifying continuing compensation disparity between behavioral employees and medical/surgical employees, its causes, and potential policies to eliminate such disparities.

Because this bill is dual referred, legislative deadlines and timing require that any such potential amendments be made in the subsequent committee hearing the bill.

2. Need for this bill?

According to the author:

"California faces a severe and growing shortage of qualified psychiatrists, psychologists, licensed marriage and family therapists (LMFTs), licensed professional clinical counselors (LPCCs), and licensed clinical social workers (LCSWs). Millions of Californians are forced to wait months to see qualified behavioral health providers as a result, putting their lives and safety at risk."

"Transparency regarding these compensation differences will also assist policymakers in evaluating the extent to which systemic undervaluation of behavioral health services is a driver of patients' inability to access timely and appropriate behavioral health care."

3. Proponent Arguments

According to the National Union of Healthcare Workers:

"The bill addresses a critical gap in our state's efforts to ensure true behavioral health parity in our healthcare system. Despite existing federal and state mental health parity laws and regulations, significant disparities in compensation between behavioral health providers and medical-surgical providers persist, contributing to severe shortages of qualified behavioral health professionals, high turnover rates, and widespread difficulty in meeting the growing demand for behavioral health and substance use disorder treatment."

"In the same way that wage transparency has proven effective in addressing gender and racial pay gaps in other sectors, compensation data transparency in healthcare can help address the systematic undervaluation of behavioral health services. This undervaluation of behavioral health services creates barriers to timely access to appropriate care, and these access barriers contribute to and exacerbate our state's behavioral health crisis."

According to the California Federation of Labor Unions:

"SB 747 requires specified health care service plans and providers of medical services to report their relevant compensation data, creates transparency and accountability that can help illuminate the extent of compensation disparities, and provides data to support future policy interventions that will address the difficulties patients face in accessing behavioral health care."

4. Opponent Arguments:

According to Kaiser Permanente:

"While the sponsors of the bill imply that this bill would apply to any large health care service plan, the reality is that the bill's narrow definition of a "covered employer" is designed to target one organization, and one organization only -- Kaiser Permanente. The bill

would create a precedent of legislative intervention in collective bargaining negotiations. For this reason, the bill would be preempted by federal labor law and unenforceable."

"SB 747 requires the disclosure of sensitive personal salary and wage information to a state agency with no clear public policy purpose for doing so – especially considering the data that will be sent to the state under this bill would come from only one health care employer, giving the state skewed, incomplete, and distorted data from one employer that generally pays their workforce above market rates."

"Despite claims from the sponsors, Kaiser Permanente's network of 20,000 employed and contracted mental health care providers are delivering care to ensure that patients can receive non-urgent appointments on average within 6 days, which exceeds the state's requirement. Members with urgent needs can get appointments within 48 hours, and we have staff available for anyone in crisis to get care 24 hours a day, 7 days a week."

According to a coalition of stakeholders, including physicians, medical groups, business groups, health plans, and hospitals and health systems:

"Requiring the disclosure of sensitive personal salary and wage information from any health care employer to a state agency with no clear public policy purpose will drive up health care costs and will do nothing to improve access to quality care."

5. Dual Referral:

The Senate Rules Committee referred this bill to the Senate Labor, Public Employment and Retirement Committee and to the Senate Judiciary Committee.

6. Related/ Prior Legislation:

AB 37 (Elhawary, 2024) would require the California Workforce Development Board to study how to expand the workforce of mental health service providers who provide services to homeless persons. *This bill is pending in the Assembly Labor and Employment Committee.*

AB 616 (Rodriguez. 2023) would have established the Medical Group Financial Transparency Act and authorized the disclosure of audited financial reports and comprehensive financial statements of physician organizations of 50 or more physicians and physician organizations that are part of a fully integrated delivery system, collected by the Office of Health Care Affordability (OHCA), and financial and other records of risk-bearing organizations (RBOs) made available to the Department of Managed Health Care (DMHC). *The Governor vetoed AB 616, stating the following in his veto message:*

> This bill would require OHCA and DMHC to publicly disclose audited financial reports and comprehensive financial statements of provider and physician organizations. Just last year, the OHCA was established within the Department of Health Care Access and Information (HCAI) to develop data-informed policies and to create a state strategy for controlling the costs of health care while ensuring affordability. The OHCA is authorized to receive financial information from the DMHC, with specific provisions regarding confidentiality and use.

While I support transparency, this policy is premature. Given the OHCA is in its initial stages of implementation, any additional requirements and associated impacts should be evaluated following full implementation of existing law.

SUPPORT

National Union of Healthcare Workers (Sponsor)
California Alliance for Retired Americans
California Federation of Labor Unions
California OneCare Education Fund
Courage California
Health Care for All - California
Healthy California Now
Physicians for a National Health Program -- California Chapter
Unite Here International Union

OPPOSITION

America's Physician Groups
California Association of Health Plans
California Chamber of Commerce
California Hospital Association
California Medical Association
Chino Valley Chamber of Commerce
Garden Grove Chamber of Commerce
Kaiser Permanente
West Ventura County Business Alliance

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 75	**Hearing Date:**	April 23, 2025
Author:	Smallwood-Cuevas		
Version:	March 26, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Employment: Reentry Pilot Project

KEY ISSUE

This bill requires, upon appropriation and until January 1, 2030, the California Workforce Development Board (CWDB) to establish a Reentry Pilot Project in the Counties of Alameda, Los Angeles, and San Diego to provide workforce training and transitional support to formerly incarcerated individuals committed to careers in the skilled trades. This bill requires CWDB to designate a qualified nonprofit organization in each pilot county to manage and monitor funds, provide stipends to eligible participants, and submit a report on the evaluation of the program, as specified.

ANALYSIS

Existing law:

1) Establishes the California Workforce Development Board (CWDB), under the purview of the Labor and Workforce Development Agency, as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce system, including its alignment to the needs of the economy and the workforce. (Unemployment Insurance Code §14010 et seq.)

2) Establishes the Prison to Employment program, administered by CWDB, to coordinate reentry and workforce services in each of the state's 14 workforce regions so that the formerly incarcerated and other justice-involved individuals in these regions can find and retain employment. (Unemployment Insurance Code §14040-14042)

3) Establishes the Pre-Release Construction Trades Certificate Program, administered by California Department of Corrections and Rehabilitation (CDCR), to increase employment opportunities in the construction trades for inmates upon release. (Penal Code §2716.5)

This bill:

1) Requires, upon appropriation and until January 1, 2030, the California Workforce Development Board (CWDB) to establish a Reentry Pilot Project in the Counties of Alameda, Los Angeles, and San Diego to provide workforce training and transitional support to formerly incarcerated individuals committed to careers in the skilled trades.

2) Requires the CWDB to designate a qualified nonprofit organization in each pilot county to manage and monitor funds and be accountable to the board for proper expenditure and reporting.

3) Requires the qualified nonprofit organization to provide the following stipends to eligible participants:

    a. A transportation stipend to ensure accessibility to training and employment sites.
    b. An equipment stipend to cover necessary tools and protective gear.
    c. A living cost and technology stipend to support housing stability and access to digital resources.

4) Specifies that, under the pilot project, apprenticeship training that is affiliated with a union shall be defrayed by underwriting 25 percent of the total cost per participant.

5) Requires CWDB to evaluate the program based on the following outcomes:

    a. Participant employment rates and retention in skilled trade careers.
    b. Reduction in recidivism rates among program participants.
    c. Long-term fiscal impacts, including cost savings from reduced incarceration rates compared to program expenditures.

6) Requires CWDB to submit a comprehensive report to the Legislature, no later than six months after the conclusion of the pilot project, assessing the pilot project's effectiveness, based on the above described outcomes, and feasibility for statewide expansion.

    a. This report shall be submitted in compliance with Section 9595 of the Government Code.

7) Makes a series of legislative findings regarding successful reentry of formerly incarcerated individuals and that the CWDB has demonstrated success in administering workforce training programs, and is therefore well positioned to oversee this pilot project.

COMMENTS

1. Background:

Prison to Employment Initiative

As part of California's efforts to improve its criminal justice system and reduce recidivism through increased rehabilitation, the CWDB, CDCR, California Prison Industry Authority (CalPIA), and California Workforce Association (CWA) created and finalized the Corrections-Workforce Partnership in late 2017. This historic partnership links education, job training, and work experience in prison to post-release jobs by fostering a system of coordinated service delivery to a population that faces a variety of barriers.

In 2018, the California Legislature appropriated $37 million for the Prison to Employment Initiative (P2E), which is administered by the CWDB. The mission of P2E is to create a pipeline for formerly incarcerated and justice-involved individuals towards employment and away from recidivism.[1] P2E funds the integration of workforce and reentry services through grants to workforce service providers across California, including both "direct services"

[1] California Workforce Development Board, "Interim Report for Evaluation of Workforce Development Programs submitted pursuant to Supplemental Report of the 2018-19 Budget Act, Item 7120-101-000." https://cwdb.ca.gov/wp-content/uploads/sites/43/2021/10/P2E-Interim-

and "supportive services," paving a pathway towards employment and away from recidivism for the formerly incarcerated and justice-involved population.

CDWB's interim report evaluating the P2E program outlines the types of direct services participants receive such as "interview coaching and tuition for Multi-Craft Core Curriculum training in the construction trades." Additionally, supportive services help participants meet their basic needs, such as with "stipends to cover participants' transportation, clothing, and food costs."

According to CWDB, as of April 2022, P2E funds have been used to serve over 5,730 formerly-incarcerated and justice-involved individuals statewide. In the summer of 2022, CWDB announced the availability of another round of funding (P2E 2.0).[2]

Pre-Release Construction Trades Certificate Program
In 2018, the Legislature also established the Pre-Release Construction Trades Certification Program, administered by CDCR, to increase employment opportunities in the construction trades for inmates upon release. The program is overseen by a joint advisory committee, composed of representatives from building and construction trades employee organizations, the State Building and Construction Trades Council of California, joint apprenticeship training programs, the Prison Industry Authority, the Division of Apprenticeship Standards, the Labor and Workforce Development Agency, and any other representatives the department determines appropriate.

2. Need for this bill?

According to the author:

"While CDCR has made strides in pre-release training (e.g., the Pre-Release Construction Trades Certificate Program), there is currently no formal system that supports continuity into apprenticeship or employment post-release. The absence of structured, postrelease coordination leads to diminished outcomes, with many individuals losing access to the momentum they built while incarcerated. Barriers such as lack of transportation, mentorship, and connection to apprenticeship pipelines severely hinder successful reentry. Women—particularly Black and Latina women—are disproportionately impacted, facing additional structural discrimination in housing and employment.

[SB 75] aims to establish a pilot reentry apprenticeship program in California. This program is designed to support formerly incarcerated individuals by providing stipends, job training, and pathways into high-quality, union-supported careers. The initiative seeks to facilitate successful reintegration into society and reduce recidivism rates."

3. Proponent Arguments:

According to the California Women's Caucus:

Report_ACCESSIBLE.pdf#:~:text=P2E%20funds%20the%20integration%20of%20workforce%20and%20reentry,recidivism%20for%20the%20formerly%20incarcerated%20and%20justice-involved%20population.

[2] California Workforce Development Board, "Prison to Employment (P2E 2.0) Award Announcements" https://cwdb.ca.gov/wp-content/uploads/sites/43/2023/01/P2E-2.0-Award-Announcement-Jan-2023_ACCESSIBLE.pdf

"The Legislative Women's Caucus has voted to designate SB 75 (Smallwood-Cuevas) as a top priority bill for the Caucus. This bill builds a sustainable pathway to stable careers through partnerships with established nonprofits and trade unions.

Formerly incarcerated women face persistent challenges upon reentering society, often leading to high recidivism rates. Research has shown that stable employment reduces the likelihood of reoffending and provides a sense of identity and purpose, helping individuals successfully reintegrate into their communities. Many individuals leaving the California Department of Corrections and Rehabilitation struggle to secure stable employment. California Coalition for Women Prisoners' From Crisis to Care report states that formerly incarcerated Black women experience the highest unemployment rates at 43.6%, while formerly incarcerated White men's unemployment rate is 18.4%. SB 75 tackles these disparities by providing targeted resources, transitional stipends, and access to skill-building opportunities that lead to stable, well-paying careers.

By creating a scalable reentry model, SB 75 connects formerly incarcerated women with high-road employment opportunities, fostering long-term economic stability and reducing recidivism."

4. Opponent Arguments:

None received.

5. Prior/Related Legislation:

SB 866 (Committee on Budget and Fiscal Review, Chapter 53, Statutes of 2018) established the Pre-Release Construction Trades Certificate Program within CDCR to increase employment opportunities in the construction trades for inmates upon release, and required CWDB to administer a prison-to-employment program and award grants for purposes that include the development of regional partnerships and regional plans to provide and coordinate the necessary workforce, education, supportive, and related services, as defined, that formerly incarcerated and other justice-involved individuals, as defined, need to secure and retain employment and reduce the chances of recidivism.

AB 2129 (Jones-Sawyer, 2014) would have required CDCR to establish a voluntary pre-release reentry program for inmates in prison, to commence no later than 6 months prior to the inmate's release from prison. The program would have included, among other things, education programs, transition programs including employment services and skills, and cognitive behavior therapy, including substance abuse treatment and anger management. *Held in the Assembly Appropriations Committee*.

SUPPORT

California Legislative Women's Caucus

OPPOSITION

None received.

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 238	**Hearing Date:**	April 23, 2025
Author:	Smallwood-Cuevas		
Version:	March 26, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Workplace surveillance tools

KEY ISSUES

This bill requires an employer to annually provide a notice, containing specified information, to the Department of Industrial Relations (DIR), of all workplace surveillance tools the employer is using in the workplace. DIR is then required to make the employer-provided notice publicly available on the Department's internet website.

ANALYSIS

Existing law:

1) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civil Code §1798.100 et seq.)

2) Establishes the Consumer Privacy Rights Act (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civil Code §1798.100 et seq.; Proposition 24 (2020))

3) Defines "artificial intelligence" to mean an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. (Government Code §11546.45.5)

4) 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)

5) Requires employers to provide to each employee, upon hire, a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota. (Labor Code §2101)

6) Prohibits an employer from requiring an employee to meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, including reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the Labor Code or division standards. (Labor Code §2101)

7) Prohibits an employer from taking adverse employment actions against an employee for failure to meet a quota that does not allow a worker to comply with meal and rest periods, or occupational health and safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been disclosed to the employee. (Labor Code §2101)

This bill:

1) Defines, among others, the following terms:

    a. "Data" to mean any information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a worker, regardless of how the information is collected, inferred, or obtained.

    b. "Employer" means a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours, working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker. This shall include all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.
        i. "Employer" includes an employer's labor contractor.

    c. "Worker" means a natural person or that person's authorized representative acting as a job applicant to, an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in a workplace.

    d. "Workplace surveillance tool" means any system, application, instrument, or device that collects or facilitates the collection of worker data, activities, communications, actions, biometrics, or behaviors, or those of the public, by means other than direct observation by a person, including, but not limited to, video or audio surveillance, continuous incremental time-tracking tools, geolocation, electromagnetic tracking, photoelectronic tracking, or use of a photo-optical system or other means.

2) Requires an employer to annually provide a notice to DIR of all workplace surveillance tools the employer is using in the workplace.

3) For an employer that began using a workplace surveillance tool before January 1, 2026, requires the employer to provide the notice before February 1, 2026.

4) Requires the notice to contain all of the following information:

    a. The individuals, vendors, and entities that created the workplace surveillance tool and the individuals, vendors, and entities that will run, manage, or interpret the worker data gathered by the workplace surveillance tool.

b. The name of the model and a description of the technological capabilities of the workplace surveillance tool.
c. Any significant updates or changes made to the workplace surveillance tool that are already in use or any changes on how the employer is using the existing workplace surveillance tool.
d. Whether the workplace surveillance tool will affect consumers or other individuals in addition to workers.
e. The data that will be collected from workers or consumers by the workplace surveillance tool and whether they will have the option to opt out of personal data collection.
f. A list of all entities and individuals other than the employer that will have access to the data collected from workers and consumers.
g. Whether the employer has disclosed the use of the workplace surveillance tool with the affected workers and consumers.

5) Requires DIR to make the employer provided notice publicly available on the department's internet website within 30 days of receiving the notice from the employer.

COMMENTS

1. Background:

Artificial Intelligence (AI) and Automated Decision Systems (ADS)
With technological advancements happening faster than humans can react, we often miss opportunities to pause and evaluate its impact. Until recently, advancements in technology often automated physical tasks, such as those performed on factory floors or self-checkouts, but artificial intelligence (AI) functions more like human brainpower. AI can use algorithms to accomplish tasks faster and sometimes at a lower cost than human workers can. As this technology develops, so do fears of worker displacement in more areas and industries.

According to the Pew Research Center, in 2022, 19 percent of American workers were in jobs in which the most important activities may be either replaced or assisted by AI.[1] Because technology can be used to either replace or complement the work of employees, it is difficult to identify which industries or occupations will be most impacted. What's worse, recent trends on the use of AI in employment has been reminiscent of a Hollywood movie – both fantastical and horrifying.

Bill Gates himself has warned that over the next decade, advances in artificial intelligence will mean that humans will no longer be needed "for most things" in the world.[2] Given these realities, what does the future of AI and its capabilities mean for workers? As we speak, employers are deploying AI-powered tools that monitor and manage workers, including by tracking their locations, activities, and productivity. Even more alarmingly, we are seeing employers use AI powered systems to make decisions on workers' schedules, tasks, compensation, promotions, and even disciplinary actions.

[1] "Which U.S. Workers Are More Exposed to AI on Their Jobs?" Pew Research Center, Washington, D.C. (July 26, 2023) https://www.pewresearch.org/social-trends/2023/07/26/which-u-s-workers-are-more-exposed-to-ai-on-their-jobs/
[2] Huddleston, T. Jr. "Bill Gates: Within 10 years, AI will replace many doctors and teachers – humans won't be needed 'for most things.''(March 26, 2025) https://www.cnbc.com/2025/03/26/bill-gates-on-ai-humans-wont-be-needed-for-most-things.html

In February of 2019, Data & Society, an independent non-profit research institute, published a study evaluating the impact of algorithmic management on the workforce. The study highlights several examples where algorithmic management is becoming more common. In the delivery industry, companies from UPS to Amazon to grocery chains are using automated systems to optimize delivery workers' daily routes. In other industries, trends show an increase in remote tracking and managing using AI software. In retail and service jobs, automated scheduling is replacing managers' discretion over employee schedules, while the work of evaluating employees is being transferred to consumer-sourced rating systems.[3]

At least, these examples appear to complement the tasks of workers. Below are several other examples highlighted in a 2021 UC Berkeley study that should make us pause[4]:

- Hiring software by the company HireVue generates scores of job applicants based on their tone of voice and word choices captured during video interviews.
- Algorithms are being used to predict whether workers will quit, become pregnant, or try to organize a union, which influence employers' decisions about job assignment and promotion.
- Call center technologies are analyzing customer calls and nudging workers in real time to adjust their behavior, like coaching them to express more empathy, pace the call more efficiently, or exude more confidence and professionalism.
- Grocery platforms like Instacart are monitoring workers and calculating metrics on their speed as they fill shopping lists.
- Robots, like, for example, "smart cart" service robots in health care, are being used to transport materials (e.g., linens, meals, lab specimens) to other workers. Meanwhile, floor cleaning robots vacuum or scrub floors along a preset route programmed by workers, who also monitor and support their operation.
- In remote workers' homes, AI software is being used to track computer keystrokes.

Specifically around surveillance, AI surveillance involves the use of computer software and algorithms to analyze video footage that goes beyond motion detection. AI surveillance tools are being used to monitor areas through video, satellite or even drones. These tools can allow the systems to see and interpret information, from tracking movements in real-time to analyzing and predicting behavior. A system installed in a secure facility, for example, could use computer vision to identify unauthorized individuals, track movements within restricted areas, and detect any unusual behavior that might indicate a security breach.

The growing use of these AI tools raises several questions:

- Can AI tools ensure worker safety or do they push workers to work at a dangerous pace?
- Should workers know about AI powered tools monitoring their work?
- Do these AI tools protect against bias and discrimination?
- Should these AI tools be allowed to manage and fire a worker?
- Who should monitor and evaluate AI decisions and how?

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[3] Alexandra Mateescu, Aiha Nguyen, 2019. Data & Society. "Explainer: Algorithmic Management in the Workplace." https://datasociety.net/wp-content/uploads/2019/02/DS_Algorithmic_Management_Explainer.pdf

[4] Annette Bernhardt, Lisa Kresge, Reem Suleiman, 2021. UC Berkeley Labor Center. "Data and Algorithms at Work: The Case for Worker Technology Rights." https://laborcenter.berkeley.edu/data-algorithms-at-work/

- Do our current regulatory and legal structures protect workers exposed to decisions made by AI tools?
- How much should government regulate the use of these tools?

Now is the time to ensure that as AI enters our workforce, it is used to complement the tasks of a worker – rather than replacing them – without sacrificing worker safety, living wages, and protections against discrimination and abuse.

As noted in the UC Berkeley report:

"Technology is not inherently bad, but neither is it neutral: the role of workplace regulation is to ensure that technologies serve and respond to workers' interests and to prevent negative impacts. Regulation is all the more important because employers themselves often do not understand the systems they are using. What we need, then, is a new set of 21st century labor standards establishing worker rights and employer responsibilities for the data-driven workplace."[5]

Recent Efforts to Regulate AI and ADSs

In November of 2020, California voters approved Proposition 24, the California Privacy Rights Act of 2020 (CPRA). The CPRA added new privacy protections to the California Consumer Privacy Act of 2018 (CCPA). The CPRA established a new agency, the California Privacy Protection Agency (CPPA) to implement and enforce the law. The mission of the CPPA is to protect Californians' privacy, ensure that consumers are aware of their rights, inform businesses of their obligations, and vigorously enforce the law against businesses that violate consumers' privacy rights.

Over the last several years, the Legislature has considered a multitude of bills aimed at regulating AI and its use to ensure that the privacy rights of Californians continue to be protected. AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) was a crucial first step in regulating this technology. AB 2885 established key definitions, including a uniform definition for "artificial intelligence," "automated decision system," and "high-risk automated decision system."

Other efforts attempted to regulate the industry by establishing requirements on the use of AI. For example, AB 2930 (Bauer-Kahan, 2024), which died on the Senate inactive file, would have established the right of individuals to know when an ADS is being used, the right to opt out of its use, and an explanation of how it is used.

There were several other attempts to regulate the use of AI in 2024, although the focus has mostly been on consumers and their privacy rights, whether it be the data social media companies collect and sell or the manipulation of elections news via fake postings. In the area of private sector labor and employment specifically, only one bill has attempted to regulate the use of AI.

SB 1446 (Smallwood-Cuevas, 2024) attempted to address the issue by requiring, among other things, that a grocery retail store or retail drug establishment that intended to implement a consequential workplace technology, as defined, notify workers, their collective bargaining representatives, and the public at least 60 days in advance of the implementation of the

[5] Ibid.

technology with a general description of the technology and the intended purpose of the technology, as specified. SB 1446 was held in the Assembly Rules Committee.

This year, there are several bills in the labor and employment space attempting to regulate the use of AI powered tools from decision making systems to surveillance.

SB 7 (McNerney), previously heard and passed by this Committee, would be the first attempt at regulating the use of ADS in the workplace in such a comprehensive way. Several other bills regulating AI are pending this year, including AB 1018 (Bauer-Kahan, 2025) which would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined.

AB 1221 (Bryan, 2025) would require an employer, at least 30 days before introducing a workplace surveillance tool, as defined, to provide a worker who will be affected with a written notice that includes, among other things, a description of the worker data to be collected, the intended purpose of the workplace surveillance tool, and how this form of worker surveillance is necessary to meet that purpose. Additionally, the bill would prohibit an employer from using certain workplace surveillance tools, including a workplace surveillance tool that incorporates facial, gait, or emotion recognition technology.

Finally, AB 1331 (Elhawary, 2025) would limit the use of workplace surveillance tools, as defined, by employers, including by prohibiting an employer from monitoring or surveilling workers in private, off-duty areas, as specified, and requiring workplace surveillance tools to be disabled during off-duty hours, as specified.

This bill [SB 238] compliments the above efforts by requiring employers to provide notice on the use of workplace surveillance tools to DIR and requires the Department to post such notices on its internet website.

2. Need for this bill?

According to the author:

"Current law currently lacks transparency and regulatory oversight over the use of artificial intelligence (AI) and workplace surveillance tools by employers. Although the Department of Industrial Relations administers and enforces laws related to employment and working conditions, no existing statute mandates that employers disclose what surveillance technologies they use, what data they collect, or who can access it.

This creates several key problems:

- Workers are unaware of the extent and nature of data collection that may affect their privacy, autonomy, or job opportunities
- There is no centralized oversight or reporting mechanism that enables the state or public to evaluate how surveillance technology is being used
- Potential harms, such as algorithmic bias, discrimination, or misuse of data by third parties, remain unaddressed under current law.

SB 238 aims to address the deficiency by introducing transparency and public accountability measures. The bill is intended to protect worker privacy and ensuring ethical use of AI in

employment settings by making surveillance practice visible to both regulators and the public."

3. Proponent Arguments:

According to the California Federation of Labor Unions:

"Workplace surveillance is not a new phenomenon, however, the tools currently available to employers are far more powerful and invasive than a simple camera or microphone. Employers now have access to seemingly military grade surveillance technology that can track heat signatures, biometrics, and walking patterns. A recent study published by coworker.org reported over 500 surveillance and management tools currently being sold to employers to track worker activities, interactions, and body movements. These tools are widely available and surprisingly affordable. Workers live in a constant state of surveillance and are often unaware they are even being watched.

SB 238 seeks to increase transparency in the workplace by requiring employers to disclose their use of workplace surveillance tools to the Department of Industrial Relations. Transparency is essential to foster public trust and a safe working environment."

4. Opponent Arguments:

According to a coalition of employer organizations, including the California Chamber of Commerce:

"The breadth of information that SB 238 requires to be reported to DIR and made publicly available online is concerning to many of our members. The definition of workplace surveillance tools in the bill is very broad and encompasses many tools that are standard and basic components of a security program on an employer's premises or cybersecurity software. Video surveillance, communications/equipment tracking, and cybersecurity software are especially necessary for workplace safety as well as the prevention and investigation of fraud and theft. For example, financial institutions must have highly sophisticated security systems, otherwise there is risk of theft or exposure of sensitive consumer information. They would be required to disclose exactly which tools they use, the names of individuals and vendors that run or receive any of that data, and what changes have been made to those systems. This is essentially requiring those institutions to provide a roadmap for bad actors to gain a better understanding of the tools they are using for fraud prevention and security measures and how to exploit them. The bill could put many entities, and more importantly their employees and consumers, in a vulnerable position by exposing exactly what tools are being used and how they are being used, who has access to sensitive worker and consumer data, and the extent of data that is being collected. This is especially true for employers with sensitive consumer data or government data where companies have state or federal contracts.

Further, SB 238 would impose a significant workload on an already overburdened DIR. For example, California has more than 1.7 million private sector businesses and an additional 3 million sole proprietorships. Because of the breadth of the definition of "workplace surveillance tools," even a security camera or server that stores emails would count under that definition, meaning that DIR would be required to sift through, label, and publish lists of

millions of different tools. Not only is that burdensome, but it is difficult to imagine how such an information overload is useful to the public."

5. Staff Comments:

As noted above, AI is being used in new ways not previously contemplated in current law. This bill attempts to provide transparency on what and how these technologies are being used in the workplace. These notices will provide much needed information to inform the state and the workers about tools being used by employers, which will assist in future policymaking around the use of such surveillance tools.

As conversations on this bill continue, the author may wish to consider the following:

The bill defines "worker" to mean a natural person or that person's authorized representative acting as a job applicant to, an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in a workplace. This definition is not clear as to who the authorized representative is and why they would be acting as a job applicant to an employee. *The author may wish to refine this definition to better capture the targeted population.*

Regarding the information required to be included in the notices, the bill requires it include the individuals, vendors, and entities that created the workplace surveillance tool and the individuals, vendors, and entities that will run, manage, or interpret the worker data gathered by the workplace surveillance tool. *Should employers be required to include this kind of detail – especially when the employer may simply be buying a software program or contracting for a service, but they may not know which individuals specifically created the workplace surveillance tool?*

The bill requires employers to annually provide the notice on the workplace surveillance tools they are using to DIR, and requires DIR to make that notice available to the public on their internet website within 30 days. *The bill does not specify what happens to the notices after the year. The author may wish to provide further clarity on how long DIR has to keep those notices posted or if they are replaced each year by the new notices submitted.*

6. Double Referral:

This bill has been double referred and if approved by this Committee today, will be sent to Senate Judiciary Committee for a hearing.

7. Prior/Related Legislation:

SB 7 (McNerney, 2025) would, among other things, require an employer to provide a written notice that an ADS, for the purpose of making employment-related decisions, is in use at the workplace to all workers that will be directly or indirectly affected by the ADS, as specified. *SB 7 is pending in Senate Judiciary Committee.*

SB 53 (Wiener, 2025) would establish a consortium tasked with developing a framework for a public cloud computing cluster that advances the ethical development and deployment of AI that is safe, ethical, equitable, and sustainable. This bill would also create protections for whistleblowers working with specified AI models when reporting on "critical risks" and

would require developers to provide processes for anonymous reporting of activities posing such risks. *SB 53 is pending in the Senate Appropriations Committee.*

SB 503 (Weber Pierson, 2025) would require the Department of Health Care Access and Information and the Department of Technology to establish an advisory board related to the use of AI in health care services. Specifically, the bill would require the advisory board to perform specified duties, including, but not limited to, developing a standardized testing system with criteria for developers to test AI models or AI systems for biased impacts. *SB 503 is pending in the Senate Rules Committee.*

AB 1018 (Bauer-Kahan, 2025) would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined. Among other things, this bill would require a developer of a covered ADS to conduct performance evaluations of the ADS, require a deployer to provide certain disclosures to a subject of a consequential decision made or facilitated by the ADS, provide the subject an opportunity to opt out of the use of the ADS, provide the subject with an opportunity to appeal the outcome of the consequential decision, and submit the covered ADS to third-party audits, as prescribed. *AB 1018 is pending in the Assembly Privacy and Consumer Protection Committee.*

AB 1221 (Bryan, 2025) would require an employer, at least 30 days before introducing a workplace surveillance tool, as defined, to provide a worker who will be affected with a written notice that includes, among other things, a description of the data to be collected, the intended purpose, and how this form of worker surveillance is necessary to meet that purpose. The bill would prohibit an employer from using certain workplace surveillance tools, including one that incorporates facial, gait, or emotion recognition technology. The bill would require the Labor Commissioner to enforce these provisions, authorize an employee to bring a civil action for violations, and authorize a public prosecutor to enforce the provisions. *AB 1221 is pending in the Assembly Privacy and Consumer Protection Committee.*

AB 1331 (Elhawary, 2025) would limit the use of workplace surveillance tools, as defined, by employers, including by prohibiting an employer from monitoring or surveilling workers in private, off-duty areas, as specified, and requiring workplace surveillance tools to be disabled during off-duty hours, as specified, and subjects violators to specified penalties. *AB 1331 is pending in the Assembly Privacy and Consumer Protection Committee.*

SB 442 (Smallwood-Cuevas, 2025) would prohibit a grocery retail store or retail drug establishment from providing a self-service checkout option for customers unless specified conditions are met, including that at least one manual checkout station be staffed by an employee. This bill includes specified civil penalties for violations of these provisions and authorizes enforcement by the Division of Labor Standards Enforcement and public prosecutors. *SB 442 is pending in the Senate Judiciary Committee.*

AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) established a uniform definition for "artificial intelligence," "automated decision system," and "high-risk automated decision system" in California law.

AB 2930 (Bauer-Kahan, 2024) would have regulated the use of ADSs in order to prevent "algorithmic discrimination." This would have included requirements on developers and deployers that make and use these tools to make "consequential decisions" to perform impact

assessments on ADSs. This bill also sought to establish the right of individuals to know when an ADS is being used, the right to opt out of its use, and an explanation of how it is used. *AB 2930 died on the Senate inactive file.*

SB 1446 (Smallwood-Cuevas, 2024) would have prohibited a grocery or retail drug establishment from providing a self-service checkout option for customers unless specified conditions are met. SB 1446 also included a requirement that a grocery retail store or retail drug establishment that intended to implement a consequential workplace technology, as defined, must notify workers, their collective bargaining representatives, and the public at least 60 days in advance of the implementation of the technology with a general description of the technology and the intended purpose of the technology, as specified. SB 1446 also included remedies and penalties for a violation of the bill's provisions, including a civil penalty of $100 for each day in violation, not to exceed an aggregate penalty of $10,000. *SB 1446 was held in the Assembly Rules Committee*.

Several other bills in 2024 addressed related AI issues including: SB 892 (Padilla), SB 893 (Padilla), SB 896 (Dodd), SB 942 (Becker), SB 1047 (Wiener), and AB 2013 (Irwin).

AB 331 (Bauer-Kahan, 2023) would have prohibited "algorithmic discrimination," that is, use of an automated decision tool to contribute to unjustified differential treatment or outcomes that may have a significant effect on a person's life. *AB 331 was held under submission in the Assembly Appropriations Committee.*

AB 302 (Ward, Chapter 800, Statutes of 2023) required the California Department of Technology (CDT), in coordination with other interagency bodies, to conduct a comprehensive inventory of all high-risk automated decision systems (ADS) used by state agencies on or before September 1, 2024, and report the findings to the Legislature by January 1, 2025, and annually thereafter, as specified.

AB 701 (Gonzalez, Chapter 197, Statutes of 2021) proposed a series of provisions designed to ensure that the use of job performance quotas at large warehouse facilities do not penalize workers for complying with health and safety standards or taking meal and rest breaks. Among other things, this bill (1) required warehouse employers to disclose quotas and pace-of-work standards to workers, (2) prohibited employers from counting time that workers spend complying with health and safety laws as "time off task," and (3) required the Labor Commissioner to enforce these provisions.

AB 13 (Chau, 2021) would have established the Automated Decision Systems Accountability Act, which would have promoted oversight over ADS that pose a high risk of adverse impacts on individual rights. *This bill was eventually gutted and amended to address a different topic.*

AB 1576 (Calderon, 2019) would have required the Secretary of Government Operations to appoint participants to an AI working group to evaluate the uses, risks, benefits, and legal implications associated with the development and deployment of AI by California-based businesses. *The bill was held under submission in the Senate Appropriations Committee.*

SUPPORT

California Association of Psychiatric Technicians
California Federation of Labor Unions, AFL-CIO
Oakland Privacy

OPPOSITION

Acclamation Insurance Management Services
Allied Managed Care
American Petroleum and Convenience Store Association
Associated General Contractors of California
California Alliance of Family Owned Businesses
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Association of Winegrape Growers
California Attractions and Parks Association
California Chamber of Commerce
California Credit Union League
California Grocers Association
California League of Food Producers
California Retailers Association
Coalition of Small and Disabled Veteran Businesses
Flasher Barricade Association
Housing Contractors of California
Wine Institute

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 464	**Hearing Date:**	April 23, 2025
Author:	Smallwood-Cuevas		
Version:	April 10, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Employer pay data

KEY ISSUES

This bill revises existing workforce demographic pay data reporting requirements of employers to 1) include sexual orientation of employees; 2) require the Civil Rights Department to publish private employer pay data reports; and 3) expand the pay data reporting requirements to public employers.

ANALYSIS

Existing law:

1) Prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where the employer demonstrates a wage differential based on one or more factors, as specified. (Labor Code §1197.5)

2) Prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where the employer demonstrates a wage differential based on one or more factors, as specified. (Labor Code §1197.5)

3) Establishes exceptions to these prohibitions where the employer demonstrates the wage differential is based upon one or more of the following factors:

    a. A seniority system;
    b. A merit system;
    c. A system that measures earnings by quantity or quality of production;
    d. A bona fide factor other than sex, such as education, training, or experience which applies only if the employer demonstrates the factor is not based on or derived from a sex-based or race/ethnicity based differential in compensation, is job related, and is consistent with a business necessity, as defined. (Labor Code §1197.5)

4) Makes it a misdemeanor, punishable by a fine of up to $10,000 or by imprisonment, or both, for an employer or other person acting either individually or as an officer, agent, or employee of another person to pay or cause to be paid to any employee a wage less than the rate paid to

an employee of the opposite sex, race, or ethnicity or who reduces the wages of any employee in order to comply with wage protections for an employee of the opposite sex per Section 1197.5. (Labor Code §1199.5)

5) Requires, on or before the second Wednesday of May of each year, a private employer that has 100 or more employees, as well as a private employer that has 100 or more employee hired through labor contractors, to submit a pay data report to the Civil Rights Department (CRD). The report is required to include, among other things, the following information:

   a. The number of employees by race, ethnicity, and sex in specified job categories.
   b. Within each job category, for each combination of race, ethnicity, and sex, the median and mean hourly rate.
   c. The total number of hours worked by each employee, as specified. (Government Code §12999)

6) Authorizes CRD, if the department does not receive the required report from an employer, to seek an order requiring the employer to comply with these requirements and entitles CRD to recover the costs associated with seeking the order for compliance. A court ***may*** impose a civil penalty not to exceed one hundred dollars ($100) per employee upon any employer who fails to file the required report and not to exceed two hundred dollars ($200) per employee upon any employer for a subsequent failure to file the required report. (Government Code §12999 (f))

7) Protects any individually identifiable information submitted to CRD pursuant to these provisions by prohibiting the Department from making submitted information public in any manner and by making this information confidential and not subject to disclosure pursuant to the California Public Records Act. (Government Code §12999 (f)(g))

8) Requires CRD to develop, publish on an annual basis, and publicize aggregate reports based on the data obtained through the employer submitted reports, provided that the aggregated reports are reasonably calculated to prevent the association of any data with any individual business or person. (Government Code §12999 (i))

This bill:

1) Revises existing workforce demographic reporting requirements of private employers to:

   a. Require employers to also include the sexual orientation of employees in the pay data report, however, it specifies that information regarding an employee's sexual orientation shall be collected only if voluntarily disclosed by the employee to the employer by the employee themselves.

   b. Require employers to collect and store any demographic information gathered by an employer or labor contractor for submitting the pay data reports separately from employees' personnel records.

   c. Require, as opposed to current law that only authorizes, a court to impose a civil penalty against an employer that fails to submit the pay data report if requested to do so by CRD.

2) Requires CRD to publish private employer pay data reports provided that the publication is reasonably calculated to prevent the association of any data with any individual person.

3) Expands the pay data reporting requirements to *public employers* by requiring that on or before the second Wednesday of May 2027, and annually thereafter, a public employer that has 100 or more employees submit a pay data report to CRD that:

   a. Includes demographic data provided by employees relative to ethnicity, race, disability, veteran status, gender, gender identity, and sexual orientation organized by job category as listed in the civil service pay scale.

   b. Provides that demographic data disclosed or released shall disclose only aggregated statistical data and shall not identify any individual.

   c. Any individually identifiable information submitted to the CRD shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act, as specified.

4) Defines, for purposes of these provisions, "public employer" to mean:

   a. The state and every state entity, including, but not limited to, the Legislature, the judicial branch, including judicial officers, and the California State University.

   b. Any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

COMMENTS

1. Background:

Pay Equity:

There have been numerous studies dedicated to calculating disparities in earnings between men and women in the workplace over the last fifty years. In 1963, women who worked full-time year-round made 59 cents on average for every dollar earned by a man according to the American Association of University Women (AAUW). In 2023, women working full time in the United States typically were paid just 83 percent of what men were paid - $55,240 compared to $66,790 – leaving women and their families at a persistent financial disadvantage.[1] According to the AAUW, the pay gap challenges grow even more complex for women of color, LGBTQ+ women, and women with disabilities, who face compounded inequities.[2]

[1] American Association of University Women, "The Not So Simple Truth About the Gender Pay Gap," 2025 Update. https://www.aauw.org/app/uploads/2025/03/The_Simple_Truth_Gender_Pay_Gap_2025_3.28.pdf

[2] Ibid.

The wage gap is even larger for women of color. As noted by the AAUW, America's history of slavery, segregation, and immigration policies has created deeply rooted systemic inequalities that persist today. Among women who hold full-time, year-round employment in the United States in 2023, black women earned 66 percent for every dollar earned by white, non-Hispanic men, while Latinas earned 58 percent for every dollar. Asian women earned 94 percent and white, non-Hispanic women earned 80 percent for every dollar earned by a man.[3]

Legislative Efforts to Address Pay Inequity:
In recognition of the pay inequities that continue to plague our country, over the past decade, the California Legislature has passed several efforts attempting to close the gender pay gaps.

Most recently, in 2020, California enacted SB 973 (Jackson, Chapter 363, Statutes of 2020) requiring, among other things, California employers with 100 or more employees to compile data showing how much they pay their employees, broken down by rough category of work performed and cross-referenced by race, ethnicity, and gender. Covered employers are required to submit this pay equity data to the Civil Rights Department (CRD) annually on or before the second Wednesday of May. CRD is required to keep each individual employer's data confidential but must also develop and publish a yearly report based on the aggregate data.

According to the CRD Pay Data Reporting Handbook, employee self-identification is the preferred method of identifying race/ethnicity information. If an employee declines to voluntarily provide their race/ethnicity, employers must still report the employee's race/ethnicity using (in the following order): current employment records, other reliable records or information, or observer perception.[4]

SB 1162 (Limon, Chapter 559, Statutes of 2022) built upon SB 973 by expanding pay data reporting requirements to, among other things, cover contracted employees hired through labor contractors and required employers to make pay scale information for positions available to employees and included in job postings. As originally introduced, SB 1162 also included provisions requiring the CRD to publish each private employer's pay data reports on an internet website available to the public, as specified. These provisions for the online publishing of the reports were removed in the Assembly Appropriations Committee.

Pay and Demographics of California Workers: 2023 Annual Pay Data Results
According to CRD's aggregated report of the data submitted by employers, per the requirements of SB 973, in 2023:

- 53% of California workers were male, 47% were female.
- 39% were Hispanic or Latino
- 31% were White
- 18% were Asian
- 6% were Black or African American
- 4% were Multiracial and/or Multiethnic
- <1% were Native Hawaiian or Pacific Islander
- <1% were American Indian or Alaska Native

[3] Ibid.
[4] California Pay Data Reporting Handbook, Reporting Year 2024. https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2025/01/PDR_California_Pay_Data_Reporting_Handbook.pdf

Regarding the pay of reported California workers, by gender and race:

- 18% made $144,560 and over (Male 64% / Female 36%)
- 23% made $68,120 - $144,559 (Male 56% / Female 44%)
- 28% made $32,240 - $68,119 (Male 50% / Female 50%)
- 32% made $32,239 and under (Male 46% / Female 54%)

Regarding the pay of reported non-binary California workers:

- 5 – 10% made $144,560 and over
- 10 – 15% made $68,120 - $144,559
- 35 – 40% made $32,240 - $68,119
- 45 – 50% made $32,239 and under

As noted by the CRD, this data represents neither the entire employed workforce in California, which the U.S. Bureau of Labor Statistics estimated to be at 18.6 million at the end of 2023, nor the self-employed or contingent workforce. Additionally, CRD notes that gender non-binary workers' data are reported in a different way than data for women and men. Women and men are reported as a percentage of all workers in each job and pay category. Non-binary workers are reported as the percentage of all non-binary workers – not all workers – in each job and pay category.

Reparations Task Force Report:
AB 3121 (Weber, Chapter 319, Statutes of 2020) established the Reparations Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans who are Descendants of Persons Enslaved in the United States (Task Force). The purpose of the Task Force is:

1) To study and develop reparation proposals for African Americans;
2) To recommend appropriate ways to educate the California public of the task force's findings; and
3) To recommend appropriate remedies in consideration of the Task Force's findings.

On June 29, 2023, the Task Force issued its final report to the California Legislature. Among other things, the report highlighted harms and disparities that exist among black Californians. According to the report, black Californians earn 72 cents for every dollar earned by white Californians.[5] According to the report, this highlights a need for greater transparency and accountability in employment. Additionally, the report finds that:

> "LGBTQ+ individuals experience high rates of discrimination and harassment in hiring and in the workplace. For example, studies have shown that employers are less likely to reach out to perceived LGBTQ+ job candidates for interviews. Discrimination is heightened for LGBTQ+ applicants who are African American. Seventy-eight percent of African American LGBTQ+ individuals who responded to a survey conducted by the Center for American Progress in 2020 reported that discrimination affected their ability to be hired. For white LGBTQ+ individuals, that number was 55 percent. Even when they

[5] California Reparations Task Force to Study and Develop Reparation Proposals for African Americans, Final Report. (June 29, 2023, Chapter 27) https://oag.ca.gov/system/files/media/full-ca-reparations.pdf

> are hired, racism and heterosexism affects the ability of 56 percent of African American LGBTQ+ individuals to maintain their jobs."[6]

Furthermore, the report notes:

> "The income disparity is worse for African American LGBTQ+ adults. "Across all economic indicators . . . Black LGBTQ adults have a lower economic status than Black non-LGBTQ adults." For example, African American LGBTQ+ adults have higher unemployment rates compared to African Americans who are non-LGBTQ+. Thirty-nine percent of African American LGBTQ+ adults in the United States had a household income of less than $24,000 a year compared to 33 percent of non-LGBTQ+ African Americans. And more African American women who are LGBTQ+ live in low-income households than non-LGBTQ+ African American women."[7]

This bill:
This bill [SB 464] proposes to expand the pay data reporting requirements to include the sexual orientation of employees, to require the publishing of private employer pay data reports, and to require public employers to also submit demographic information on their employees to the CRD.

Staff Note: Current law requires private sector employers to collect and report on the race, ethnicity, and sex of employees in specified job categories. However, this bill would require public employers to not only disclose demographic data provided by employees relative to race, ethnicity, and gender but also disability, veteran status, gender identity, and sexual orientation, organized by job category as listed in the civil service pay scale.

2. Need for this bill?

According to the author:

"Existing pay data reports have illuminated stark gaps in achievement between Black Californians and that rest of the state. For example, in 2022, for every $1 earned by white families, Black families earn just 58 cents, and just 52 cents for Latino families. These disparities are further exacerbated in the promotion of minority workers to executive or senior level positions. According to 2022 payee data, while white Californians make up 62% of positions at the executive or senior level, Black Californians hold just 4% of these positions. While this data is currently separated into large, general industry categories, anonymized reports are not available to the public.

During a time in which the federal administration and large employers throughout the state and nation have turned away from diversity, equity, and inclusion in the workplace, it is crucial that these reports are made public to ensure our state continues to make progress towards our goals of greater upward mobility for Black Californians…

In order to ensure greater transparency and accountability, SB 464 will expand existing reporting requirements in Government Code Section 12999 to public sector employees. Furthermore, this bill will include sexual orientation as a category to be included in annual

[6] Ibid.
[7] Ibid.

payee data reports. Importantly, this data would be provided by employees voluntarily with employers required to collect and store data separately from personnel records. Finally, SB 464 will require CRD to make these anonymized reports available to the public. By ensuring the public has access to this key data, we can provide workers, their representatives, and lawmakers with greater tools to hold employers accountable to closing wealth and promotional gaps."

3. Proponent Arguments:

The California Employment Lawyers Association is in support and writes:

"While existing pay data provides insight into disparities, they do not fully encompass the experience of workers in the public sector, or of LGBTQ+ workers. Furthermore, without access to individual reports, stakeholders are limited in their ability to hold employers accountable to equitable pay practices. With recent threats to DEI programs in both the private and public sector, it is more important than ever to ensure that data is available to the public to ensure accountability to pay equity in the absence of robust enforcement of these crucial programs.

A March 2021 study from Just Capital and the Harris Poll found that 73% of Americans want companies to publicly disclose workforce data. JUST Capital also found that those companies that disclosed 1 EEO-1 reports outperformed their Russell 1000 peers in the stock market by 2.4% in 2021. This kind of transparency shows a real commitment to fair and equitable hiring, promotion, and retention practices, which of course is not only good for the workers, but for the company itself.

Research also shows that in countries that require companies to publicly report pay data, the wage gap has shrunk. The pay data that is revealed will incentivize employers to investigate further and fix 2gender- and race-based pay disparities to make sure they are in compliance with our equal pay laws, thereby avoiding potential liability. The pay data may also reveal trends of occupational segregation within a company, prompting employers to make changes to their hiring, pay, or promotional practices to ensure better representation of women and people of color at all wage levels within their companies."

4. Opponent Arguments:

A coalition of employer organizations, including the California Chamber of Commerce, are opposed to the measure arguing:

Regarding the publishing of employer pay data reports:
"SB 973, the original bill mandating pay data reports be submitted to the Civil Rights Department (CRD), intentionally did not include a publication provision and such a provision in SB 1162 was rejected just two years ago. The CRD publishes data in aggregate form, rather than data associated with specific companies. Undoing this agreement will discourage growth in California and expose employers to costs associated with defending against meritless litigation…

The reports were modeled after the proposed federal EEO-1 form. Employers must categorize employees within ten job categories and identify the number of employees that fall within the twelve specified pay bands. The job categories are exceptionally broad. For

example, a multitude of various job titles would fall under the broad category of 'professionals'.

In responding to concerns about the usefulness of the reports, the EEOC explicitly stated that these reports are not useful for identifying disparities in pay between two similarly situated workers…The EEOC does not intend or expect that this data will identify specific, similarly situated comparators or that it will establish pay discrimination as a legal matter. Therefore, it is not critical that each EEO–1 pay band include only the same or similar occupations. These reports ultimately show broad swaths of data by job category, not according to whether the jobs are 'substantially similar' for purposes of comparison under the Equal Pay Act or the Fair Employment and Housing Act.

SB 464 seeks to publicize all of this data identifiable by individual companies under the pretense that it would reveal gender and race-based pay disparities. As explained above, this data was never designed to show such disparities. Publicizing the data to target certain employers is a manipulation of what both the EEOC and National Academies have acknowledged is not a reliable measure of pay disparities between similarly situated employees."

Regarding the collection of employee's sexual orientation:
"We appreciate the recognition that information regarding an employee's sexual orientation should only be included in pay data reports if the employee voluntarily provides that information. As a result, we request that the bill include language specifying that the employer is not required to affirmatively ask about an employee's sexual orientation."

Additional opposition from public sector employer organizations, including the League of California Cities and the California State Association of Counties, write:

"Public employers are subject to laws designed to ensure that personnel decisions are based on merit, and are not based on discriminatory bases regarding gender, sexual orientation, or other criteria besides an individual's ability to perform the job.

The complexity of this reporting requirement is made clear by the Civil Rights Department's frequently asked questions about the data reporting, which run well over 50 pages and are nearly 20,000 words. Most counties have at least 100 employees and would be required to comply with the act.

At a time when local governments are facing significant challenges in recruiting employees to fill vacancies, we believe the resources of our local human resources officers are better used to address core duties: recruiting employees, preventing and investigating workplace violence threats, bargaining with employee representatives, and improving the wellbeing, effectiveness, and upward mobility for their workforce."

5. Double Referral:

This bill has been double referred and if approved by this Committee today, will be sent to Senate Judiciary Committee for a hearing.

6. Prior/Related Legislation:

SB 642 (Limon, 2025), among other things, would revise the definition of pay scales for purposes of pay wage transparency and would modify existing law provisions on pay equity to increase the statute of limitations for pay equity claims and strengthen violation provisions. *SB 642 is pending in this Committee.*

SB 1162 (Limon, Chapter 559, Statutes of 2022), among other things, expanded pay data reporting requirements to cover contracted employees and required employers to make pay scale information for positions available to employees and included in job postings.

SB 973 (Jackson, Chapter 363, Statutes of 2020) required employers with 100 or more employees to provide the Department of Fair Employment and Housing (now the Civil Rights Department) with pay data for specified job categories broken down by race, ethnicity, and sex.

AB 2282 (Eggman, Chapter 127, Statutes of 2018) made clarifying changes to the prohibition on requesting a job applicant's prior salary and prohibits the use of prior salary to justify any disparity in compensation. The bill also clarified that an employer is authorized to ask applicants about their salary expectations for the position.

AB 46 (Cooper, Chapter 776, Statutes of 2017) specified that the Equal Pay Act provisions which prohibit employers from paying a lower wage rate to employees on the basis of gender, race, or ethnicity apply to both public and private employers.

AB 168 (Eggman, Chapter 688, Statutes of 2017) prohibits employers, including the Legislature, the state, and local governments, from seeking salary history information about an applicant for employment and requires an employer to provide the pay scale for a position to an applicant upon reasonable request.

AB 1209 (Gonzalez, 2017, Vetoed) would have required employers of 500 or more employees in California to collect specified information on gender wage differentials for exempt employees and board members located in California and submit it to the Secretary of State (SOS) for publishing on its Internet site. *AB 1209 was vetoed by Governor Brown who stated, among other things:*

> "While transparency is often the first step to addressing an identified problem, it is unclear that the bill as written, given its ambiguous wording, will provide data that will meaningfully contribute to efforts to close the gender wage gap. Indeed, I am worried that this ambiguity could be exploited to encourage more litigation than pay equity."

AB 1676 (Campos, Chapter 856, Statutes of 2016) specifies that prior salary cannot, by itself, justify any disparity in compensation under the bona fide factor exception in the existing Equal Pay Act law.

SB 1063 (Hall, Chapter 866, Statutes of 2016) expanded the prohibitions in the Equal Pay Act regarding gender, to include discrimination based on race or ethnicity.

SB 358 (Jackson, Chapter 546, Statutes of 2015) prohibited an employer from paying any of its employees at wage rates less than those paid to employees of the opposite sex for substantially similar work and revised the employer defenses to such pay differentials.

SUPPORT

California Employment Lawyers Association
Greater Sacramento Urban League

OPPOSITION

Acclamation Insurance Management Services
Agricultural Council of California
Allied Managed Care
Anaheim Chamber of Commerce
Brea Chamber of Commerce
California Alliance of Family Owned Businesses
California Apartment Association
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Chamber of Commerce
California Credit Union League
California Farm Bureau
California Hotel & Lodging Association
California League of Food Producers
California Legislative Conference of Plumbing, Heating & Piping Industry
California Retailers Association
California Special Districts Association
California State Association of Counties
California State Council of the Society for Human Resource Management (CALSHRM)
California Trucking Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Civil Justice Association of California (CJAC)
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce
Construction Employers Association
Corona Chamber of Commerce
Elk Grove Chamber of Commerce
Finishing Contractors Association of Southern California
Flasher Barricade Association
Gateway Chambers Alliance
Glendora Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
League of California Cities
Long Beach Area Chamber of Commerce
Mission Viejo Chamber of Commerce
Murrieta Wildomar Chamber of Commerce

National Electrical Contractors Association (NECA)
National Federation of Independent Business
Newport Beach Chamber of Commerce
Northern California Allied Trades
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Paso Robles Templeton Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Rancho Mirage Chamber of Commerce
Roseville Area Chamber of Commerce
Rural County Representatives of California
San Manuel Band of Mission Indians
Santa Clarita Valley Chamber of Commerce
Simi Valley Chamber of Commerce
Southern California Contractors Association
Southern California Glass Management Association (SCGMA)
Southwest California Legislative Council
Torrance Area Chamber of Commerce
United Contractors (UCON)
Urban Counties of California
Valley Industry and Commerce Association
Wall and Ceiling Alliance
West Ventura County Business Alliance
Western Electrical Contractors Association
Western Growers Association
Western Line Constructors Chapter
Western Painting and Coating Contractors Association
Western Wall and Ceiling Contractors Association (WWCCA)

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