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

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SUBJECT: Transportation network company drivers: labor relations

KEY ISSUE

This bill would establish the Transportation Network Company (TNC) Drivers Labor Relations Act and require the Public Employment Relations Board (PERB) to protect TNC drivers' collective bargaining rights under the Act.

ANALYSIS

Existing law:

1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA), but leaves it to the states to regulate collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees have no collective bargaining rights absent specific statutory authority establishing those rights. (29 United States Code §§151 et seq.)

2) Provides under the U.S. Constitution that federal law preempts state law when the two conflict. (U. S. Const., Art. VI, cl. 2.)

3) Requires under U.S. Supreme Court jurisprudence that "[w]hen an activity is arguably subject to §7 or §8 of the [NLRA], the States as well as the federal courts must defer to the exclusive competence of the National Labor Relations Board". (*San Diego Building Trades Council v. Garmon*, 359 U. S. 236, 245 (1959)) [1]

4) Provides several statutory frameworks under California law to provide *public employees* collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. (See e.g., the Meyers-Milias-Brown Act (MMBA) which governs employer-

[1] As restated by Justice Barret in *Glacier Northwest, Inc. v. International Brotherhood of Teamsters Local Union No. 174*, 598 U.S. 771 (2023), "Preemption under the NLRA is unusual, though, because our precedent maintains that the NLRA preempts state law even when the two only arguably conflict. *San Diego Building Trades Council v. Garmon*, 359 U. S. 236, 245 (1959) ('When an activity is arguably subject to §7 or §8 of the [NLRA], the States as well as the federal courts must defer to the exclusive competence of the National Labor Relations Board'). This doctrine—named Garmon preemption after the case that originated it—thus goes beyond the usual preemption rule. Under Garmon, States cannot regulate conduct 'that the NLRA protects, prohibits, or arguably protects or prohibits.' *Wisconsin Dept. of Industry v. Gould Inc.*, 475 U. S. 282, 286 (1986)."

employee relations for local public employers and their employees.) (Government Code §§ 3500 et seq.)

5) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with administering certain statutory frameworks governing *California* state and local public employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers, employees, and employee organizations. (Government Code §3541 et seq.)

6) States that an app-based driver is an independent contractor and not an employee or agent with respect to the app-based driver's relationship with a network company if the following conditions are met:

   a. The network company does not unilaterally prescribe specific dates, times of day, or a minimum number of hours during which the app-based driver must be logged into the network company's online-enabled application or platform.
   b. The network company does not require the app-based driver to accept any specific rideshare service or delivery service request as a condition of maintaining access to the network company's online-enabled application or platform.
   c. The network company does not restrict the app-based driver from performing rideshare services or delivery services through other network companies except during engaged time.
   d. The network company does not restrict the app-based driver from working in any other lawful occupation or business. (Business and Professions Code (B&P) §7451)[2]

7) Defines an app-based driver as a Delivery Network Company courier, TNC driver, or Transportation Charter Party driver or permit holder that meets specified conditions. (B&P Code §7463(a))

8) Requires a network company to ensure that for each earnings period, the company compensates an app-based driver not less than a specified net earnings floor. The net earnings floor establishes a guaranteed minimum level of compensation for app-based drivers. (B&P Code §7453(a))

9) Requires a network company, consistent with the average contributions required under the Affordable Care Act, to provide a quarterly health care subsidy to qualifying app-based drivers, as described. (B&P Code §7454(a))

10) Provides by initiative, approved by the voters in Proposition 22 (2020) and upheld by the California Supreme Court, that TNC drivers are independent contractors not employees pursuant to AB 5. (Proposition 22, *The Protect App-Based Drivers and Services Act*, November 3, 2020, codified as Cal. Bus. & Prof. Code § 7448-7467 (West 2020); *Castellanos v. State of California*, 89 Cal. App. 5th 131, 2023; AB 5 (Gonzalez, Chapter 296, Statutes of 2019))

[2] California voters enacted these provisions by approving Proposition 22, *The Protect App-Based Drivers and Services Act*, in the November 3, 2020, statewide general election.

11) Establishes the Agricultural Labor Relations Act through which the Legislature provides collective bargaining rights to agricultural workers whom the NLRA excludes from its provisions. (Labor Code §1140 et seq.)

This bill:

Title, Declarations, and Policy

1) Establishes the Transportation Network Company Drivers Labor Relations Act (TNCDLRA) in the Business and Professions Code to provide transportation network company (TNC) drivers the opportunity to self-organize and designate representatives of their own choosing.

2) Declares state policy to promote collective bargaining rights for transportation network drivers and state intent that the state action antitrust exemption apply to TNC drivers and their representatives.

3) Provides that TNCDLRA establish a robust system to authorize negotiations between transportation network drivers and transportation network companies, while accommodating Proposition 22, the "Protect App-Based Drivers and Services Act," which California voters approved in November 2020.

Definition of Terms

4) Defines the following terms:

   a. "Active TNC driver" means a TNC driver who has driven at least the median number of rides during the past six months of all TNC drivers who have completed at least 20 rides in California.

   b. "Board" means the Public Employment Relations Board (PERB).

   c. "Certified driver bargaining organization" means an organization that PERB certifies has submitted authorizations from 30 percent of active TNC drivers or, if a representation election is held, has received a majority of the valid votes cast in that election by active TNC drivers, and that PERB has certified as the representative of all California TNC drivers for collective bargaining purposes.

   d. "Company union" means any committee, employee representation plan, or association of TNC drivers as specified that meets either of the following conditions:

      i. A TNC has initiated or created the union, proposed its initiation or creation, participated in the formulation of its governing rules or policies, or participated in or supervised its management, operations, or elections.

      ii. A TNC has maintained, financed, controlled, dominated, or assisted in maintaining or financing the union, unless required to do so by this bill's provisions or any regulations implementing those provisions, whether by compensating anyone for services performed on its behalf or by donating free services, equipment, materials, office or meeting space, or anything else of value, or by any other means.

However, the bill clarifies that no one shall deem a TNC driver organization a "company union" solely because it engaged in specified activities, including:

i. Negotiating or receiving the right to designate released-with-pay TNC drivers to provide TNC drivers labor-management representation.
ii. Receiving permission from a TNC to meet with TNC drivers at the TNC's premises.
iii. Receiving voluntary TNC driver membership dues, as specified.
iv. Receiving TNC funds for TNC drivers' benefits and services, as specified.

e. "Multicompany committee" means a committee formed by multiple TNCs for purposes of bargaining pursuant to this act.

f. "Secretary" means the Secretary of Labor and Workforce Development.

g. "Transportation network company" or "TNC" is a person or company that falls under the definition set forth in subdivision (c) of Section 5431 of the Public Utilities Code. This bill's provisions cover a TNC only if it provides prearranged transportation services in the state and connects passengers with TNC drivers and only with respect to those TNC drivers.

h. "Transportation network company driver" or "TNC driver" means any person who uses a personal vehicle in connection with a TNC's online-enabled application or platform to connect with passengers in the state pursuant to the TNC license of the TNC. However, this term does not include any individual who is a TNC employee, as specified.

Drivers' Collective Bargaining Rights, PERB's Authority, and TNC's Obligations

5) Provides that TNC drivers have the right to do the following:

a. Form, join, and participate in the activities of TNC driver organizations of their own choosing to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.
b. Refuse to join or participate in the activities of TNC driver organizations.

6) Forbids PERB from interpreting TNCDLRA to prohibit TNC drivers from exercising the right to confer with TNCs at any time, provided that during any conference there is no attempt by the TNC, directly or indirectly, to interfere with, restrain, or coerce workers in the exercise of the rights guaranteed by this section.

7) Requires PERB to enforce TNCDLRA and to apply its administrative and regulatory powers as provided in the Educational Employment Relations Act (EERA) to the extent they are not inconsistent with TNCDLRA's provisions.

8) Requires PERB to interpret and apply TNCDLRA's provisions in a manner that is consistent with PERB's administrative and judicial interpretations of PERB's governing statutes if a TNCDLRA provision is the same or substantially the same as that contained in PERB' governing statutes.

9) Authorizes PERB to adopt rules and regulations as necessary to implement TNCDLRA.

10) Deems that any references to "employee"/ "employees", "employee organization", exclusive representative", or "employer" in existing PERB-related statutory or regulatory law refers respectively to "transportation network company driver," "transportation network company driver organization," "certified driver bargaining organization," "transportation network company," as defined in TNCDLRA.

11) Requires TNCs to submit to PERB on January 1, 2026, and every three months thereafter, the name, driver's license number, and, to the extent known by the TNC, the most recent email address, local residence and mailing addresses, cellular telephone number, as well as the driver's first date joining the platform and the number of rides the driver completed in the previous six months for each TNC driver who has provided at least 20 rides within the State of California within the prior six months.

12) Requires each TNC to provide the above information within two weeks after the end of each calendar quarter, as follows: March 31, June 30, September 30, and December 31.

13) Requires each TNC to produce the list in a manipulable electronic format, such as a spreadsheet program consisting of cells organized by lettered columns and numbered rows with each data point in a separate cell, that allows users to sort and perform calculations and analysis.

14) Authorizes PERB to require that the TNCs provide the list in a specified software program.

15) Requires PERB to do the following until a TNC driver union has been certified as the certified drivers' bargaining organization:

    a. Combine the TNC-provided data within 14 days of its submission deadline.
    b. Calculate the median number of rides provided by all TNC drivers.
    c. Prepare a list of all drivers who have completed the median number of rides or more in the past six months and deem any driver who completed the median number of rides an active TNC driver.
    d. Ensure the list includes all information required from the TNCs.
    e. Designate the TNC or TNCs for which the driver has driven during the prior six months.
    f. Ensure that PERB does not list drivers multiple times if they drive for multiple TNCs but only a single time with the relevant TNCs.

16) Does not relieve PERB of the responsibility to timely provide the list if individual TNCs fail to submit the required information.

17) Prohibits anyone from considering the list records as public records under any applicable California law.

Certification and Decertification Procedures, Including Pre-certification Election Procedures

18) Requires PERB to adhere to specified procedures to certify and decertify a TNC drivers' union as follows:

    a. Authorizes a TNC union, at any time, to present to PERB proof sufficient to show that at least 10 percent of active TNC drivers have authorized the union to act as their bargaining representative.

b. Requires PERB, with 30 days of a request, to make a determination as to whether at least 10 percent of active TNC drivers have authorized the union to act as the TNC drivers' bargaining representative.

c. Requires PERB to provide the TNC drivers' list to the union within 30 days of PERB's determination that the union is authorized to represent the drivers and quarterly thereafter, as specified.

d. Permits the union to use the list information only for authorized purposes.

e. Prohibits the union from providing the list information to any third party unless they are the union's agent and are using the information for authorized purposes.

f. Shields a TNC from liability for any damages caused by the union's or PERB's failure to safeguard the list from a data or security breach.

g. Requires each TNC to send a PERB-drafted notice, as specified, to their active TNC drivers that the union is seeking to represent them to initiate a bargaining process to establish terms and conditions for TNC drivers in the industry.

h. Requires PERB's notice to be neutral as to whether TNC drivers should support a TNC union.

i. Prohibits PERB from certifying without an election any other union for six months from its determination that ten percent of drivers have authorized a union as their bargaining representative.

j. Permits a union at any time to submit proof to PERB that 30 percent of drivers have authorized the union to act as their bargaining representative and for PERB to make a determination that the union is the authorized representative.

k. Requires PERB to certify the union within 30 days of the union's request for determination if PERB determines that 30 percent of drivers have authorized a union, except as follows:
   i. The union has less than a majority, in which case PERB must wait 20 days before certification as specified.
   ii. Another union or a driver provides evidence within those 20 days that the union has 30 percent of drivers that authorize it to represent them, or the driver has evidence that 30 percent of drivers desire not to be represented by a union, in which case PERB must hold a representation election among all active TNC drivers within 60 days.
      a) Requires PERB to conduct the election, if required, using a remote electronic voting system that must allow both electronic voting from remote site personal computers via the internet and electronic voting from remote site telephones.
      b) Prohibits PERB from using a system that includes voting machines used for casting votes at polling sites or electronic tabulation systems where votes are cast non-electronically but counted electronically, such as punch card voting or optical scanning systems.

l. Requires PERB not to wait the 20 days nor hold an election before certifying the union if the union provides evidence that a majority of active TNC drivers have designated the union to act as their bargaining representative.

m. Defines the type of proof a union may offer and PERB may accept for determining the union has the required authorized support as specified.

Post-certification Election Procedures

19) Permits a union at any time within one year of PERB's determination that the union is authorized to act as the bargaining representative to petition PERB to conduct a representation election.

20) Requires PERB to schedule a representation election upon receipt an election petition to take place within 60 days and to announce the election date on its internet website.

21) Defines the eligible voters for the election as those individuals who are on the list of active TNC drivers that PERB most recently issued, as specified.

22) Requires PERB to conduct the election, if required, using a remote electronic voting system that must allow both electronic voting from remote site personal computers via the internet and electronic voting from remote site telephones.

23) Prohibits PERB from using a system that includes voting machines used for casting votes at polling sites or electronic tabulation systems where votes are cast non-electronically but counted electronically, such as punch card voting or optical scanning systems.

24) Requires PERB to include any other union on the ballot if, within seven days of the election date announcement, that union submits evidence that it has been authorized to act as the bargaining representative by at least 10 percent of active TNC drivers.

25) Requires PERB to provide the companies, 30 days prior to the election, a notice that informs drivers of the election date, how to vote, and what the election's effect will be if the union receives a majority of valid votes cast.

26) Requires PERB to provide the notice in all languages it determines are likely spoken by 5 percent or more of TNC drivers.

27) Requires each company to send the notice - within seven days of PERB's provision of the notice - by email, by text, and through the method it ordinarily uses to communicate with drivers, to all of the active TNC drivers who appear on the list of eligible voters provided by PERB.

28) Authorizes PERB to provide different versions of the notice that are appropriate for different means of communication.

29) Requires PERB to certify the union if it receives a majority of valid votes cast.

30) Requires a runoff election, as specified, when two or more unions are on the ballot and none receive a majority.

Exclusive Representation

31) Grants the union certified by PERB authority to represent all TNC bargaining unit drivers without challenge by another union for one year following certification and during the time that a collective bargaining agreement is in effect.

32) The exclusive period shall not be longer than three years following the date of the collective bargaining agreement approval, except during a 30-day window period that shall begin 90 days before, and end 60 days before, the collective bargaining agreement expires.

33) Permits TNC drivers during the times when the certified union is subject to challenge to file for a decertification election upon a showing that at least 30 percent of active TNC drivers support decertification, as specified.

One Statewide Bargaining Unit for All

34) Declares that for TNCDLRA's purposes the only appropriate bargaining unit of TNC drivers is a statewide unit of all TNC drivers.

The Union's Rights and Duties

35) Grants the certified union the right to represent all TNC drivers with respect to collective bargaining rights provided by TNCDLRA.

36) Denies any other TNC union the right to engage in bargaining with the TNCs concerning TNC drivers' earnings, benefits, and terms and conditions.

37) Requires the certified union to represent each TNC driver fairly, without discrimination, and without regard to whether the TNC driver is the union's member.

38) Entitles the union to receive the list of drivers and related information provided by the companies to PERB, and to use the list's information for the sole purpose of representing TNC drivers as specified.

Union Dues/Deductions

39) Grants the certified union a right to voluntary membership dues deduction upon presentation of dues deduction authorizations signed by individual TNC drivers, as specified.

40) Requires companies to begin making deductions as soon as practicable, but no later than 30 days after receiving proof of a signed dues deduction authorization.

41) Requires companies to submit dues to the union within 30 days of the deduction.

42) Requires the union's dues deduction rights to remain in full force and effect until an individual revokes authorization for deductions in writing in accordance with the terms of the signed authorization.

PERB Notification to Drivers of Unions Representation and Drivers' Rights

43) Requires PERB to develop and promulgate a notice describing the union's representation and the drivers' rights, as specified, within 30 days after certifying the union.

44) Requires the companies to send the notice to all designated drivers within 30 days of PERB's developing the notice.

45) Requires companies to send the PERB-developed notice at least once per month thereafter to designated drivers.

46) Permits a company to petition PERB for exemption from the requirement to send the notice to its drivers if it would impose an undue cost upon the company.

Mandate on Companies to Bargain with the Union

47) Requires PERB to notify all TNC companies once it determines and certifies the union.

48) Requires all TNC companies to bargain with the certified union concerning earnings, benefits, and other terms and conditions of work, including deactivations.

49) Authorizes the union or covered companies to request to begin negotiations after PERB notifies the covered companies that the union is the certified bargaining organization for the TNC drivers' bargaining unit.

Good Faith Bargaining Requirement

50) Requires the companies, the union, and their respective agents to negotiate in good faith.

51) Defines "to negotiate in good faith" to mean the performance of the companies and the union's mutual obligation to meet at reasonable times and negotiate in good faith with respect to subjects within the scope of bargaining and to execute a written contract incorporating any agreement reached if requested by either party.

52) Provides that the mutual obligation to negotiate in good faith does not compel either party to agree to a proposal or require the making of a concession.

Collective Bargaining Agreement (CBA) Ratification

53) Requires drivers to ratify the CBA pursuant to the unions' procedures if the union and the companies reach a recommended CBA.

54) Requires the parties, after ratification, to submit the recommended CBA to the Secretary of Labor and Workforce Development for review and approval or disapproval.

55) Requires the union and the companies to resume bargaining if the drivers do not ratify the recommended agreement.

First Contract Negotiation – Mediation

56) Allows, prior to the parties' first CBA, the companies or the union to petition PERB at any time following 210 days after an initial request to bargain, for an order referring the parties to mediation.

57) Allows the parties to jointly file a petition requesting referral to mediation at any time after the commencement of bargaining.

58) Requires PERB to promptly refer the parties to mediation upon receipt of their mediation petition.

59) Requires PERB to submit to the parties, within seven days of receiving the petition, a list of qualified, disinterested persons to serve as the mediator if the parties have not already agreed upon a mediator.

60) Requires the companies' and the union's respective representatives to alternately strike from the list one of the names.

61) Requires the parties to determine the order of striking by lot until one name remains and to designate the remaining person as the mediator.

62) Requires PERB to appoint the mediator if the parties are unable to select the mediator within 15 days following receipt of the list from PERB because a party refuses to strike names.

63) Creates a duty on the parties to participate in good faith in mediation.

64) Requires the two parties to share equally the cost of the mediator.

65) Authorizes PERB to apportion costs based on market share if the covered TNCs cannot agree to apportion costs among themselves.

66) Requires the drivers to ratify any recommended CBA reached through mediation in the same manner as one reached directly between the parties.

67) Makes communications and documents exchanged pursuant to mediation inadmissible in any official, regulatory, or judicial proceeding, consistent with Section 1115 et seq. of the Evidence Code.

First Contract Negotiation – Arbitration

68) Requires the parties, within 30 days after referral to *mediation*, to select a prospective *arbitrator* to resolve the dispute if mediation is unsuccessful and provides a similar process to selecting an arbitrator as that for selecting a mediator.

69) Requires the two parties to share equally the cost of the *mediator* and grants PERB authority to apportion costs based on market share if the covered TNCs cannot agree to apportion costs among themselves.[3]

70) Permits either party to petition PERB to refer the dispute to arbitration if the mediator is unable to achieve agreement between the parties within 60 days after PERB has appointed a mediator.

[3] It is unclear but since this provision repeats an earlier provision regarding the apportionment of costs for the mediator, the committee believes that the author intended to refer to apportioning the cost of the arbitrator in this provision.

71) Permits the parties to also jointly petition PERB to refer the dispute to arbitration any time after the commencement of bargaining.

72) Requires PERB to refer the dispute to the arbitrator upon petition by the parties.

73) Requires the arbitrator to hold hearings on all matters related to the dispute and sets forth the procedure for arbitration, as specified.

74) Provides the parties 15 days to agree to modify the recommended agreement before it is submitted to the Secretary of Labor and Workforce Development for review and approval or disapproval.

75) Requires PERB to submit the recommended agreement to the Secretary of Labor and Workforce Development for review and approval or disapproval after 15 days have lapsed since receipt by the parties of the recommended agreement.

Bargaining Subsequent to Initial Contract

76) Requires all subsequent negotiations for all subsequent agreements to begin at least 180 days before the current CBA expires.

77) Allows the parties at any time after 180 days after the commencement of negotiations petition PERB to refer the parties to mediation.

78) Provides that the timelines and procedures for mediation and arbitration for subsequent CBAs generally follow those of the initial contract except as specified.

79) Requires a CBA's terms to remain in effect, including, but not limited to, any grievance and arbitration provisions and any provisions governing the deduction and transmittal of membership dues, until the Secretary of Labor and Workforce Development approves a new CBA.

Binding Application of CBAs on TNC Industry

80) Makes any CBA decision approved by covered companies constituting at least 80 percent of the industry, as specified, binding on all covered companies.

TNC Employer Unfair Labor Practices

81) Makes the following unfair labor practices by the employer:

    a. Failing or refusing to provide PERB the list containing the drivers' information or any other required information, or knowingly providing an inaccurate list or inaccurate information.

    b. Failing or refusing to negotiate in good faith with a certified union.

    c. Failing or refusing to provide a certified union with information required by the union that is relevant and necessary in discharging its representational duties or in exercising its right to represent TNC drivers regarding terms and conditions of work within the scope of representation.

d. Dominating or interfering with the formation, existence, or administration of any TNC driver union, or contributing financial or other support to any such organization, whether directly or indirectly, unless required by this act, by any regulations implementing this act, or as a result of a CAB approved by the state, including, but not limited to, by doing any of the following:

   i. Participating or assisting in, supervising, or controlling the initiation or creation of any such organization or the meetings, management, operation, elections, or formulation or amendment of the organization's constitution, rules, or policies.
   ii. Offering incentives to TNC drivers to join any such organization.
   iii. Donating free services, equipment, materials, offices, meeting space, or anything else of value for use by any such organization, unless those items have been negotiated as a benefit or service for TNC drivers in a bargaining agreement approved by the state. However, a TNC may permit TNC drivers to perform representational work protected under this act during working hours without loss of time or may allow agents of a certified driver union to meet with drivers on its premises or communicate with TNC drivers using the TNC's platform.
   iv. Requiring a TNC driver to join any company union or TNC driver organization or requiring a TNC driver to refrain from forming, joining, or assisting a TNC driver organization of their choice.
   v. Encouraging discouraging membership in any company union or in any TNC driver organization by discriminating with regard to any term or condition of work.
   vi. Discharging, deactivating, or otherwise discriminating with regard to the ability of a TNC driver to obtain rides, or otherwise discriminating against a TNC driver, because they have signed or filed any affidavit, petition, or complaint under this chapter, have given any information or testimony under this chapter, have participated or declined to participate in a TNC driver organization, or have exercised any rights under this chapter.
   vii. Distributing or circulating any blacklist of individuals exercising any right created or confirmed by this chapter or of members of a TNC driver organization, or informing any person of the exercise by any individual of that right or of the membership of any individual of a TNC driver organization for the purpose of preventing those blacklisted or named individuals from obtaining or retaining opportunities for remuneration.
   viii. Interfering with, restraining, or coercing TNC drivers in the exercise of collective bargaining rights as specified.

TNC Driver Union Unfair Labor Practices

82) Makes the following unfair labor practices by the TNC Driver Union

a. Restraining or coercing either of the following:
   i. TNC drivers in the exercise of collective bargaining rights as specified, except that this prohibition shall not impair the union's right to prescribe its own rules with respect to the acquisition or retention of union membership.
   ii. A TNC or multicompany committee in its selection of representatives for purposes of bargaining or the adjustment of grievances.

b. Causing or attempting to cause a TNC employer to commit a prescribed unfair labor practice.
c. Failing or refusing to negotiate in good faith with a TNC employer, as specified.
d. Failing or refusing to provide information requested by a TNC employer that is relevant and necessary for purposes of bargaining regarding terms and conditions of work within the scope of representation, as specified.
e. Failing or refusing to fulfill its duty of fair representation toward TNC drivers where it is the certified union by acts or omissions that are arbitrary, discriminatory, or in bad faith.

Application of PERB's Regulations on Unfair Labor Practices

83) Requires PERB to apply its administrative rules on unfair labor practice procedures, as specified, except to the extent that it has adopted procedures specific to this act.

Injunctive Relief

84) Authorizes a party filing an unfair labor practice charge to petition PERB to seek injunctive relief on behalf of the charging party, pending a PERB decision on the merits of the charge.

85) Allows PERB to petition the appropriate superior court for that relief, as specified.

Exemption from Public Disclosure

86) Exempts TNC drivers' information submitted to PERB from specified public disclosure laws and prohibits public officials from disclosing the information except as provided by other state or federal law.

87) Does not prohibit the disclosure of the information to public agency officials when necessary for the performance of their official duties.

88) Makes legislative findings and declarations that the bill's limitation on the public's right of access to the meetings of public bodies or the writings of public officials is necessary to strike a balance between disclosing relevant information to the public while protecting the privacy interests of individual TNC drivers subject to the act.

COMMENTS

1. Summary

This bill would give independent contractor TNC drivers collective bargaining rights under state law where federal law does not. It has its origins in a long, complicated, and ongoing struggle to provide these workers collective bargaining rights when both federal and state labor law pivot with every change in federal and state administrations, regulatory agencies, new legislative mandates, and evolving federal and state jurisprudence.

In short, California voters approved Proposition 22 in 2020, which cemented the independent contractor status of TNC drivers in state law after case law (*Dynamex)* and state legislation (*AB 5*) designated those workers as TNC employees.

As employees, the drivers would have had the right to organize and force the TNCs to bargain with their representatives under the National Relations Labor Act (NLRA) and the NLRA would preempt any state efforts to impair or improve upon those rights.

Ironically, since the NLRA excludes independent contractors from its provisions, normal federal preemption doctrines restricting state regulation of private sector labor relations do not apply here. Thus, the state is presumably free to enact legislation to provide the drivers their labor rights under state law. This situation is most similar to the Legislature's action in establishing the Agricultural Labor Relations Act to provide collective bargaining rights to agricultural workers whom the NLRA also excludes from its coverage. The Legislature enacted that bill in the 1970s and it still holds today.

Like other current bills advocating for the defense of workers' labor rights, this bill raises similar concerns that its mandates on PERB may distract PERB from its primary mission of resolving public sector labor relations and that litigation and enforcement actions may drain state and PERB resources. Moreover, some may see this bill as overturning the voters' intent that Proposition 22 exclusively regulate the TNC sector's labor relations. Still, others may feel the bill does not go far or fast enough to ensure TNC drivers receive the rights to collective action.

Federal administrative and constitutional law may shift again and transform the legal landscape regulating this field. It is impossible to say that this bill will be the last word on the status of TNC workers. Nevertheless, it conforms to the committee's understanding of current law and reflects this Legislature's interest in recognizing and protecting these workers' labor rights.

2. Background

Anti-Trust Laws and the National Relations Labor Act (NLRA)

Anti-trust laws attempt to prevent collusion of market participants in order to ensure free, competitive markets. Those laws, intended to check corporate power during the Industrial Revolution, later targeted workers engaged in collective action against their employers to better their working conditions. Responding to worker discontent and the economic tensions in the early 20th century, Congress exempted certain collective bargaining actions from the anti-trust prohibitions and established a federal regime through the NLRA for regulating collecting bargaining in the private sector. Congress excluded some workers from this regime, including public-sector employees, agricultural and domestic workers, *independent contractors*, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors.[4]

AB 5 (2019) Makes TNC Drivers Employees

The Legislature enacted AB 5 (Gonzalez, Chapter 296, Statues of 2019) to codify a California Supreme Court case setting forth the standards to determine whether a worker is an employee or an independent contractor.[5] Since the NLRA guarantees employees' collective bargaining rights and because employers incur greater costs associated with employees than independent

[4] National Labor Relations Act, 29 USC 152 §§ 2-3

[5] *Dynamex Operations West v. Superior Court* (2018) 4 Cal. 5th 903

contractors (e.g., payroll contributions such as Social Security and Medicare, potential health benefit contributions, etc.), employers have a strong economic incentive to misclassify employees as independent contractors. AB 5 sought to address misclassification abuse by categorizing most workers as employees but provided exclusions for specified workers. [6]AB 5 initially classified TNC drivers as employees, which would have brought them under the NRLA's provisions and would have guaranteed them the right to organize and collectively bargain with TNCs like Uber and Lyft.

Proposition 22 (2020) Makes TNC Drivers Independent Contractors Again

In response to AB 5's enactment, the Protect App-Based Drivers and Services Coalition, together with Uber and Door Dash officials, Davis White and Keith Yandell, placed Proposition 22 on the November 2020 General Election ballot. The initiative classified TNC drivers as independent contractors; provided certain compensation and benefits to drivers; and made it difficult for the Legislature to reverse that classification by requiring a 7/8 vote of each house to make changes to Proposition 22's provisions. The proposition's supporters argued, among other things, that AB 5 threatened the viability of TNC services and that Proposition 22 was a better method of providing increased pay and benefits to TNC drivers. The voters passed the initiative, thereby once again making TNC drivers independent contractors.

The California Supreme Court Sustains Proposition 22 – *Castellanos*

After Proposition 22 passed, Hector Castellanos, an Uber driver and leader of the California Gig Workers Union, filed a lawsuit along with other plaintiffs arguing, among other things, that Proposition 22 was unconstitutional because it conflicted with the Legislature's constitutional power to provide a comprehensive workers' compensation system.[7] The case went to the California Supreme Court, which upheld Proposition 22's system of classifying TNC drivers as independent contractors and providing specified compensation increases and benefits to qualifying TNC drivers. The court cited the great weight it must give to laws enacted when the people express their voice through the initiative process, rejected arguments that the Legislature held exclusive power to modify the workers' compensation system, and harmonized Proposition 22's provisions with the Legislature's constitutional power to implement a comprehensive workers' compensation system to avoid a constitutional conflict.[8]

Federal Pre-emption of Employee Collective Bargaining Rights

U.S. Supreme Court jurisprudence under *San Diego Building Trades Council v. Garmon* [9] and its progeny prevents states from legislating on collective bargaining rights that the federal

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[6] See, California Senate Floor Analysis of AB 5 (Gonzalez, Chapter 296, Statutes of 2019), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB5

[7] *The fate of the anti-worker Proposition 22 goes to California Supreme Court*, July 10, 2023, SEIU Local 1021 website article, https://www.seiu1021.org/article/fate-anti-worker-proposition-22-goes-california-supreme-court

[8] The court demurred to deciding the issue absent a case where a legislative statute directly implicated the conflict between Proposition 22's requirement that the Legislature can only amend the proposition's provisions with a 7/8 vote of both chambers and the Legislature's power to establish a comprehensive workers' compensation program. *Castellanos v. State of California*, 89 Cal. App. 5th 131, 2023.

[9] 359 U. S. 236, 245 (1959)

government regulates through the NLRA.[10] As employees under AB 5's classification system, *Garmon* would preempt the Legislature from regulating the TNC drivers' labor rights. However, as independent contractors under Proposition 22's classification system, this bill's supporters have a good case that California may provide collective bargaining rights to this group of workers because the NLRA excludes independent contractors from its provisions.[11]

Rideshare Drivers United (RDU) Concerns

RDU, an organization representing many TNC drivers is active in the fight to recognize those workers' right to organize, and expressed several concerns to the committee about the bill. In summary, RDU argues that the bill should include provision to:

- Provide mandatory recognition and bargaining.
- Avoid incentives for misclassification of employees as independent contractors.
- Ensure statutory protections for CBAs if future law converts drivers into employees.
- Make collective bargaining rights even stronger than those provided by the NLRA.
- Provide PERB appropriate resources.
- Ban company unions.

Recent author amendments may have addressed many of RDU's concerns.

Unintended Consequences to PERB and Public Sector Collective Bargaining Rights

Litigation over this bill could haul PERB and California's public sector labor laws before federal courts, including the U.S. Supreme Court, and provide the federal judiciary an opportunity to revisit past precedents that support public sector collective bargaining. At a minimum, future litigation could seriously distract PERB from its primary mission of resolving disputes among public employers and their employees and could deplete the resources PERB sorely needs to carry out that mission.

Conclusion

This bill conforms to the committee's understanding of existing constitutional parameters and addresses the Legislature's consistent priority of providing and protecting TNC workers' rights to organize and bargain collectively with TNCs.

3. Need for this bill?

According to the author:

"AB 1340 provides a statutory path for rideshare drivers to organize and have a voice on the job. Because of the 2021[sic] gig industry-backed ballot measure Prop 22, rideshare drivers are considered independent contractors under California law and do not have access to

[10] Supra, FN 1

[11] The argument supporting California legislation in this field is reinforced by a similar move in the 1970s to provide agricultural workers, otherwise excluded by the NLRA, collective bargaining rights through the establishment of the Agricultural Labor Relations Act.

worker protections such as workers' compensation, sick leave or overtime. Furthermore, as independent contractors, rideshare drivers are not covered by the National Labor Relations Act (ACT), and therefore, have no right to organize or collectively bargain with rideshare companies under federal law. Drivers do not have the ability to negotiate their routes, their wages, or their benefits. Yet they must take on all of the expenses of fuel and maintaining their vehicles, in addition to any costs that may arise from getting into roadside accidents. California's more than 800,000 gig rideshare drivers deserve the right to have a seat at the table and bargain for better pay, meaningful benefits, job security, as well as safety measures for themselves and their passengers."

4. Proponent Arguments

According to the Service Employees International Union, California:

"Since independent contractors are excluded from coverage under the National Labor Relations Act, AB 1340 provides the needed state legislation and authorization for rideshare drivers to exercise the right to organize and collectively bargain that other workers enjoy under federal labor law. AB 1340 ensures that drivers can exercise this right without the fear of antitrust liability.

AB 1340 is historic in that it would empower more than 800,000 workers to have a voice on the job, giving more workers the right to unionize than any other legislation in recent California history. Not since the California Agricultural Labor Relations Act of 1975 extended the right to organize and collectively bargain to farmworkers has our state extended the right to unionize to workers at this scale."

According to the California Federation of Unions:

"AB 1340 will give rideshare drivers the opportunity to unionize and collectively bargain with TNC companies. Given the restrictions of Proposition 22, it is even more important that these workers have the ability to join a union and advocate together for better, safer working conditions. A union is also the best hope for these workers to win back the rights that were unjustly taken away from this workforce and to battle the threat from autonomous vehicles that is rapidly displacing drivers."

5. Opponent Arguments:

According to Uber:

"As written, this bill would override the will of California voters, undermine the independence of tens of thousands of app-based drivers, and raise costs for millions of Californians.

AB 1340 proposes several changes that are in direct conflict with Proposition 22, which was passed overwhelmingly by California voters in 2020 with nearly 60% of the vote, and was recently upheld by the California Supreme Court in Castellanos vs State of California in 2024. That decision reaffirmed voters' intent to protect driver independence — a model drivers overwhelmingly support.

If passed as written, AB 1340 would fundamentally alter the way platforms such as Uber operate. By targeting a single segment of the broader gig economy, AB 1340 risks destabilizing a service Californians rely on every day. It will drive up costs in a state already struggling with affordability, disproportionately hurt low-income communities, and ultimately reduce driver earnings as demand falls."

According to TechNet and the California Chamber of Commerce:

"Proposition 22 was approved California voters in the 2020 statewide election. It codified app-based drivers as independent contractors and established a tailored system of minimum earnings guarantees, health-care stipends, and insurance protections in lieu of collective bargaining. Proposition 22 was also upheld unanimously by the California Supreme Court in Castellanos vs State of California in 2024, where the decision reaffirmed voter's intent to protect driver independence.

AB 1340 would upend that framework by granting ride-share drivers a state-sanctioned path to unionize and negotiate sector-wide compensation agreements, effectively re-imposing an employment-style relationship and bargaining process that Prop 22 was designed to avoid. AB 1340 could destabilize a transportation service that Californians rely on every day."

5. Dual Referral

The Senate Rules Committee referred this bill to the Senate Public Employment and Retirement Committee and the Senate Transportation Committee.

7. Related Legislation/ Initiatives:

AB 283 (Haney, 2025) would establish the In-Home Supportive Services (IHSS) Employer-Employee Relations Act to shift collective bargaining with IHSS providers from the county or public authority to the state and would also provide PERB jurisdiction of labor relations between the state and IHSS workers. *This is currently pending before the Senate Judiciary Committee.*

AB 672 (Caloza, 2025) would grant PERB the right, upon timely application, to intervene in a civil action arising from a labor dispute involving public employee strike actions that PERB claims implicates the constitutionality, interpretation, or enforcement of a statute administered by PERB. *This bill is currently pending before the Senate Labor, Public Employment and Retirement Committee.*

SCA 7 (Umberg, 2023) would have established a broad-based constitutional right for any person in California to form or join a union and for that union to represent the person in collective bargaining with the person's respective employer. *This measure died in the Senate Elections and Constitutional Amendments Committee.*

AB 1776 (Assembly Committee on Labor and Employment, Chapter 133, Statutes of 2023), inter alia, updated an obsolete cross-reference defining an employee in the provision that requires employers to secure the payment of workers' compensation for injuries incurred by employees from Labor Code §2750.3 to Labor Code §2775.

Proposition 22, *The Protect App-Based Drivers and Services Act*, November 3, 2020, General Election, codified as Cal. Bus. & Prof. Code § 7448-7467 (West 2020), provided that, notwithstanding any other provision of law, including, but not limited to, the Labor Code, the Unemployment Insurance Code, and any orders, regulations, or opinions of the Department of Industrial Relations or any board, division, or commission within the Department of Industrial Relations, an app-based driver is an independent contractor and not an employee or agent with respect to the app-based driver's relationship with a network company if they meet specified conditions.

AB 5 (Gonzalez, Chapter 296, Statutes of 2019) codified the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) that presumes a worker is an employee unless a hiring entity satisfies a three-factor test, and exempts from the test certain professions and business-to-business relationships.

AB 378 (Limón, Chapter 385, Statutes of 2019) established the Building a Better Early Care and Education System Act to provide licensed and unlicensed childcare providers the right to form a single, statewide childcare provider organization to negotiate collectively with the state and also required PERB to regulate those collective bargaining rights, as specified.

SUPPORT

Service Employees International Union, California (Sponsor)
American Federation of State, County and Municipal Employees
California Federation of Labor Unions
California School Employees Association
Coalition of California Welfare Rights Organizations
Grace Institute-End Poverty in California
Southern Christian Leadership Conference Southern California
The Translatin@ Coalition
Western Center on Law & Poverty, INC.

OPPOSITION

California Chamber of Commerce
Lyft, INC.
Protect App-based Drivers & Services Coalition
TechNet
Uber Technologies, INC.

-- END --

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

Bill No:	AB 538	**Hearing Date:**	June 25, 2025
Author:	Berman		
Version:	May 23, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: Public works: payroll records

KEY ISSUE

This bill requires the awarding body of a public works project to obtain certified payroll records (CPRs) from a contractor and make CPRs available to the requesting entity, as specified.

ANALYSIS

Existing federal law:

1) Permits, pursuant to the Labor Management Cooperation Act of 1978, the establishment of plant, area, and industrywide labor management committees (JLMCs), which have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry, as specified. (29 U.S.C. §175a)

2) Establishes labor management committees for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development, or involving workers in decisions affecting their jobs. (29 U.S.C. §175a.)

3) Establishes multiemployer Taft-Hartley trust funds, which are collectively bargained pension, health, or welfare benefit trusts jointly administered by an equal number of employer and employee representatives, as specified. (29 U.S.C. §186(c)(5)-(c)(8))

Existing law:

1) Establishes within the Department of Industrial Relations (DIR) the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC to ensure a just day's pay in every work place and to promote justice through the robust enforcement of labor laws. (Labor Code §79-107)

2) Defines "public works," for the purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. (Labor Code §1720(a))

3) Defines "awarding body" or "body awarding the contract" as a department, board, authority, officer or agent awarding a contract for public work. (Labor Code §1722)

4) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over $1,000 dollars and imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)

5) Requires each contractor and subcontractor to keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. (Labor Code §1776 (a))

6) Requires the payroll records in 5), above, to be certified and made available for inspection to all of the following:

   a. An employee's certified payroll record (CPR) must be made available for inspection or furnished to the employee or the employee's authorized representative, upon request.
   b. All CPRs must be made available for inspection or furnished upon request to a representative of the body awarding the contract and DLSE.
   c. All CPRs must be made available upon request by the public for inspection or for copies thereof.

   (Labor Code §1776(b))

7) Requires requests by the public for CPRs to be made through either the body awarding the contract or DLSE. The requesting party shall reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public cannot access records at the principal office of the contractor. (Labor Code §1776(b))

8) Requires any copy of CPRs made available for inspection as copies or furnished upon request to the public or any public agency by the awarding body or DLSE to be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. (Labor Code §1776(e))

9) Requires any copy of CPRs made available for inspection by, or furnished to, JLMCs to be marked or obliterated only to prevent disclosure of an individual's social security number. (Labor Code, §1776(e))

10) Requires any copy of CPRs made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund to be marked or obliterated only to prevent disclosure of an individual's full social security number, but to provide the last four digits of the social security number. (Labor Code, §1776(e))

11) Requires a contractor or subcontractor to file CPRs with the entity that requested the records within 10 days after written receipt. (Labor Code §1776(d))

12) Requires contractors and subcontractors, in the event that they do not comply within the 10-day period, to pay to the state or subdivision on whose behalf the contract was made or awarded a penalty of $100 per day or portion thereof for every worker until strict compliance is effectuated. A contractor is not subject to a penalty due to the failure of a subcontractor to comply with this section. (Labor Code §1776(h))

13) Requires contractors and subcontractors, while performing public works, to furnish specified payroll records at least once a month directly to the LC, in an electronic format, in the manner prescribed by the LC, on the department's internet website. (Labor Code, §1771.4 (a)(3))

14) Requires DIR, by July 1, 2024, to develop and implement an online database, accessible only to multiemployer Taft-Hartley trust funds and JLMCs, of electronic certified payroll records submitted in compliance with public works requirements. (Labor Code, §1771.4 (e))

This bill:

1) This bill requires the awarding body of a public works project, upon request by the public, to obtain CPRs from a contractor and make CPRs available to the requesting entity.

2) Requires a contractor to comply within 10 days of receiving written notice from an awarding body requesting a certified copy of payroll records.

3) Provides that if a contractor or subcontractor fails to comply within the 10-day period, the awarding body shall notify DLSE who may request penalties be withheld from progress payments, as specified.

COMMENTS

1. Background:

Certified Payroll Records (CPRs) Requests

All contractors working on "public works" projects are required to abide by a set of laws that ensure the responsible use of public funds. Among other requirements, this means maintaining accurate payroll records and making them available for inspection or copy. Records must contain the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. Access to CPRs varies depending on the requesting entity. For example, representatives from awarding bodies and DLSE can inspect CPRs at all reasonable hours at the principal office of the contractor, whereas the public cannot. CPRs made available to the public or any public agency must be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. Any CPRs made available to a multiemployer Taft-Hartley trust fund shall be marked or obliterated only to prevent disclosure of an individual's full social security address, but shall provide the last four digits. CPRs available to JLMCs shall be marked or obliterated only to prevent disclosure of an individual's social security number.

A request by the public to inspect CPRs must be made through either the awarding body or DLSE. Once made, contractors and subcontractors have ten days upon receipt of a written request to furnish CPRs. In the event that a contractor or subcontractor fails to comply, they forfeit one hundred dollars for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Penalties are paid to the state or subdivision on whose behalf the contract was made or awarded. To facilitate compliance, DLSE provides a standard public works payroll reporting form (Form A-1-131) in all written requests. However, contractors and subcontractors can use an alternate format as long as it contains all of the required information.

CPRs are an essential tool for combatting wage theft. DLSE and JLMCs use the records to confirm that contractors and subcontractors pay prevailing wages. Multiemployer Taft-

Hartley trust funds use the records to allocate contributions to pension, health, or welfare benefit trusts.

Electronic Certified Payroll Records Database
Contractors and subcontractors working on public works projects are required to furnish specified payroll records at least once a month directly to the LC, in an electronic format, in the manner prescribed by the LC, on DIR's website. This requirement is *separate and distinct* from the requirement to make CPRs available within 10 days upon receipt of a written request. Electronic certified payroll records (e-CPRs) do not contain all of the payroll information that is required for a contractor to comply with written requests. Contractors and subcontractors who fail to submit e-CPRs are liable for penalties of one hundred dollars a day for non-compliance, up to a total of five thousand dollars per project. Penalties are deposited in the State Public Works Enforcement Fund. DIR maintains an online database of e-CPRs accessible only to JLMCs and multiemployer Taft-Hartley trust funds.

The e-CPR database was temporarily paused from June 22, 2024 to June 22, 2025. During that time, the requirement to submit e-CPRs monthly was paused. Given that the database is one of the methods through which JLMCs and multiemployer Taft-Hartley trust funds verify contractors' compliance with prevailing wage requirements, both entities have had to make formal requests through awarding bodies to obtain CPRs.

This Bill
Although the requirement to maintain CPRs falls on contractors and subcontractors, requests by the public to access CPRs go through either the awarding body or DLSE. The author and sponsor of this bill contend that awarding bodies are increasingly denying access to CPRs without attempting to contact contractors. AB 538 would require an awarding body, upon request by the public, to obtain CPRs from a contractor and make them available to the requesting entity. Contractors would have 10 days to comply upon receipt of a written notice. If a contractor fails to comply, the awarding body would be required to notify DLSE who may request penalties be withheld from progress payments.

Opponents have concerns with the 10-day timeline and argue that it unnecessarily subjects contractors to excessive penalties. However, the timeline is consistent with existing public works law, which already requires contractors to furnish payroll records, upon request, within 10 days.

2. Need for this bill?

According to the author:

"AB 538 would clarify the existing obligation that awarding agencies of public works projects have to provide payroll records at the request of the public. It would establish a process for these agencies to attempt to obtain the certified payroll record from the contractor when requested by the public without placing additional liability on the awarding body if the contractor fails to provide the record. It would also require the awarding agency notify DLSE of the contractor's failure to comply.

AB 538 would clarify an awarding agencies' obligation regarding payroll records requests to increase transparency and accountability for the use of taxpayer dollars. This bill will ensure

that employees are being paid what they are rightfully owed, and that public money is being spent appropriately."

3. Proponent Arguments:

The sponsors of the measure, the California-Nevada Conference of Operating Engineers, argue:

"Existing law requires that contractors and subcontractors on public works projects keep accurate payroll records… Contractors are additionally required to make these records available for inspection at reasonable hours at their principal office for authorized employee representatives, as well as for representatives of the awarding body and the Division of Labor Standards Enforcement (DLSE).

In addition to a contractor's responsibility to maintain these records and only produce them for select entities, existing law places an obligation on awarding bodies and the Division of Labor Standards Enforcement to produce copies of public works certified payroll records at the request of the public…

While existing law is clear as it relates to the public's obligation to only make a certified payroll records request through the awarding body or DLSE, the law is silent on situations in which the awarding body does not have the payroll record in their possession at the time of the request.

In situations in which a public request is made through DLSE, existing law establishes a process under which the contractor must comply with DLSE's request for records within 10 days, or face a potential penalty of $100 per day, for each worker, until compliance is effectuated. Guidance on how contractors are expected to respond to a public works payroll request from the awarding body does not appear to currently exist in statute.

Recently, labor compliance entities have noted increasing instances of awarding bodies denying public requests for payroll records simply because they do not have the records in their possession at the time of the request…

In an effort to bring clarity to awarding bodies, contractors, labor compliance entities, and the public, AB 538 (Berman) would clarify that when the public makes a lawful request to an awarding body for public works payroll records on their project, the awarding body is required to make an attempt to obtain the record from the relevant contractor and make them available to the requesting entity."

4. Opponent Arguments:

A coalition of opponents, including Housing California and the California Housing Partnership, argue:

"Our organizations represent the development, non-profit, financial, and public sectors united in the goal of increasing the supply of safe, stable, and affordable housing options for California residents.

Under existing law, contractors and subcontractors are required to maintain accurate payroll records and make them available for inspection or furnished upon request to a representative of the awarding body or to the California Department of Industrial Relations (DIR). Current law also imposes penalties that contractors and subcontractors are subject to if they do not comply with these requirements.

We fail to understand why the existing process for awarding agencies and DIR to collect information regarding payroll records is deficient. We also have significant concerns with the 10-day compliance deadline the bill imposes on contractors and subcontractors when receiving requests from awarding bodies, as it unnecessarily subjects them to excessive penalties.

For these reasons, we remain opposed to AB 538. Please feel free to reach out to us if you have any questions or need additional information regarding our position."

5. Prior Legislation:

AB 963 (Petrie-Norris, 2025) would require an owner or developer undertaking any public works project to make specified records available upon request to DLSE, to multiemployer Taft-Hartley trust funds, and to JLMCs. *This bill is pending hearing in the Senate Labor, Public Employment and Retirement Committee*.

AB 3186 (Petrie-Norris, 2024) was nearly identical to AB 963, above. *This bill was held in the Senate Rules Committee.*

AB 2182 (Haney, Vetoed, 2024) would have, among other things, specified that when the LC requests to review a contractor's payroll records to verify their accuracy, the contractor must make available all of the items specified in the California Code of Regulation's definition of payroll records. *This bill was vetoed by the Governor*.

AB 587 (Robert Rivas, Chapter 806, Statutes of 2023) required any copy of records requested by, and made available for inspection by or furnished to, a Taft-Hartley trust fund or JLMC to be on forms provided by the DLSE or contain the same information as the forms provided by the DLSE. Additionally, AB 587 clarified that copies of electronic certified payroll records do not satisfy payroll records requests made by Taft-Hartley trust funds and JLMCs.

SB 954 (Archuleta, Chapter 824, Statutes of 2022) required the Department of Industrial Relations to develop and implement an online database of certified payroll records submitted to comply with public works requirements.

AB 1023 (Flora, Chapter 326, Statutes of 2021) revised the requirement to furnish payroll records monthly to require that the contractor or subcontractor furnish those records at least once every 30 days while work is being performed on the project and within 30 days after the final day of work performed on the project. The bill also required that the contractor or subcontractor furnish these records in an electronic format, in the manner prescribed by the Labor Commissioner, on the department's internet website.

SUPPORT

California-Nevada Conference of Operating Engineers (Sponsor)
California Federation of Labor Unions
California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council
International Union of Painters and Allied Trades, District Council 16
International Union of Painters and Allied Trades, District Council 36
State Building and Construction Trades Council of California
Western States Council of Sheet Metal Workers

OPPOSITION

Associated Builders and Contractors of California
California Housing Consortium
California Housing Partnership
California Special Districts Association
California State Association of Counties
City of Rancho Cucamonga
Housing California
League of California Cities
Non-profit Housing Association of Northern California
Rural County Representatives of California
San Diego Housing Federation
Southern California Association of Non-profit Housing
Urban Counties of California

-- END --

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

Bill No:	AB 338	**Hearing Date:**	June 25, 2025
Author:	Solache		
Version:	May 23, 2025		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Workforce development: the Counties of Los Angeles and Ventura: 2025 wildfires

KEY ISSUE

This bill requires the California Workforce Development Board (CWDB), upon appropriation of funds for this purposes, to allocate funds to the Los Angeles County Department of Economic Opportunity and the Economic Development Collaborative for workforce strategies to ensure a skilled and sufficient workforce for the scale of rebuilding and recovery of areas in the counties of Los Angeles and Ventura impacted by the 2025 wildfires, as specified.

ANALYSIS

Existing federal law:

1) Establishes the Workforce Innovation and Opportunity Act (WIOA) to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. (29 USC §3101-3361)

Existing state law:

2) Creates the California Workforce Innovation and Opportunity Act to make programs and services available to individuals with employment barriers. (Unemployment Insurance Code §14000 et seq.)

3) Establishes the 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.)

4) Requires the establishment of a local workforce development board in each local workforce development area of the state to, among other things, plan and oversee the workforce investment system. (Unemployment Insurance Code §14201)

5) Defines "high road training partnership" as an initiative or project that models strategies for developing industry-based, worker-focused training partnerships, including labor-management partnerships. High road training partnerships operate via regional, industry- or sector-based training partnerships comprised of employers, workers, and their representatives including organized labor, community-based organizations, education, training, and social services providers, and labor market intermediaries. High road training partnerships

demonstrate job quality standards and employment practices that include, but are not limited to, the following:

a. Provision of comparatively good wages and benefits, relative to the industry, occupation, and labor market in which participating workers are employed.
b. Payment of workers at or above local or regional living wage standards as well as payment at or above regional prevailing wage standards where such standards exist for the occupations in question.
c. A history of investment in employee training, growth, and development.
d. Provision of opportunities for career advancement and wage growth.
e. Safe and healthy working conditions.
f. Consistent compliance with workplace laws and regulations, including proactive efforts to remedy past problems.
g. Adoption of mechanisms to include worker voice and agency in the workplace. (Unemployment Insurance Code §14005(s))

6) Defines "high road construction careers" as high road training partnerships that invest in regional training partnerships comprised of local building trades councils, workforce, community, and education interests that connect to state-approved apprenticeship programs, that utilize the standard Multi-Craft Core preapprenticeship training curriculum and provide a range of supportive services and career placement assistance to women and people from underserved and underrepresented populations. (Unemployment Insurance Code §14005(t))

This bill:

1) Requires CWDB, upon appropriation, to allocate funds to the Los Angeles County Department of Economic Opportunity and the Economic Development Collaborative for workforce strategies, such as education, high road training partnerships, and other job training programs, preapprenticeships, transitional jobs, or supportive services, including stipends, for underemployed and unemployed low- to moderate-income individuals to ensure a skilled and sufficient workforce for the scale of rebuilding and recovery of areas in the Counties of Los Angeles and Ventura impacted by the 2025 wildfires and to support underemployed and unemployed low- to moderate-income workers affected by the fires.

a. Specifies that this also includes rapid response and layoff aversion, recruitment services, financial incentives, and customized training opportunities for businesses impacted by the fires and those hiring impacted workers as part of the rebuild and recovery.
b. Specifies the funds are also for new or expanded job and business centers and operations near the fire zones to ensure close proximity of programs and services for dislocated and impacted workers and businesses.

2) Authorizes the CWDB to use up to 2 percent of the total allocation for state administration.

3) Requires the CDWB to determine the most expeditious allocation, deployment, and, if needed, redeployment of the funds based on the greatest need and, for this purpose, requires CDWB to consider the number of underemployed and unemployed low- to moderate-income individuals impacted by the fires or needed for the rebuild and recovery.

   a. Requires CDWB to allow the Los Angeles County Department of Economic Opportunity to subcontract with other local workforce development boards in the County of Los Angeles, including the City of Los Angeles

4) Requires the CWDB to require quality standards and practices, as specified.

5) Requires the Los Angeles County Department of Economic Opportunity and the Economic Development Collaborative, in developing and implementing workforce strategies funded through this bill, to focus on employment in public and private sector jobs in construction, utilities, firefighting, health care, social services, education, childcare, housing and shelter assistance, or other areas essential to emergency response, disaster relief, recovery, rebuilding, and regional economic development and resilience.

6) Requires individuals participating in the workforce programs funded pursuant to this appropriation to have access to expedited licensing and certification to ensure there is a direct pipeline into the workforce.

7) Adds an urgency clause.

8) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique circumstances facing the Counties of Los Angeles and Ventura due to extreme wildfires beginning in January 2025 that have resulted in the urgent need to support affected workers and for a skilled workforce to support the rebuilding, recovery, and economic development and resilience of areas in those counties impacted by the wildfires.

COMMENTS

1. Background:

2025 Los Angeles Wildfires

On January 7, 2025, a series of wildfires ignited in the Los Angeles metropolitan area. Within days, fires swept through the Pacific Palisades and Altadena, displacing thousands of people, burning 40,000 acres, and destroying and damaging thousands of structures. By the time the fires were contained, 29 people lost their lives and countless more lost their homes, their jobs, and their neighborhoods. In March, 2025, the Senate Labor, Employment and Retirement Committee and the Assembly Labor and Employment Committee held a joint informational hearing titled "L.A. Wildfires: Ensuring an Equitable Recovery for Workers." The committees heard from various worker, business, and regional stakeholders on the impacts of workers and businesses in the aftermath of the devastating Los Angeles-area wildfires.

A study on the economic and community impact of the 2025 Los Angeles wildfires, commissioned by the Southern California Leadership Council and conducted by the Los Angeles County Economic Development Corporation Institute for Applied Economics, found that the fires "resulted in significant economic, property, and employment losses, with total property damages estimated between $28.0 billion and $53.8 billion." They also found that "[b]usiness disruptions within the fire perimeters are projected to cause $4.6 billion to $8.9 billion in lost economic output in Los Angeles County over a five-year period (2025-2029), representing approximately 0.3 to 0.6 percent of the county's total economic output. The fires

could lead to employment losses totaling between 24,990 and 49,110 job-years and labor income reductions ranging from $1.9 billion to $3.7 billion. Additionally, federal, state, and local governments could see tax revenue losses between $0.73 billion and $1.4 billion due to reduced business activity and employment."[1]

As the joint informational hearing backgrounder describes, "[t]o mitigate these impacts and support workers in the LA region, the Employment Development Department awarded up to $20 million to Los Angeles County to support the immediate needs of workers suffering job losses or reduced hours in the aftermath of devastating firestorms with temporary employment. The funding also provides the kind of support needed for long-term recovery and more permanent reemployment.[2] The $20 million is 100% federally funded by two separate $10 million grants, as described below, from the U.S. Department of Labor: the Disaster Recovery National Dislocated Worker Grant and the Workforce Innovation and Opportunity Act Additional Assistance Grant.[3] [4]

The Los Angeles region received up to $10 million that will be coordinated by Los Angeles County and the City of Los Angeles to support humanitarian aid and cleanup efforts by creating temporary jobs in impacted areas. These jobs will address urgent needs such as debris removal, shelter operations, and community health support – providing critical opportunities for impacted communities to recover and rebuild.

In addition, another $10 million was awarded to the Los Angeles County Department of Economic Opportunity to address the specific needs of workers in collaboration with several of the region's local workforce development boards. These funds will enable displaced workers to access transitional jobs, on-the-job training, and other workforce services that support long-term recovery and meaningful careers in the Los Angeles region. Program participants may also receive additional help with other needs as the recovery continues, including housing, childcare, transportation, computer training, skill upgrades, and other supportive services, depending on the specific offerings in each local area. The combined funding reflects a robust partnership between local, state, and federal agencies to quickly address the urgent impacts of the disaster, which have affected thousands of residents and businesses."

California Workforce Development Board

The California Workforce Development Board (CWDB) was established in 1998, as outlined in the federal Workforce Investment Act. In 2014, the Workforce Investment Act was replaced by the WIOA, which outlined the vision and structure through which state workforce training and education programs are funded and administered regionally and locally. WIOA mandates the creation of a statewide strategic workforce plan. Every few years, the CWDB, in conjunction with its statewide partners, releases the Unified Strategic State Plan (State Plan).

In order to support the State Plan, CWDB was required to establish initial eligibility criteria for the federal WIOA eligible training provider list that directs training resources into

[1] "Impact of 2025 Los Angeles Wildfires and Comparative Study." Los Angeles County Economic Development Corporation and Southern California Leadership Council, https://laedc.org/wildfirereport/

[2] https://edd.ca.gov/en/about_edd/news_releases_and_announcements/$20-million-in-aid-to-support-immediate-recovery-efforts-and-workers-impacted-by-firestorms/

[3] https://www.dol.gov/agencies/eta/grants/apply/national-dislocated-worker-grant-opportunities

[4] https://www.dol.gov/newsroom/releases/eta/eta20250116-0

training programs leading to high-demand, high-priority employment, and occupations that provide economic security, particularly those facing a shortage of skilled workers. CWDB also established eligibility criteria, to the extent feasible, which used performance and outcome measures to determine whether a provider is qualified to remain on the eligibility list.

This bill, AB 338 would require the CWDB to, upon appropriation of the Legislature, allocate funds to the Los Angeles County Department of Economic Opportunity and the Economic Development Collaborative to support workforce strategies for underemployed and unemployed low-to-moderate income individuals to ensure a skilled and sufficient workforce for the scale of rebuilding and recovery of areas in the counties of Los Angeles and Ventura impacted by the 2025 wildfires.

2. Need for this bill?

According to the author:

"The Los Angeles and Ventura wildfires have devastated the region's economy including workforce disruptions and employment insecurity. Economic impacts to the Los Angeles and Ventura County areas of Southern California have a ripple effect across our state. Strategic economic recovery investments are called for to mitigate economic hardships, protect employment opportunities, and ensure the workforce necessary for rebuilding. […]

Upon an appropriation of funding being made available, the California Workforce Development Board will allocate funds to the Los Angeles County Department of Economic Opportunity and the Economic Development Collaborative to support workforce recovery strategies in the impacted areas. AB 338 outlines workforce recovery priorities to ensure a skilled and sufficient workforce for the scale of rebuilding and economic recovery in the Counties of Los Angeles and Ventura impacted by the 2025 wildfires."

3. Proponent Arguments:

According to the Los Angeles Area Chamber of Commerce:

"In the aftermath of the wildfires' devestation, we must rebuild impacted communities, infrastructure, and businesses. Wildfire damages, according to AccuWeather's report, are estimated at $250 billion dollars; this figure makes the Los Angeles wildfires the costliest natural disaster in U.S. history. Local governments are looking to the state for leadership during this critical time to rebuild Pacific Palisades, Altadena, and other impacted areas.

If passed, AB 338 appropriates $50 million from the general fund to support the South Bay Workforce Investment Board and the Economic Development Collaborative to train, upskill, and retrain underemployed and unemployed low- to moderate- income individuals to support rebuilding and recovery. The bill would focus on employment opportunities in particular industries and trades, including but not limited to construction, firefighting, healthcare, and disaster recovery. The bill would also provide access to expedited licensing and certification for individuals participating in the workforce programs.

The rebuilding and recovery process from the wildfires is an opportunity to invest in the most vulnerable sections of the workforce so that they may thrive. The workforce investment will

not only benefit the portion of the workforce eligible for the programs, but it also benefits fire-impacted residents and business owners by directing skilled professionals to support with recovery."

4. Opponent Arguments:

None received.

5. Prior Legislation:

ABx1-4 (Gabriel, Chapter 1, Statutes of 2025) amended the 2024 Budget Act to authorize emergency expenditure authority related to the 2025 Los Angeles wildfires.

SBx1-3 (Wiener, Chapter 2, Statutes of 2025) amended the 2024 Budget Act to authorize emergency expenditure authority related to the 2025 Los Angeles wildfires.

SUPPORT

California Apartment Association
California Chamber of Commerce
California Community Colleges Chancellor's Office
City of Camarillo
County of Los Angeles Board of Supervisors
Early Care and Education Consortium
Los Angeles Area Chamber of Commerce
National Association of Social Workers – California Chapter (NASW-CA)
Society of Human Resources Management
South Bay Workforce Investment Board

OPPOSITION

None received.

-- END --

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

Bill No:	AB 340	**Hearing Date:**	June 25, 2025
Author:	Ahrens		
Version:	March 5, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: Employer-employee relations: confidential communications

KEY ISSUE

This bill prohibits a public employer from: 1) questioning an employee or employee representative regarding representation-related communications made in confidence between the employee and employee representative; and 2) compelling disclosure of such communications to a third party. These prohibitions do not apply to a criminal investigation or supersede rights of public safety officers under investigation.

ANALYSIS

Existing law:

1) Finds that California law does not impliedly provide for an employee-union representative privilege, but that, instead, the creation of evidentiary privileges is "the province of the Legislature." (*American Airlines, Inc. v. Superior Court* (2003) 114 Cal.App 4th 881, 890.)

2) Provides under National Labor Relations Board (NLRB) case law with respect to private sector employees, that when an employer compels disclosure of conversations between an employee and their union steward, it interferes with the employee's right to engage in concerted activities and collectively bargain because allowing an employer to compel disclosure "manifestly restrains employees in their willingness to candidly discuss matters with their chosen, statutory representatives" and "inhibits [union] stewards in obtaining needed information from employees" for their representation. (*Cook Paint v. Varnish Co.* (1981) 258 N.L.R.B. 1230, 1232.)

3) Provides under Public Employment Relations Board (PERB) decisional administrative law that a California public employer's legitimate interest in certain questioning of its employees when investigating an employee's specified conduct harmed the employees' and their unions' protected collective bargaining right under state law, as specified. (*California School Employees Association v. William S. Hart Union High School District* (2018) PERB Decision No. 2595, p. 7.)

4) Provides that no person has a privilege to refuse to be a witness; to refuse to disclose any matter or to refuse to produce any writing, object, or other thing, or prevent another person from the same, unless otherwise provided by statute. (Evidence (Evid.) Code §911.)

5) Governs the admissibility of evidence in court proceedings and generally provides a privilege to refuse to testify or otherwise disclose confidential communications made in the course of

certain relationships. (Evid. Code §§954, 966, 980, 994, 1014, 1033, 1034, 1035.8, 1037.5, 1038.)

6) Provides that the right of a person to claim specified privileges is waived with respect to a protected communication if the holder of the privilege has disclosed a significant part of that communication or consented to disclosure, without coercion. Existing law provides that a disclosure does not constitute a waiver where it was reasonably necessary to accomplish the purposes for which the lawyer, lawyer referral service, physician, psychotherapist, sexual assault counselor, domestic violence counselor, or human trafficking caseworker was consulted. (Evid. Code §912(a), (d).)

7) Provides that if two or more persons are joint holders of a privilege, a waiver of a right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the spousal privilege, the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege. (Evid. Code §912 (b).)

8) Provides that if a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of a recognized privileged relation, the communication is presumed to have been made in confidence, and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential. A communication does not lose its privileged character for the sole reason that it was communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication. (Evid. Code §917.)

9) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. (29 United State Code §151 et seq.) While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights.

10) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include, among others, the Meyers-Milias-Brown Act (MMBA), which governs labor relations between local public agencies and their employees; the Education Employer-Employee Relations Act (EERA), which governs labor relations between school employers and their employees; and the Ralph C. Dills Act (Dills Act) which governs labor relations between the State and its employees. (Government Code (GC) §3500 et seq.)

11) Does not cover California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, other transit agencies are subject to labor relations provisions that are found in each district's specific Public Utilities Code (PUC) enabling statute, in joint powers agreements, or in articles of incorporation and bylaws (for example, see PUC §40000 et seq.).

12) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with resolving disputes and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City, and the County, of Los Angeles a local alternative to PERB oversight through the city's Employee Relations Board (ERB) and the county's Employee Relations Commission (ERCOM). (GC §3541)

This bill:

1) Prohibits a public employer from questioning a public employee, a representative of a recognized employee organization, or an exclusive representative regarding communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.

2) Declares that the Legislature intends that the above prohibition be consistent with, and not in conflict with, *William S. Hart Union High School District* (2018) PERB Dec. No. 2595.[1]

3) Prohibits a public employer from compelling a public employee, a representative of a recognized employee organization, or an exclusive representative to disclose to a third party, communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.

4) Provides that this bill's provisions do not apply to apply to a criminal investigation and do not supersede Government Code Section 3303, which provides public safety officers specified rights under the Public Safety Officers Procedural Bill of Rights Act when they are under investigation and subjected to interrogation, as specified.

COMMENTS

1. Need for this bill?

According to the author:

"While employees commonly believe that discussions with their union representative regarding workplace matters, such as discipline or grievances, are confidential, current state law does not explicitly prohibit employers from compelling employees or their representatives to disclose such communications."

2. Proponent Arguments

According to the Police Officers Association of California:

[1] In *Hart*, PERB found that a school employer's legitimate interest in investigating an employee's on-campus nighttime activities with an employee from a different campus who was also the union steward were outweighed by its employees' and the union's rights under the Educational Employment Relations Act (EERA) and that the school employer interfered with those rights when the employer questioned the union steward about whether other employees had complained about the employee under investigation.

"This bill would codify existing decisions of the California Public Employment Relations Board which prohibit public employers from coercing union representatives and interfering in the representation of union members by questioning union representatives and members regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation. The prohibition on such questioning is limited to public employers, so it would not affect criminal investigations conducted by separate and independent third parties, but employers could not compel disclosure of communications or order disclosure to third parties connected to or acting on behalf of the public employer.

This bill amends collective bargaining statutes to make clear that public employers and those acting on their behalf commit an unfair labor practice by questioning union members or their labor representatives about communications between represented employees and their union representatives about matters within the scope of union representation. In short, this bill would recognize the confidentiality of those communications and preclude public employers from interfering with union representation, which benefits every public sector union and public employee in California."

3. Opponent Arguments:

According to a coalition of several public employers including the California Schoolboards Association and the California State Association of Counties:

"In order to conduct proper investigations that uphold the public's trust, protect against the misuse of public funds, and ensure the safety and well-being of both public employees and the public at large, it is critical that a public employer has the ability to interview all individuals with relevant information to ascertain the facts and understand the matter fully. AB 340 would increase investigation and litigation costs for the state as well as local governments and schools by creating incomplete investigations, since all appropriate employees with relevant information cannot be questioned. Costs and risks may also increase as conduct challenged as unlawful under the bill's provisions is adjudicated before the Public Employment Relations Board (PERB). For schools, this is a drain of Proposition 98 funding."

According to Cal Chamber and the California Hospitals Association:

"AB 340 effectively says that the employer's interest can *never* justify any questions whatsoever. This is at odds with existing law and employers' obligations to maintain safe workplaces free from misconduct or unlawful behavior. It also assumes that communications between a worker and a union representative are on par with an attorney and their client. We believe there are significant differences between those two relationships and note that attorneys have codes of conduct and ethics that govern their profession, especially where conflicts may arise in their work."

4. Dual Referral:

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

5. Prior Legislation:

AB 2421 (Low, 2024) would have prohibited specified public employers from questioning employees and employee representatives about communications between employees and employee representatives related to the representative's representation, with a specified exception. *The Senate Committee on Appropriations held the bill in committee on the suspense file.*

AB 418 (Kalra, 2019) would have established an evidentiary privilege from disclosure for communications between a union agent and a represented employee or represented former employee. *This bill died on the Senate inactive file.*

AB 3121 (Kalra, 2018) would have established an evidentiary privilege from disclosure for communications between a union agent and a represented employee or represented former employee. *This bill died on the Senate inactive file.*

AB 729 (Roger Hernández, 2013) would have provided a union agent, as defined, and a represented employee or represented former employee a privilege of refusing to disclose any confidential communication between the employee or former employee and the union agent while the union agent is acting in their representative capacity, except as specified. *The Governor vetoed this bill.*

SUPPORT

Police Officers Association of California (Sponsor)
Calegislation
California Association of Highway Patrolmen
California Association of Psychiatric Technicians
California Community College Independents
California Faculty Association
California Federation of Teachers
California Nurses Association
California Professional Firefighters
California School Employees Association
California Teachers Association
Orange County Employees Association
Professional Engineers in California Government
Santa Clara Police Officers' Association
Service Employees International Union, California

OPPOSITION

Association of California School Administrators
Association of California Healthcare Districts
California Association of Joint Powers Authorities
California Association of Recreation & Park Districts
California Association of School Business Officials
California Chamber of Commerce
California Contract Cities Association
California County Superintendents

California Hospital Association
California School Boards Association
California Special Districts Association
California State Association of Counties
Chief Executive Officers of the California Community Colleges Board
City of Cupertino
City of Norwalk
Community College League of California
Kern County Superintendent of Schools Office
League of California Cities
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California
School Employers Association of California
Schools Excess Liability Fund
Small School Districts' Association
University of California
Urban Counties of California

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

Bill No:	AB 672	**Hearing Date:**	June 25, 2025
Author:	Caloza		
Version:	February 14, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: Public employment: notifications and right of intervention.

KEY ISSUE

This bill does the following:

- Requires plaintiffs who seek to prevent a public employee strike by petitioning a superior court for an injunction against the strike to notify the Public Employment Relations Board (PERB) of their petition to superior court.
- Authorizes PERB to intervene in the plaintiffs' civil action in superior court.
- Grants PERB the right to also intervene in injunctive relief petitions involving trial court employees.
- Requires the Judicial Council to adopt rules to prevent appellate judges from adjudicating petitions for injunctive relief from their own district's employees' labor actions and instead attempts to require the Judicial Council to provide judges from other districts to adjudicate those petitions.

ANALYSIS

Existing law:

1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights (29 United State Code §151 et seq.).

2) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Meyers-Milias-Brown Act (MMBA) which provides for public employer-employee relations between *local* government employers and their employees, including some, but not all public transit districts. (Government Code §3500 et seq.)

3) Establishes PERB, a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations. (Government Code §3541)

4) Establishes, under the Trial Court Employment Protection and Governance Act (TCEPGA), procedures regulating court employee classification and compensation, labor relations, and employment protection. (Government Code §71600 et seq.)

5) Provides that any written agreements reached through negotiations held pursuant to TCEPGA are binding upon the parties, as specified, and the parties may enforce them by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure. (Government Code §71639.5)

6) Requires the Judicial Council to adopt rules of court that provide a mechanism for the establishment of a panel of court of appeal justices who are qualified to hear petitions relating to arbitration and writ applications and from which a single justice is required to be assigned to hear the matter in the superior court. (Government Code §71639.5 and §71825.2)

7) Requires that parties regulated by the MMBA[1] must exhaust their administrative remedies and first petition PERB for determination and resolution of unfair labor practices unless exhausting administrative remedies are inadequate, would cause irreparable harm or are futile.[2] (*City of San Jose v. Operating Engineers, Local 3 (2010)* 49 Cal. 4th 597)

8) Provides under regulations promulgated by PERB under authority of the MMBA, that a party requesting PERB to enjoin a labor action first ask PERB's general counsel to have the board apply to the court for injunctive relief. The regulations require the general counsel to initiate an investigation and make a recommendation to the board within specified time frames and requires the board, upon advice of the general counsel, to decide whether to seek injunctive relief in court. If the board is unable to apply for the injunction within twenty-four hours of receiving the general counsel's recommendation, the general counsel may apply to the court for an injunction if the general counsel has reasonable cause to believe that such action is in accordance with board policy and that legal grounds for injunctive relief are present. (8 CCR §§32450 to 32470)[3]

This bill:

1) Requires a party filing a civil action seeking injunctive relief against a strike, work stoppage, or other labor action regulated by PERB to serve a copy of the action to PERB, as specified.

2) Requires a party that intends to apply to a superior court for a temporary restraining order to enjoin a strike, work stoppage, or other labor action regulated by PERB to give notice to PERB, as specified.

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[1] The MMBA does not regulate Trial Court employees and it remains unclear to what extent, if any, the PERB regulations cited here or the Supreme Court case holding in *Operating Engineers* applies to petitions to enjoin strikes and labor actions at the trial courts.

[2]According to the court, "Whenever possible, labor disputes asserting unfair labor practices under the MMBA should be submitted first to PERB rather than a court. If an exception to the doctrine of exhaustion of administrative remedies is claimed, the trial court should afford due deference to PERB and issue injunctive relief only when it is clearly shown that PERB's remedy would be inadequate."

[3] See FN 1.

3) Clarifies that this bill does not authorize a party to seek relief in court without first exhausting administrative remedies before PERB when a statute, regulation, or case law requires exhaustion of administrative remedies.

4) Grants PERB the right, upon timely application, to intervene in any civil action arising from a labor dispute that involves public employees whose labor relations PERB regulate and that PERB claims implicates the constitutionality, interpretation, or enforcement of a statute it administers.

5) Requires the Judicial Council to adopt rules of court to provide a mechanism for the establishment of a panel of court of appeal justices qualified to hear actions that seek to enjoin strikes, work stoppages, or other labor activity by trial court employees, from which the panel will assign a single justice to hear the matter in the superior court.

6) Requires the Judicial Council to adopt rules to provide a mechanism for the establishment of a panel of court of appeal justices qualified to hear actions that seek to enjoin strikes, work stoppages, or other labor activity by trial court employees, under which a single justice would be assigned to hear the matter in superior court following certain procedures. The assigned justice must not be from the court of appeal district in which the parties file the action is filed.

COMMENTS

1. Background:

This bill would essentially hold the judicial branch accountable to the same process that applies to most other public employers by ensuring that trial court judges must first petition PERB for injunctive relief against strikes and other labor actions initiated by their employees, rather than filing and adjudicating those petitions themselves to enjoin actions by their own employees.

2. Need for this bill?

According to the author:

"As California's expert labor relations agency, PERB has developed its own body of case law. The courts, however, deal with a wide range of matters, and few judges, if any, can match PERB's expertise in public sector labor law. Occasionally, public employers circumvent PERB's jurisdiction by filing requests for injunctive relief directly in a Superior Court. This practice, known as forum shopping, undermines the law and the rights of public employees.

Additionally, in October 2024, the San Francisco Superior Court threatened to skip PERB when requesting injunctive relief from a strike of its own employees. In February 2025, the Alameda County Superior Court entirely skipped PERB and obtained a temporary restraining order to prevent certain of its employees from striking, and then obtained injunctive relief to do the same even though there was no pending strike threat."

3. Proponent Arguments:

According to Service Employees International Union, California:

"This bill does not prohibit employers from pursuing civil actions in court, nor does it expand PERB's jurisdictional authority. It merely requires public employers to provide PERB with notice and grants the agency the right to inform the court on the interpretation and application of California's labor laws."

According to the American Federation of State, County and Municipal Employees:

"AB 672 would provide PERB with the necessary notification of injunctive relief requests and prevents a conflict of interest by requiring the assignment of outside judges to hear trial court employer requests for injunctive relief. It would also give PERB the right to intervene as a party in those instances to help maintain the consistent application and enforcement of public employee protections and protecting the rights of trial court employees."

4. Opponent Arguments:

None received.

5. Dual Referral:

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

6. Related Legislation:

AB 283 (Haney, 2025) would establish the In-Home Supportive Services (IHSS) Employer-Employee Relations Act to shift collective bargaining with IHSS providers from the county or public authority to the state and provide PERB jurisdiction of labor relations between the state and IHSS workers. *This bill is currently pending before the Senate Judiciary Committee.*

AB 288 (McKinnor, 2025) would attempt to create state jurisdiction for the Public Employment Relations Board over unfair labor practice charges by private sector employees regulated by the National Relations Labor Act. *This bill is currently pending before the Senate Judiciary Committee.*

AB 1340 (Wicks) would establish the Transportation Network Company (TNC) Drivers Labor Relations Act and require the Public Employment Relations Board (PERB) to protect TNC drivers' collective bargaining rights under the Act. *This bill is pending consideration in the Senate Labor, Public Employment and Retirement Committee.*

AB 1510 (Assembly Committee on Public Employment and Retirement, 2025) would provide Santa Clara Valley Transportation Authority (VTA), its unions, and intervenors the right to appeal decisions of the Public Employment Relations Board (PERB), as specified. *This bill is pending consideration in the Senate Labor, Public Employment and Retirement Committee.*

AB 2524 (Kalra, Chapter 789, Statutes of 2022) authorized PERB jurisdiction over disputes relating to employer-employee relations of the VTA for those exclusive representatives that

have elected to move one or more of its bargaining units to the jurisdiction of the PERB for unfair practice charges.

SB 957 (Laird, Chapter 240, Statutes of 2022) transferred jurisdiction over unfair labor practice charges involving the Santa Cruz Metropolitan Transit District from the judicial system to PERB.

SUPPORT

American Federation of State, County and Municipal Employees (Co-sponsor)
Service Employees International Union, California (Co-sponsor)
California Federation of Labor Unions
California Professional Firefighters
California School Employees Association
California Teachers Association
Council of UC Faculty Associations
Orange County Employees Association

OPPOSITION

None received.

-- END --

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

Bill No:	AB 692	**Hearing Date:**	June 25, 2025
Author:	Kalra		
Version:	May 29, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Employment: contracts in restraint of trade

KEY ISSUES

This bill 1) makes it unlawful to include in any employment contract a contract term that requires a worker to assume a debt or imposes any penalty, fee, or cost on a worker if the worker's employment relationship with the employer terminates; 2) provides that such a contract is a contract in restraint of trade and is void; 3) provides that a violation of this prohibition constitutes an act of unfair competition; and 4) allows for enforcement by the Labor Commissioner (LC) in collaboration with the Attorney General's Office, as well as provides for a private right of action.

ANALYSIS

Existing law:

1) Declares every contract by which anyone is restrained from engaging in a lawful profession, trade, or business as void, except as expressly provided. Specifies that this provision shall be read broadly to void the application of any non-compete agreement in an employment context, or any non-compete clause in an employment contract, no matter how narrowly tailored, except as specified. (Business and Professions Code §16600)

2) Defines "unfair competition" to include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising, as specified. (Business and Professions Code §17200)

3) Provides that any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed $2,500 for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General and other public prosecutors, as specified. (Business and Professions Code §17206)

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) Establishes within the DIR, 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 in every workplace and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)

6) Requires an employer to indemnify their employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, or obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful. (Labor Code §2802)

7) Specifies that the above provisions apply to any expense or cost of any employer-provided or employer-required educational program or training for an *employee providing direct patient care or an applicant for direct patient care employment*. Provides that those expenses or costs shall constitute a necessary expenditure or loss incurred by the employee in direct consequence of the discharge of the employee's duties, as specified. (Labor Code Section §2802.1)

8) Specifies that for purposes of the above provisions, "employer-provided or employer-required educational program or training" does not include either of the following:

   a. Requirements for a license, registration, or certification necessary to legally practice in a specific employee classification to provide direct patient care.
   b. Education or training that is voluntarily undertaken by the employee or applicant solely at their discretion. (Labor Code Section §2802.1)

9) Prohibits an employer, or any person acting on behalf of the employer, from retaliating against an applicant for employment or employee for refusing to enter into a contract or agreement that violations the provisions specified above which apply only to applicants for employment or employees providing direct patient care for a general acute care hospital, as specified. (Labor Code Section §2802.1)

This bill:

1) Defines, among other terms, the following:

   a. "Contract" includes a promise, undertaking, contract, or agreement, whether written or oral, express or implied.

   b. "Debt" means money, property, or their equivalent that is due or owing or alleged to be due or owing from a natural person to another person, including, but not limited to, for employment-related costs, education-related costs, or a consumer financial product or service, regardless of whether the debt is certain, contingent, or incurred voluntarily.

   c. "Education-related cost" means a cost associated with enrollment or attendance at an educational program, as defined in Section 94837 of the Education Code, a job training program, or a skills training program, and related expenses, including, but not limited to, tuition, fees, books, supplies, student loans, examinations, and equipment required for enrollment or attendance in an educational, training, or residency program.

   d. "Employer" means any person or entity that employs workers. "Employer" includes any parent company, subsidiary, division, affiliate, contractor, hiring party, or third-party agent of an employer.

e. "Penalty, fee, or cost" includes, but is not limited to, a replacement hire fee, retraining fee, replacement fee, quit fee, reimbursement for immigration or visa-related costs, liquidated damages, lost goodwill, and lost profit.

f. "Worker" means a natural person who is permitted to work for or on behalf of an employer or business entity, or who is permitted to participate in any other work relationship, job training program, or skills training program. "Worker" includes, but is not limited to, an employee, prospective employee, independent contractor, freelance worker, extern, intern, apprentice, or sole proprietor.

2) For contracts entered into on or after January 1, 2026, makes it unlawful to include in any employment contract, or to require a worker to execute as a condition of employment or a work relationship a contract that includes, a contract term that does any of the following:

a. Requires the worker to pay an employer, training provider, or debt collector for a debt if the worker's employment or work relationship with a specific employer terminates.

b. Authorizes the employer, training provider, or debt collector to resume or initiate collection of or end forbearance on a debt if the worker's employment or work relationship with a specific employer terminates.

c. Imposes any penalty, fee, or cost on a worker if the worker's employment or work relationship with a specific employer terminates.

3) Specifies that the above contract provisions do not apply to either of the following:

a. A contract entered into under any loan repayment assistance program or loan forgiveness program provided by a federal, state, or local governmental agency.

b. A contract related to the repayment of the cost of tuition for a transferable credential that meets all of the following requirements:

i. The contract is not a condition of employment and is offered separately from any contract for employment.
ii. The contract specifies the repayment amount before the worker agrees to the contract, and the repayment amount does not exceed the cost to the employer of the transferable credential received by the worker.
iii. The contract provides for a prorated repayment amount during any required employment period that is proportional to the total repayment amount and the length of the required employment period.
iv. The contract does not require repayment to the employer by the worker if the worker is terminated.

4) Provides, under the Business and Professions Code, that a contract that is unlawful pursuant to these provisions is a contract restraining a person from engaging in a lawful profession, trade, or business, and is void, as specified.

5) Provides that a contract that violates these provisions constitutes an act of unfair competition pursuant to provisions of the Business and Professions Code, as specified.

6) Provides that the rights, remedies, and penalties established by this bill are cumulative and shall not be construed to supersede the rights, remedies, or penalties established under other laws, as specified.

7) Provides, under the Labor Code, that a contract or contract term by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void as contrary to public policy.

8) Authorizes the LC to enforce these provisions, including receiving and investigating complaints of an alleged violation and ordering appropriate temporary relief to mitigate the violation or to maintain the status quo pending the completion of a full investigation or hearing through specified procedures in existing law, including by issuance of a citation against a violating employer and by filing a civil action.

9) Provides that, if a citation is issued, the LC shall use its existing procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued, as appropriate.

10) Authorizes a worker, a prospective worker, or a worker representative, seeking to establish liability against an employer to bring a civil action on behalf of the person, other persons similarly situated, or both, in any court of competent jurisdiction.

11) Requires any person found liable for a violation of these provisions to be liable for actual damages sustained by the worker or five thousand dollars ($5,000), whichever is greater, in addition to injunctive relief, and reasonable attorney's fees and costs.

12) Provides that the protections added to the Labor Code do not limit the remedies available to a worker or other natural person pursuant to the Business and Professions Code Section 16608.

13) Requires the LC, in carrying out their duties under these provisions, to coordinate with the Attorney General on the enforcement of a violation of Section 16608 of the Business and Professions Code.

COMMENTS

1. Background:

Employer-driven debt & Training Repayment Agreement Provisions (TRAPs):
Employer-driven debt, also known as "stay or pay" provisions, refers to debt obligations incurred by individuals through employment arrangements that include employer provided training, equipment, or supplies, in exchange for worker commitments to work with the employer for a specified amount of time. Contract provisions specific to training are also known as Training Repayment Agreement Provisions or "TRAPs." These arrangements require the worker to reimburse the employer for such expenses if the worker leaves the job before the specified date, even if the worker is fired or laid off.

California's Attorney General issued a legal alert regarding unlawful employer-driven debt arrangements in July 2023 where he warned that, "Use of employer-driven debt products has grown substantially in recent years, potentially stifling competition in the labor market and forcing workers to remain in jobs that they would otherwise prefer to leave due to low pay or substandard working conditions. As a form of consumer debt, employer-driven debt may also

expose workers to significant financial risk and predatory debt collection practices. Employer-driven debt has been observed in numerous industries, including in healthcare, trucking, aviation, and the retail and service industries."[1]

Below are some examples of TRAPs provided by proponents of the measure:

- ***Healthcare Workers:*** In a 2022 survey of registered nurses, almost 40 percent of nurses who started their career in the past decade reported being subject to a TRAP for new graduate "residency" programs. These new graduate nurse programs often provided on-the-job training that employers previously provided at no cost.

- ***Retail Workers:*** PetSmart workers in California filed a class action lawsuit against the retail giant for requiring these trainee pet groomers to sign a $5,000 TRAP. Workers described that training mostly consisted of completing "supervised grooms" while they groomed dogs for paying customers. Workers reported that the work was stressful with low wages, but they were afraid to leave with a debt hanging over their head. When workers did leave, some had their credit score damaged after PetSmart used debt collectors for the TRAP, making it hard for workers to rent an apartment.

- ***Transportation Workers:*** Former cargo airline pilots reported that an airline company imposed a 2-year work commitment for providing training that all airlines are required to provide. The company paid well below market rates for pilots, and only $12.50 per hour during the training period. When one pilot decided to pursue a better opportunity, the company told them they would have to pay $20,000 for the alleged costs of the training.

Employers argue that these mutually beneficial arrangements help workers improve their resume/skills while protecting the employer's investment in the professional development of their workers. Given the investments made by employers, they want to ensure that the workers they are investing in do not receive the incentives and then quit a few weeks later. Unfortunately, the warning by the AG, another issued by the U.S. Consumer Financial Protection Bureau, and multiple news sources reveal that these arrangements are literally "trapping" workers in jobs they do not want but cannot leave.

In addition to training incentives, employers also offer monetary bonuses such as a signing bonus to come on board with the company or a moving bonus to relocate in exchange for the commitment to stay with the company for a specified amount of time. According to representatives from the California State Association of Counties, Rural County Representatives of California, and Urban Counties of California, who are opposed to the measure, these types of incentives are particularly important for the recruitment of workers to jobs in rural areas of the state.

Prevalence of TRAPs:
According to a report by the Consumer Financial Protection Bureau reviewing the risks to consumers posed by employer-driven debt:

[1] California Department of Justice, Office of the Attorney General. "State Law Restrictions on Employer-Driven Debt." Legal Alert No. OAG-2023-01, 7/25/2023. https://oag.ca.gov/news/press-releases/attorney-general-bonta-issues-warning-against-unlawful-employer-driven-debt

"While it's difficult to estimate how common TRAPs are across the workforce, a study by the Cornell Survey Research Institute found that nearly 10% of American workers surveyed in 2020 were covered by a training repayment agreement and the Student Borrower Protection Center estimates that major employers rely upon TRAPs in segments of the U.S. labor market that collectively employ more than one in three private-sector workers. A survey of registered nurses conducted by National Nurses United (NNU) shows a dramatic increase in their use: 44.8% of nurses who have been working 5 years or less and 45.3% who have been working between 6-10 years reported having been subject to a TRAP, as compared to 24.3% of those who have been working between 11-20 years and 9.4% who have been working 21 years or more."[2]

Existing Protections under Labor Code Section 2802:
As noted by the AG in the Legal Alert mentioned above, employer-driven debt "may violate several provisions of California law, including Labor Code Section 2802, which mandates that employers 'indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties. *Related to job training specifically, California law prohibits an employer from requiring a worker to repay training costs unless the training is (1) necessary to legally practice the profession at issue, or (2) undertaken by the worker voluntarily and not employer-mandated.* These laws apply to workers in all industries. Another provision of the Labor Code, section 2802.1, expressly makes clear that section 2802, and the aforementioned rules regarding training debt, apply to workers providing direct patient care in hospitals and applicants for such positions. (Cal. Lab. Code, § 2802.1.) These protections and others established in the Labor Code may not be waived by contract. (See *id*., § 2804.)"[3]

The AG additionally noted, "employer-driven debt practices may also violate a number of California consumer protection statutes. For instance, the Rosenthal Fair Debt Collection Practices Act prohibits an employer or its agent from engaging in unfair or deceptive acts or practices when attempting to collect on employer-driven debt. (See Cal. Civ. Code, § 1788.1, subd. (b); see, e.g., §§ 1788.11, 1788.13.) Likewise, any abusive employer-driven debt practices may violate the California Consumer Financial Protection Law, such as if an employer takes advantage of a worker's lack of information or knowledge about the risks or costs of the debt. (See Cal. Fin. Code, § 90003, subd. (a)(1) & (2); 12 U.S.C. § 5531(d).)"[4]

In Re Acknowledgment Cases, 239 Cal. App. 4th 1498 (2015)
As noted above, existing labor law already requires employers to pay for employer-required training or any other expenses required by the employer. The only situations under which an employer can require repayment of training costs is when the training is necessary to legally practice the profession or the training is undertaken by the worker voluntarily. The issue of responsibility for training costs was litigated in *In Re Acknowledgment Cases, 239 Cal. App. 4th 1498 (2015).*

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[2] U.S. Consumer Financial Protection Bureau Office for Consumer Populations. Issue Spotlight, "Consumer risks posed by employer-driven debt," July 20, 2023. https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-consumer-risks-posed-by-employer-driven-debt/full-report/

[3] California Department of Justice, Office of the Attorney General. "State Law Restrictions on Employer-Driven Debt." Legal Alert No. OAG-2023-01, 7/25/2023. https://oag.ca.gov/news/press-releases/attorney-general-bonta-issues-warning-against-unlawful-employer-driven-debt

[4] *Ibid.*

In this case, the Los Angeles Police Department (LAPD) required their officers to take training at the Los Angeles Police Academy, in addition to their state required Peace Officer Standards and Training (POST). Some officers took the extra training required by the LAPD but eventually ended up taking jobs with other law enforcement agencies. As a result, the City of LA passed an ordinance requiring officers that take the LA Police Academy training to reimburse the city a pro-rated portion of the cost of the training if they voluntarily left the LAPD after serving less than 60 months. When several officers left the LAPD before serving the required five year period, the city sued them for breach of contract. The final ruling from the appellate court held that seeking reimbursement for leaving before the required term violated section 2802 of the Labor Code because the LAPD could not require officers to pay for employer required training.

This bill:
This bill aims to end employer debt TRAPs by clarifying that stay-or-pay contracts that lock workers into jobs through debt are prohibited under California law. This bill prohibits stay-or-pay contracts as unlawful contracts against public policy under the Labor Code and as unlawful contracts under the Business and Professions Code. AB 692 would allow workers to seek relief for violations in any court of competent jurisdiction, and to recover civil penalties for Labor Code violations through a private right of action. Additionally, this prohibition could be enforceable by the Attorney General and other public prosecutors under California's Unfair Competition Law.

According to the author and proponents, these types of provisions are often hidden in employment contracts signed at the time of hire and are not truly voluntary. Opponents argue that the bill will disincentivize employers from offering these types of mutually beneficial programs, especially due to the mandatory minimum penalty of $5,000 and attorney's fees and costs. As noted by the Assembly Judiciary analysis of this bill:

> "Employers, as they always do, will adapt. For example, while an employer could not, under this bill, offer an employee an upfront signing bonus that requires them to stay one year or pay the bonus back, the employer could offer to pay a bonus to the employee *after* they have stayed one year. That would be acceptable under this bill because it would not be a "debt" that the employee must pay if they left early; it would, instead, be a reward to an employee who stayed a year. Moreover, it seems reasonable to assume that larger employers will continue to offer the benefits on the assumption that, in the aggregate, more employees will stay than leave. After all, employers can still offer an employee an upfront bonus or pay an employee's tuition under this bill; they simply could not require the employee to repay it if they leave. Accordingly, this bill will, in accordance with free market principles, provide the employer an incentive to create conditions that will make well-trained workers want to stay. Both the trained worker and the employer will benefit."

2. Amendments:

For purposes of the provisions of the bill authorizing a contract for the repayment of the cost of tuition for a transferable credential, one of the required criteria in order for tuition repayment to be authorized is that "the contract does not require repayment to the employer by the worker if the worker is terminated." This provision essentially captures anyone terminated regardless of the circumstance of the departure.

To address this and other necessary clarifications, the author wishes to amend the bill in Committee today to do the following:

- Specify that the bill's provisions do not apply to a contract related to enrollment in a Division of Apprenticeship Standards state-approved apprenticeship program.

- For provisions related to the repayment of the cost of tuition for transferable credentials:
  - Clarifies that obtaining a transferable credential is not a condition of employment and is offered separately from any contract for employment.
  - Specifies that repayment can be required if the worker is terminated for gross misconduct.

Although not specifically defined in code, case law generally defines "gross misconduct" as serious employee misconduct that justifies immediate dismissal without notice due to a fundamental breach of the employment contract. "Gross misconduct" is a factor used in the workers' compensation system as well as the unemployment insurance program. In workers' compensation claims, an employer's "serious and willful misconduct" can lead to increased benefits for an injured employee. In the unemployment insurance program, an employee's "misconduct," including gross negligence, can be grounds for disqualification from benefits eligibility.[5]

Additional Committee Comment:
California has various accelerated and expedited licensing programs aimed at addressing understaffing and under-resourced areas of the State. For example, the Medical Board of California is required to expedite the licensure/registration process for physicians applying for a license on the condition that they have accepted an offer of employment in an underserved area or for underserved population.[6] Other similar efforts exist for nursing or teacher credentialing, among others. These programs exist in hopes of incentivizing recruitment and retention into essential fields like medicine or education. *Would these programs be impacted by the prohibitions in this bill?*

3. Need for this bill?

According to the author:

"A growing number of employers are using debt as an exploitative tool to trap workers in jobs, often with low wages and substandard working conditions. These stay-or-pay contracts or Training Repayment Agreement Provisions ('TRAPs') lock workers into jobs by serving as an 'exit fee,' regardless of whether that worker was fired, laid off, or quit. Debt agreements are often hidden in employment contracts or onboarding paperwork as a condition of employment. Employers then shift costs to workers for basic on-the-job training, orientation equipment loans, liquidated damages, or other financial arrangements necessary to perform their work duties.

With the threat of financial ruin, stay-or-pay contracts or TRAPs discourage workers from speaking out against unsafe or unfair working conditions for fear of losing their jobs and being forced to pay off the debt… A worker's ability to decide where they want to work and

[5] 22 CCR §1256-30. Discharge for Misconduct – General Principles.
[6] Business and Professions Code §2092

speak out against unfair wages or unsafe working conditions without the threat of retaliation is foundational to a free and fair economy. By prohibiting debt TRAPs, AB 692 levels the playing field and protects workers from being coerced into exploitative contracts."

4. Proponent Arguments:

According to the sponsors, including the California Federation of Labor Unions:

"These predatory employment arrangements - sometimes referred to as employer-driven debt agreements, stay-or-pay contracts, or Training Repayment Agreement Provisions (TRAPs) - undermine a worker's job mobility and limit workers' bargaining power over working conditions. With the threat of having to pay back a debt or fee to their employer, TRAPs and other stay-or-pay contracts can indenture workers into unsafe or exploitative working conditions, chilling workers from advocating for or seeking better wages or working conditions elsewhere. Effectively serving as an 'exit fee', these contracts force workers to pay their employer for unavoidable fees or damages, which are often disguised as the costs of on-the-job training, if they leave their job before completing a minimum period or work. …

TRAPs are alarmingly prevalent throughout workplaces across the country. A 2024 study found that 1 in 12 workers in the U.S. are subject to a TRAP. In 2023, the Consumer Financial Protection Bureau (CFPB)'s comprehensive report on employer-driven debt included examples of TRAPs where workers were indebted to their employers between $4,000 and $30,000. Through TRAPs, employers often shift onto workers the costs of on-the-job training, orientation, equipment, or other supplies necessary to perform their work duties. In other stay-or-pay contracts, employers force workers into contracts with income-share requirements, quit fees, liquidated damages provisions, or other financial arrangements that a worker must pay their employer if they leave their job before fulfilling a minimum work commitment.

Often buried deep in employment contracts or in onboarding paperwork that a worker must sign as a condition of employment, a growing number of employers are using stay-or-pay contracts to exploit workers in transportation, health care, retail, aviation and tech industries. This is particularly true in areas with highly concentrated labor markets and in industries with low-wage workers, immigrant workers, new graduates, and nonunion workers…AB 692 is necessary to end the exploitative practice of employers using debt to restrain worker job mobility, trapping workers in low-wages and unsafe working conditions."

5. Opponent Arguments:

A coalition of employer organizations are opposed to the measure, arguing that AB 692 will disincentivize voluntary benefit programs for employees and is duplicative of existing law regarding reimbursements and trainings. It imposes significant penalties for any good faith error and improperly sweeps in independent contractors in a way that is at odds with the legal definition of an independent contractor. Specifically, they write:

"Many California employers presently offer monetary bonuses or educational opportunities to their employees. For example, employers may pay a worker's tuition to get an advanced degree or additional certification or pay a signing bonus at the outset of employment. These mutually beneficial programs give the employee an opportunity to improve their resume/skills or receive additional money up front while the employer simultaneously makes

an investment in its workforce. Understandably, employers are more motivated to invest in these types of voluntary benefits if they know the worker will be at the company for a longer period of time. It is therefore common for employers to offer more benefits if the worker agrees to remain at the company for a certain amount of time afterwards. Conversely, it does not make sense to offer an employee a signing bonus only to have them quit two weeks later.

AB 692 jeopardizes these benefits because it would classify them as a "debt" if the employer placed conditions on the bonus or education. In other words, AB 692 would prohibit an employer from requiring that the worker remain at the company for a certain amount of time after receiving a benefit. Any requirement that the worker pay back the signing bonus would be considered unlawful, subjecting the employer to penalties and a private right of action. The unintended consequence of this bill is that it removes the incentive for employers to offer these benefits programs. That is especially true for small and medium-sized businesses in light of the *mandatory* minimum $5,000 penalty.

The May 23rd and 29th amendments do not address our concerns. Those amendments merely create a very narrow exception for certain 'degrees'. Not only does this not address programs like hiring/signing bonuses or other educational credentials, but the exception also does not apply if the employee is terminated for misconduct…

The intent behind AB 692 appears to be aimed at prohibiting employers from requiring specific training and then saddling employees with a bill for that training upon termination of employment. That scenario is already addressed under Labor Code section 2802. Under section 2802, employers must reimburse employees for all necessary expenses and/or losses incurred in the course and scope of their employment. Courts have interpreted this provision quite broadly in favor of the employee….AB 692 is not adding anything of substance here. Rather, its broad provisions will unintentionally deter employers from offering employee benefits like those discussed above.

None of AB 692's provisions should apply to independent contractors. For example, Labor Code 2802's requirements apply to employees, not independent contractors. This makes sense given the concept of an independent contractor – someone who performs work outside of the company's usual course of business, is free from control of the company regarding the performance of the work, and is customarily engaged in an independent trade or business. Independent contractors often work for many different companies. Anything specific to the needs of a specific company would be negotiated for in the terms and price of the contract between the contractor and that company.

In summary, AB 692 will disincentivize employers investing in their own workforce by paying for additional certifications or degrees, and will make routine practices such as signing bonuses impossible to offer."

Opposition from AltaMed, CA Primary Care Association Advocates, and the Community Clinic Association of LA County write:

"We are concerned about provisions of the bill which would declare an employment contract that requires a debtor to pay for a debt if the debtor's employment is terminated. We believe AB 692 may inadvertently affect our workforce development and career advancement programs, which are bona fide programs with transferable benefits across employers. This would be to the detriment of the communities we serve–California's medically underserved.

We respectfully request that you consider amending AB 692 to include an exemption for safety net healthcare organizations that have programs specifically designed to support workforce development in service to underserved and under- resourced populations."

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:

AB 747 (McCarty, 2023) would have prohibited an employer from entering into, presenting an employee or prospective employee as a term of employment, or attempting to enforce any contract in restraint of trade that is void, as specified. Additionally, the bill would have provided that an employer that violates this prohibition is liable for actual damages and an additional penalty per employee. *AB 747 died on Assembly Third Reading*.

AB 1076 (Bauer-Kahan, Chapter 828, Statutes of 2023) codified existing case law by specifying that the prohibition on noncompete agreements is to be broadly construed to void noncompete agreements or clauses in the employment context that do not satisfy specified exceptions. Additionally provides that a violation of the prohibition on noncompete agreements in employment constitutes unfair competition.

SB 699 (Caballero, Chapter 157, Statutes of 2023) strengthened California's restraint of trade prohibitions by clarifying, among other things, that any contract that is void under California's restraint of trade law is unenforceable regardless of where and when the contract was signed.

AB 2588 (Kalra, Chapter 351, Statutes of 2020) required an employer to reimburse an employee providing direct patient care or an applicant for direct patient care employment for the costs of any employer-provided or employer-required educational program or training, as defined.

SUPPORT

American Economic Liberties Project (Co-Sponsor)
California Employment Lawyers Association (Co-Sponsor)
California Federation of Labor Unions, AFL-CIO (Co-Sponsor)
California Nurses Association/National Nurses United (Co-Sponsor)
Student Borrower Protection Center (Co-Sponsor)
California Low-income Consumer Coalition
Consumer Federation of California
Economic Security California Action
TechEquity Action
United Food and Commercial Workers - Western States Council

OPPOSITION

Acclamation Insurance Management Services
Allied Managed Care

AltaMed Health Services Corporation
American Staffing Association
California Apartment Association
California Association for Health Services At Home
California Attractions and Parks Association
California Business Properties Association
California Chamber of Commerce
California Hospital Association
California Hotel & Lodging Association
California League of Food Producers
California Life Sciences
California Restaurant Association
California Retailers Association
California Staffing Professionals
California State Association of Counties
California Trucking Association
Coalition of Small and Disabled Veteran Businesses
Community Clinic Association of Los Angeles County
CPCA Advocates
Dairy Institute of California
Flasher Barricade Association
National Federation of Independent Business
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California
Santa Clarita Valley Chamber of Commerce
Society for Human Resource Management
Urban Counties of California

-- END --

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

Bill No:	AB 845	**Hearing Date:**	June 25, 2025
Author:	Arambula		
Version:	April 21, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Employment: complaints: agricultural employees

KEY ISSUE

This bill requires the Agricultural Labor Relations Board (ALRB), Division of Labor Standards and Enforcement (DLSE), and Division of Occupational Safety and Health (Cal/OSHA), upon intake of a complaint by an agricultural employee, as defined, to collaborate with each other and take all reasonable efforts to transmit the complaint to the appropriate entity for processing and investigation.

ANALYSIS

Existing law:

1) Establishes the Labor and Workforce Development Agency (LWDA), consisting of various departments and entities, including the ALRB and the Department of Industrial Relations (DIR). (Government Code §15550 et seq.)

2) Establishes the ALRB to, among other things, investigate, conduct hearings, and make determinations relating to unfair labor practices impacting agricultural employee. (Labor Code §1141 et seq.)

3) Requires the ALRB to maintain a telephone line, as specified, for the purpose of providing interested persons with information concerning their rights and responsibilities, as prescribed, or for referring persons to the appropriate agency or entity with the capacity to render advice or help in dealing with any situation arising out of agricultural labor disputes. (Labor Code §1142.5)

4) Establishes DIR to, among other things, 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 et seq.)

5) Establishes DLSE, under the direction of the Labor Commissioner (LC), within the DIR, and authorizes the LC to investigate employee complaints and enforce labor laws, as specified. (Labor Code §79 et seq.)

6) Establishes Cal/OSHA within the DIR and requires the Division to enforce all occupational safety and health standards, as specified. (Labor Code §6300 et seq.)

This bill:

1) Requires the ALRB, DLSE, and Cal/OSHA, upon intake of a complaint by an agricultural employee, as defined, to collaborate with each other and take all reasonable efforts to transmit the complaint to the appropriate entity for processing and investigation.

2) Defines the following terms:

    a. "Agricultural employee" means one engaged in agriculture, as that term is defined in subdivision (a) of Labor Code Section 1140.4.
    b. "Appropriate entity" means the ALRB, DLSE, or Cal/OSHA.

COMMENTS

1. Background:

Agricultural Workers

California is a global leader in agriculture, with over 830,000 workers throughout the course of any given year. Unfortunately, many of these farmworkers face arduous labor, low wages, and deplorable working conditions. As climate change worsens, droughts, wildfires, extreme heat, and flooding only exacerbate the challenges to farmworkers at their workplace. In addition, fear of retaliation or fear of deportation prevents many farmworkers from filing complaints for any workplace violations.

As the Assembly Labor and Employment Committee points out in their analysis, "Agricultural employees' complaints about labor law violations are enforced by three distinct state entities depending on the type of complaint being alleged. Cal/OSHA has jurisdiction over health and safety complaints, the DLSE has jurisdiction over wage and hour complaints, and the ALRB has jurisdiction over complaints related to collective bargaining and unfair labor practices." With a variety of entities covering different labor violations, it can be difficult to know which entity to start with, especially for those unfamiliar with the state's enforcement system. It can be even more difficult for anyone who has language or cultural barriers.

A February 2025 report from the University of California, Berkeley Possibility Lab found that the majority of low-wage workers, including agricultural workers, are not even aware of the state government entities tasked with enforcing their rights.[1] In fact, in their statewide survey, they found that workers have a relatively low familiarity with state agencies and that nearly two-thirds of workers (65 percent) have heard of Cal/OSHA, but no other department or agency that serves California workers was as familiar to a majority of workers. Specifically, only 18 percent of respondents indicated they had heard of DIR, and 13 percent had not heard of any labor-related department or agency.

It is possible that farmworkers do not know where to turn to if they need to report a labor violation, and it is also probable that they might end up calling the state entity that may not have jurisdiction (such as calling the ALRB for a Cal/OSHA issue) over resolving the issue.

[1] Sadin, Meredith and Amy E. Lerman, "Insights from California's COVID-19 Workplace Outreach Project and the Trusted Messenger Model." University of California, Berkeley, Possibility Lab, 2025. https://berkeley.app.box.com/s/p48sayqa6i0vs40nsaky0kc0rhruba7i

This bill, AB 845, seeks to address this issue by requiring the three state entities, ALRB, DLSE, and Cal/OSHA, to collaborate with each other and take all reasonable efforts to ensure that a complaint by an agricultural employee is transmitted to the appropriate entity for processing and investigation.

Rural Strategic Engagement Program
There have been recent efforts to educate workers in rural and semi-rural areas on workplace rights, increase access to state services for workers in those areas, and improve state labor enforcement programs. For instance, funding for ALRB during the 2024 Budget Act established the Rural Strategic Engagement Program (Program) to conduct outreach to rural workers. The funding required ALRB and DIR to implement the three goals of the Program: 1) increasing access to in-person services in farmworker communities, 2) establishing a no-wrong door policy for workers, and 3) simplifying access to information for workers.

While DIR and ALRB have improved their outreach to farmworkers and facilitated their ability to engage with them, there are still gaps in their capacity to improve the distribution of information to farmworkers and address the obstacles farmworkers face when seeking to report or remedy workplace violations.

2. Need for this bill?

According to the author:

"Despite declining environmental conditions, farmworkers report being asked to work in conditions of extreme heat and smoke-filled fields. Though advised to remain hydrated to offset these impacts, workers are often subject to limited restroom and shade access. Agricultural work rewards workers that push themselves beyond their physical limitations because their wages are based on how many fruits and vegetables they pick. As climate change advances, more workers will continue to face these challenges.

The vast majority of California's agricultural labor force are migrants that speak Spanish and other indigenous languages like Mixteco, Zapoteco, and Triqui, leading to significant difficulties navigating systemic sources of support. Personal accounts from the California Farm Bureau further establish workers' increasing fears of deportation. Language barriers and immigration concerns ultimately lessen trust in the existing state resources workers are entitled to.

Unfortunately, even when farmworkers overcome these barriers to seeking help, state agencies often do not process or refer complaints if the issue falls outside their jurisdiction. As a result, complaints often fall through the cracks and go unaddressed. AB 845 will require better coordination among the agencies tasked with responding to farmworker complaints to ensure workers receive appropriate information and that their concerns are accurately conveyed and investigated."

3. Proponent Arguments

According to the sponsor, La Cooperative Campesina de California:

"The vast majority of California's agricultural labor force are migrants that speak Spanish and other indigenous languages like Mixteco, Zapoteco, and Triqui, leading to significant

difficulties navigating systemic sources of support. Farmworkers' increasing fears of deportation have further eroded trust in the state resources they are entitled to. Unfortunately, even when farmworkers overcome these barriers to seeking help, state agencies often do not process or refer complaints if the issue falls outside their jurisdiction. As a result, complaints often fall through the cracks and go unaddressed. AB 845 will require better coordination and information sharing amongst the agencies tasked with responding to farmworker complaints."

4. Opponent Arguments:

None received.

5. Prior Legislation:

AB 107 (Gabriel, Chapter 22, Statutes of 2024) included appropriations to ALRB and DIR to implement the three goals of the Rural Strategic Engagement Program: 1) increase access to in-person services in farmworker communities, 2) establish a no-wrong door policy for workers, and 3) simplify access to information for workers.

SUPPORT

La Cooperative Campesina de California (Sponsor)

OPPOSITION

None received.

-- END --

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

Bill No:	AB 1234	**Hearing Date:**	June 25, 2025
Author:	Ortega		
Version:	June 18, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Employment: nonpayment of wages: complaints

KEY ISSUES

This bill revises the wage theft claims process that the Labor Commissioner (LC) must follow to investigate, hold a hearing, and make a determination relating to an employee's complaint. Among other things, this bill: 1) permits the entry of default judgments if a defendant fails to answer an employee's complaint, fails to attend a mandatory settlement conference without cause, or fails to appear at the hearing on the complaint; 2) requires an order, decision, or award (ODA) granted by the LC to impose an administrative fee in the amount of 30 percent of the ODA; 3) creates the Wage Recovery Fund where the administrative fees are to be deposited and disbursed to persons determined to be damaged by an employer's failure to pay wages, as specified; 4) requires the LC to waive any or all of the administrative fees for defendants meeting specified conditions; and 5) makes an appeal of an ODA filed in superior court an unlimited case.

ANALYSIS

Existing law:

1) 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)

2) Establishes within the DIR, 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 in every workplace and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)

3) Requires the LC and authorized deputies and representatives, upon the filing of a claim by an employee as specified, to, among other things, take assignments of wage claims including claims for loss of wages, as specified. (Labor Code §96)

4) Establishes a citation process for the LC to enforce violations of the minimum wage that includes, but is not limited to, the following procedural requirements:

    a. A citation issued to an employer must be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated, if contract wages are unpaid, or both.

b. The LC shall promptly take all appropriate action to enforce the citation and to recover the civil penalty assessed, wages, liquidated damages, and any applicable penalties, as specified.
c. To contest a citation, a person shall, within 15 business days after service of the citation, notify the office of the LC that appears on the citation of their appeal by a request for an *informal hearing*. The LC or their deputy or agent shall, within 30 days, hold a hearing.
d. The decision of the LC shall consist of a notice of findings, findings, and an order, all of which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail.
e. Any amount found due by the LC as a result of a hearing shall become due and payable 45 days after notice of the findings, written findings, and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court.
f. As a condition to filing a petition for a writ of mandate, the petitioner seeking the writ shall first post a bond with the LC equal to the total amount of any minimum wages, contract wages, liquidated damages, and overtime compensation that are due and owing, as specified.
g. A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the LC designated on the citation the amount specified for the violation within 15 business days after issuance of the citation. (Labor Code §1197.1 et seq.)

5) Requires the LC, within 15 days after the hearing is concluded, to file in the office of the division a copy of the order, decision, or award (ODA). The ODA shall include a summary of the hearing and the reasons for the decision. Additionally, the ODA includes any sums found owing, damages proved, and any penalties awarded pursuant to the Labor Code, including interest on all due and unpaid wages, as specified. (Labor Code §98.1)

6) Upon filing of the ODA, requires the LC to:

a. Serve a copy of the decision personally, by first-class mail, or in the manner specified in Section 415.20 of the Code of Civil Procedure on the parties.
b. Advise the parties of their right to appeal the decision or award and further advise the parties that failure to do so within 10 days shall result in the decision or award becoming *final and enforceable as a judgment* by the superior court.
(Labor Code §98.1 and §98.2)

7) Specifies that if no appeal of the ODA is filed within the period specified, the ODA shall, in the absence of fraud, be deemed the final order. Existing law then requires the LC to file, within 10 days of the ODA becoming final, a certified copy of the final order with the clerk of the superior court of the appropriate county unless a settlement has been reached by the parties and approved by the LC. *Judgment shall be entered immediately* by the court clerk in conformity therewith. (Labor Code §98.2)

8) Provides that in case of willful failure by the judgment debtor to comply with a final judgment, the division or the judgment creditor may request the court to apply the sanctions provided in Section 708.170 of the Code of Civil Procedure including an order requiring a person to appear before the court. Failure to appear can result in a warrant to have the person brought before the court to answer for the failure to appear. (Labor Code §98.2)

9) As an alternative to a judgment lien, upon the order becoming final, a lien on real property may be created by the LC recording a certificate of lien, for amounts due under the final order and in favor of the employee or employees named in the order, with the county recorder of any county in which the employer's real property may be located, at the LC's discretion and depending upon information the LC obtains concerning the employer's assets. (Labor Code §98.2)

10) Provides that, upon payment of the amount due under the final order, the LC shall issue a certificate of release, releasing the lien created per the above. Unless the lien is satisfied or released, a lien under this section shall continue until 10 years from the date of its creation. (Labor Code §98.2)

11) Requires the LC to make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action. (Labor Code §98.2)

12) Authorizes, until January 1, 2029, a public prosecutor to prosecute an action, either civil or criminal, for a violation of certain provisions of the labor code or to enforce those provisions independently. (Lab. Code §181)

This bill:

1) Revises the existing wage claim investigation process to specify that if the LC determines that no further action will be taken on an employee claim, then the LC shall, within 30 days of receipt of the complaint, notify the complainant of that determination. If the LC declines to continue to investigate, the claimant may pursue remedies through any alternative forum available, as specified.

2) Specifies that if the LC does not make a determination that no further action will be taken, then the LC shall, within 60 days of receipt of the complaint, notify all parties against whom allegations have been made in the complaint, including the total amount of wages, penalties, and other demands due and the Labor Code sections under which the claimant asserts the defendant's liability, as specified.

3) Revises the requirements regarding the defendant's response to a complaint to require, within 30 days of transmittal of the notice specified above, the defendant(s) to respond by either paying the full amount due as described in the notice or by filing an answer with the LC.

4) Requires the defendant's answer to, at a minimum, include both of the following:

    a. Whether the defendant admits to employing the complainant during any period alleged in the notice.
        i. If the defendant denies an employment relationship based on a worker's classification as an independent contractor, the defendant shall provide facts to demonstrate that the classification meets the ABC test as required by state labor law.
        ii. If the defendant denies an employment relationship for other reasons, the defendant shall name any and all known employers of the complainant or other parties potentially liable for the violations and shall include their contact information.
    b. Whether the defendant admits or denies owing any amount to the complainant.
        i. For any admission of an amount owed, authorizes the LC to issue an ODA for that amount and authorizes the ODA to be appealed pursuant to existing law.

ii. For any denial of liability for wages, penalties, and other demands for compensation alleged, the defendant shall set forth the particulars in which the employee complaint is inaccurate or incomplete and the facts upon which the defendant intends to rely.

5) Provides that if the defendant fails to provide an answer within 30 days of transmittal of the notice specified above, the LC shall issue an ODA in the amount stated in the notice. The ODA may be appealed pursuant to existing law.

   a. If the defendant provides an answer, but the answer does not meet the requirements specified above, the LC may provide the defendant with 15 additional days to submit a revised answer. After the 15 days, if the defendant fails to provide an answer as required, the LC shall issue an ODA in the amount stated in the notice which may be appealed.

6) Authorizes the LC to request an answer from any new party added to the employee complaint at any point in the investigation by issuing a notice of claim to that employer within 60 days of the employer being added to the complaint.

7) Provides that if the LC does not take any further action, as specified, the LC shall, within 30 days of the receipt of the response, notify all parties of the determination and authorizes a claimant to pursue remedies through any alternative forum available, as specified.

8) If the LC does not make a determination on a claim, requires the LC to conduct an investigation of the employee complaint. The LC shall make an estimated appraisal of the amount of wages, damages, penalties, expenses, and other compensation owed and shall determine all the parties liable for the assessment. The investigation, assessment, and determination of liability shall be made within 90 days of the receipt of the defendant's response and shall be made through the following process:

   a. The LC may decide to hold a mandatory investigatory and settlement conference upon providing notice of the conference to the parties.
      i. If the claimant fails to attend the conference, the employee complaint may be dismissed unless a claimant can provide a good cause reason for their nonappearance.
      ii. If the defendant fails to attend the settlement conference and does not provide a good cause reason for their nonappearance, the LC may issue an ODA in the amount stated in the notice.
      iii. Upon agreement of the claimant, the LC may hold additional mandatory investigatory and settlement conferences if additional defendants are identified during the investigation of the complaint.
   b. The LC may issue a subpoena to a defendant requesting copies of payroll records for the employee, as specified, during the claim period.

9) Revises the hearing timeline to require, within 90 days of the issuance of the formal complaint, as specified, the LC to set a hearing date and serve a copy of the formal complaint on all parties, along with a notice of the date, time, and place of the hearing. The LC is authorized to conduct the hearing in person, over the telephone, or via video conference.

10) If a defendant fails to answer or appear at a hearing, authorizes the LC to issue an ODA in the amount stated in the formal complaint issued. The ODA is appealable pursuant to existing law.

11) Provides that, if a defendant's records are inaccurate or inadequate as to the precise extent of work completed and compensated by the claimant, the claimant has carried out their burden of proof if they prove that they have in fact performed work for which they were improperly compensated and produces sufficient evidence to show the amount and extent of that work as a matter of just and reasonable inference.

12) Regarding existing authority of the LC to grant relief to a defendant that fails to appear or answer to a complaint, specifies that the LC's authority to grant relief terminates upon the defendant's filing of an appeal.

13) Specifies that the LC's authority to investigate a claim or issue an ODA does not terminate upon the expiration of the deadlines set forth in these provisions.

14) Specifies that a notice required to be given pursuant to these provisions shall be given by personal service, first-class mail, certified mail, registered mail, or by any manner that the party agrees to accept service, including, but not limited to, electronic service.

Administrative Fee:

15) Requires that any ODA granted pursuant to these provisions shall also impose an administrative fee payable in the amount of 30 percent of the ODA. The administrative fee shall be deposited into the Wage Recovery Fund, which is created by this bill.

16) Requires, upon appropriation by the Legislature for this express purpose, all money in the Wage Recovery Fund to be disbursed by the LC, as specified, only to persons determined by the LC to have been damaged by the failure of an employer to pay wages, penalties and other damages.

17) Requires that any disbursed funds subsequently recovered by the LC from a liable party shall be returned to the fund, as specified.

18) Requires the LC, upon request by a defendant at a hearing for a formal complaint, to waive any or all of the administrative fee, provided that all of the following are satisfied:

    a. The ODA issued under these provisions does not impose liability for penalties related to an employer's willful failure to pay an employee upon termination or resignation.
    b. The defendant shall attest in writing that it:
        i. Does not have a prior ODA or judgment issued against them *within the past 10 years* for engaging in illegal conduct related to a wage dispute or other violations under the jurisdiction of the LC.
        ii. Did not enter into a settlement agreement *within the past 10 years* concerning prior illegal conduct related to a wage dispute or other violations under the jurisdiction of the LC. Specifies that a payment made on owed wages does not constitute a settlement agreement for purposes of this provision.

Other provisions:

19) Provides that if an appeal to an ODA is filed in superior court, the appeal is classified as an unlimited civil case. Specifies that a party seeking appeal is unsuccessful if they withdraw

their appeal without a judgment. Adds to the grounds for an employee to be deemed successful, that the defendant voluntarily pays an amount greater than zero.

20) Prohibits a court from consolidating an appeal filed under these provisions with any other action not arising out of, or related to, the wage claim covered by the underlying ODA absent an executed agreement in writing by all parties.

COMMENTS

1. Background

Data on Wage Theft:

California leads the nation with some of the strongest workplace protections for workers. Unfortunately, those laws are meaningless if they are not implemented or enforced, leaving workers struggling to recoup owed wages. Wage theft in California, which impacts low-wage workers disproportionately, is well documented. Wage theft captures many labor law violations including violations of the minimum wage, overtime, denied meal periods, or misclassification of employees as independent contractors, among others. A 2022 report to the Legislature on the state's wage claim adjudication process reveals that there were nearly 19,000 wage claims filed in 2021 with a total of $335 million being owed to workers.[1] Due to challenges in staffing, resources, and a growing case backlog, only approximately $40 million has been in paid in awards or settlements through the wage claim adjudication unit of the LC.[2] In 2022, the Labor Commissioner's office recovered through the wage claim process an average of 63 percent of wages owed, totaling more than $47 million paid to workers.

A 2024 Rutgers School of Management and Labor Relations report assessed minimum wage violations across four metropolitan statistical areas of interest – Los Angeles/Long Beach/Anaheim, San Jose/Sunnyvale/Santa Clara, San Diego/Carlsbad/San Marcos, and San Francisco/Oakland/Fremont.[3] Among the key findings of the report are the following:

- An average of $2.3 to $4.6 billion in earned wages were lost by workers each year from 2014 to 2023 due to minimum wage violations across these four metro areas.
- The majority of lost wages were in the Los Angeles area, where we estimate an average of $1.6 to $2.5 billion was lost a year during the study period.
- Those that were paid below the minimum wage lost roughly 20 percent of their total paycheck on average, or nearly $4,000 in earned wages a year if working full-time.
- The most impactful violations occurred in the San Francisco area, where workers lost an average of $4,300 to $4,900 annually to minimum wage violations.
- The number of workers paid below both the state and primary metro minimum wages has more than doubled since 2014, growing particularly dramatically over the most recent year of the study (2023).

Wage theft does not only affect workers, but it also creates unfair competition for responsible employers who follow the law. The State of California is also harmed when labor laws are

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[1] Wage Claims Adjudication Unit Annual Report Pursuant to Labor Code Section 96.1, Calendar Year 2021, California Labor Commissioner's Office, p. 15.

[2] *Ibid.*

[3] Daniel J. Galvin, Jake Barnes, Janice Fine, and Jenn Round. *Wage Theft in California: Minimum Wage Violations, 2014-2023*. (Rutgers School of Management and Labor Relations, May 2024)

not enforced because more workers fall into poverty, the safety net is eroded, and payroll taxes are not paid.

Existing Wage Theft Adjudication Process:
As noted under existing law, a worker may file a wage theft claim with the DLSE. The DLSE, also known as the LC's office, is then tasked with resolving wage theft claims by investigating, facilitating a resolution with the worker and employee, and holding a hearing when necessary. In some cases, claims may go directly to civil litigation, skipping the settlement conference and hearing steps.

Once the LC issues an order, decision, or award (ODA), the employer has a limited time after service of the LC decision to file an appeal. If no appeal is filed within the specified period, the LC must file a certified copy of the decision with the appropriate Superior Court and obtain a judgment against the employer for the amount owed. When the LC does request that the court enter the judgment against the employer, the worker can choose the option of referring the judgment to the LC's Enforcement Unit for collection or pursue collection on their own or through the use of an external partner, such as a private attorney or advocacy groups.

The DLSE Enforcement Unit can use a variety of means to collect judgment amounts, including levies against employers' bank accounts and liens on properties. Additionally, DLSE calculates interest accrued on any outstanding judgment amounts for collection purposes.

Existing law prescribes specified number of days for each step in the wage theft adjudication process, with 135 days being the maximum number of days under which it is to be resolved. Below is the timeline under which the DLSE is required to respond to a wage theft claim:

- 30 days from claim submission to gather information and determine if a hearing is necessary OR to take no further action and notify relevent parties.
- Hold a hearing within 90 days of determination that a hearing is necessary.
- Within 15 days after the hearing is concluded, file an order, decision, or award.
- Within 10 days of service of an ODA, parties can appeal OR the LC files the ODA with the appropriate Superior Court and the court issues a judgment against the employer.

State Auditor Report on the Labor Commissioner's Office:
In May 29, 2024, the California State Auditor released a report summarizing the findings of an audit of the Division of Labor Standards Enforcement. The State Auditor reviewed the backlog of wage claims submitted by workers from fiscal years 2017-18 through 2022-23, and determined that the LC is not providing timely adjudication of wage claims for workers primarily because of insufficient staffing to process those claims.[4] The backlog of grew from 22,000 at the end of fiscal year 2017–18 to 47,000 at the end of fiscal year 2022–23. As of November 1, 2023, more than 2,800 claims had been open for five years or more; these claims equated to more than $63.9 million in unpaid wages.

[4] Auditor of the State of California (May 2024). *The California Labor Commissioner's Office: Inadequate Staffing and Poor Oversight Have Weakened Protections for Workers*. (Report 2023-104) https://www.auditor.ca.gov/wp-content/uploads/2024/05/2023-104-Report.pdf

Among other things, the report found:

- The LC's office often takes two years or longer to process wage claims, with a median of 854 days to issue a decision (more than six times longer than the law allows).
- Field offices have insufficient staffing to process wage claims with vacancy rates equal to or greater than 10 percent, and 13 field offices with vacancy rates greater than 30 percent. The Auditor estimates that the LC's office needs hundreds of additional positions to resolve its backlog. Contributing to the high vacancy rate is an ineffective and lengthy hiring process and non-competitive salaries.
- The DLSE's Enforcement Unit's work results in only a small percentage of successful payment to workers. *Between January 2018 and November 2023, about 28 percent of employers did not make LC-ordered payments. The LC consequently obtained judgments against those employers. In roughly 24 percent of judgments during that time, or about 5,000 cases, the workers referred their judgments to the Enforcement Unit. The unit successfully collected the entire judgment amount in only 12 percent of those judgments, or in about 600 cases.*

Legislative Response to State Auditor Findings:
In response to last year's state audit of the LC, several bills were introduced this year to either go after unsatisfied judgments in more aggressive ways (SB 261 Wahab, SB 355 Perez, and SB 310 Wiener), deny licenses or permits to employers with owed judgments (AB 485 Ortega), or reform the way the LC responds to claims of unpaid wages (this bill). All bills are attempting to improve wage theft processing and collection to deliver owed wages to workers who desperately need them.

This bill:
This bill attempts to address the problems discussed above by reforming the wage claim adjudication process in order to give the LC more direction on the steps to take and the timelines to be followed. Although the bill sets for a modified timeline that does not differ too much from existing law, it does encourage employers to participate earlier in the process or risk the LC issuing a default judgment against them. Another key reform proposed by the bill is the change in the order of the settlement conferences. Currently, these settlement conferences may happen before the LC has determined whether or not to hold a hearing. This bill proposed that these settlement conferences occur, if at all, only after the LC has notified the employer of the complaint and given them the opportunity to respond.

A new element introduced with this bill is the idea of charging employers a 30 percent administrative fee on all ODAs granted by the LC. The fees collected would be used to pay workers owed wages. Given the length of time it takes for workers to get wage theft claims adjudicated and moneys recovered, if at all, this idea could help the State provide some relief to workers while their case is being processed. Any disbursed funds subsequently recovered by the LC from a liable party would be returned to the fund.

2. Committee Comments:

The bill imposes a 30 percent administrative fee on *all* ODAs granted by the LC, regardless of whether the employer participated or not. Opponents argue that this penalizes employers who exercise their right to a hearing, especially in cases where legitimate, good faith disputes exist and they are seeking a resolution to a genuine dispute.

To address these concerns, the author amended the bill to provide the LC discretion to waive the fee if the employer meets specified conditions. Opponents argue that, "practically speaking, this 'waiver; will apply to no one. Virtually no employer will be able to attest that they have never settled any disagreement with an employee in the last ten years." *Should this administrative fee be limited to those employers that refuse to participate or attempt to resolve a dispute for wage theft? Should good employers that have engaged in the process, answered the LC's request for information, and attended all required hearings and settlement conferences be charged the 30 percent administrative fee? Should the administrative fee be based on the degree or severity of the violations and be imposed at the LCs discretion?*

Additionally, the provisions of the bill would go into effect January 1, 2026. However, it is unclear whether the bill's provisions are intended to apply to existing claims – considering the backlog of wage theft claims currently at the LC's office, the bill could potentially be implemented into those claims. *For clarity and consistency, the author may wish to consider applying these new reforms to claims submitted to the LC on or after the effective date of this bill.*

3. Need for this bill?

According to the author:

"Despite the best efforts of the LC and other enforcement agencies, state-level enforcement of labor law violations is inadequate. There are numerous barriers to enforcement even if agencies were well-funded, but instead, these agencies are underfunded and understaffed – both Cal/OSHA and the LC's Office have vacancy rates above 30%.

Even when fully funded and staffed, there are millions of employers and workplaces in California and wage theft is pervasive. Enforcement agencies need more tools to make sure workers are paid for all the hours they work at the appropriate rate.

AB 1234 reduces the LC Office's wage theft backlog by compelling employer participation in the process, thus avoiding unnecessary delays. It does this by permitting the entry of default judgment if a defendant fails to answer an employee's complaint, attend a mandatory settlement conference without good cause, or appear at the hearing on the complaint. In addition, if an employer is found to have committed wage theft they must pay a 30 percent administrative fee (off of the award). An employer may request a waiver of this fee by attesting to: 1) having no prior wage judgments in the last 10 years and 2) having no "waiting time" violation in the current claim.

The measure also strengthens the procedural requirements for employers that challenge claims, including requiring documentation and evidence for disputes over claim amounts. These procedural enhancements will shorten the time it takes to resolve claims and help workers recover a greater percentage of the money owed to them."

4. Proponent Arguments:

According to sponsors of the measure, the California Federation of Labor Unions, the Center for Workers' Rights, and Bet Tzedek:

"Wage theft ends up costing workers billions of dollars in stolen wages. It puts law-abiding employers at a disadvantage and costs taxpayers in lost revenue. Wage theft has a disproportionate impact on disadvantaged and immigrant communities, increasing inequality. People of color, especially Black and Latino workers, are overrepresented in low-wage industries with higher rates of wage theft, including agriculture, construction, garment, and hospitality. Undocumented workers are three times more likely than U.S. born workers to experience wage violations. …

Current procedures for processing wage claims involve significant delays, often taking two or more years before a hearing is scheduled. Employers are not required to engage in the wage claim process and can fail to appear or respond to claims, refuse to communicate with the LCO, or otherwise deliberately delay the process leading to prolonged resolution times and hindering workers' ability to recover unpaid wages.

AB 1234 puts in place procedures to reduce the backlog at the Labor Commissioner's Office by focusing on employer failure to respond to wage theft claims that unnecessarily drag out cases. The bill requires the LCO to promptly notify employers when a worker files a wage claim and requires a full response in a reasonable amount of time. It allows the LCO to issue an Order, Decision, or Award (ODA) based on the worker's claim if the employer fails to respond or appear, creating a disincentive for employers to delay or ignore the process. It also strengthens the procedural requirements for employers that challenge claims, including requiring documentation of specific facts and evidence for disputes over the amount of the claim. Lastly, this bill will clarify the appeals process to conform with current case law and provide for efficient processing of appeals to the wage claim."

5. Opponent Arguments:

A coalition of employer organizations, including the California Chamber of Commerce, are opposed to the measure arguing that although they support the goal of expediting claims through the LC's office, especially in circumstances where the employer does not take the claim seriously, they have some concerns about the proposed procedural changes and cannot support a new, automatic 30 percent penalty that would apply regardless of whether the defendant acted in good faith. They write:

Regarding the 30 percent administrative fee:
"AB 1234 imposes a thirty percent 'administrative fee' on every single order, decision, or award issued by the Labor Commissioner. This is a penalty by another name. It is an automatic thirty percent increase of whatever amount is found owed by the employer, which may already include penalties.

That penalty applies regardless of the type of violation, whether the violation was willful or not, whether the employer appeared at the hearing or not, whether penalties were already assessed under other provisions of the Labor Code, and regardless of the size of the employer…

Recent amendments do not address this concern. The language provides that the fee shall be waived where an employer establishes several criteria. However, those criteria include that 1) the employer has never settled any wage disagreement with an employee over the last ten

years and 2) the employer has never received an adverse order from the Labor Commissioner within the last yen years, regardless of the circumstances or facts.

Practically speaking, this 'waiver' will apply to no one. Virtually no employer will be able to attest that they have never settled any disagreement with an employee in the last ten years. Any additional 'fee' should solely be tied to scenarios where an employer fails to comply with the wage claim process, which is the stated intent of the bill and aligns with the analysis from the Assembly Committee on the Judiciary:

> . . . . the opponents raise an interesting point: The fee under this bill applies to all awards, regardless of whether or not the employer engaged in the process by answering in a timely manner and participating in any hearing or settlement conference. *If the purpose of this bill is to encourage employers to engage in process, then the author may wish to consider if the 30% fee/penalty should be reserved for employers who refuse to participate or otherwise attempt to unreasonably delay the process*. (page 6)"

Regarding the Informal Conference Timeline:
"Another concern with AB 1234 is that it would mandate a detailed answer be filed prior to the initial informal conference. Wage claims brought before the Labor Commissioner's office are often filed by employees who, at least initially, are not represented by counsel. Consequently, the initial complaint may lack sufficient detail. The initial conference presents an opportunity for both parties to meet with the Labor Commissioner's office (and often each other) to flesh out the claim. The Labor Commissioner's office often helps the claimant add potential claims or requested penalties to the claim based on those conversations. If settlement is not reached, an answer then makes sense at that stage. Otherwise, to require the answer earlier will result in many answers simply stating the employer has insufficient knowledge to address the claim. At the very least, if the answer were required earlier, the law should allow for a general denial like in state court. The bill is also unclear about whether it applies to claims presently pending before the Labor Commissioner and how timing would work in those claims at various stages of the process."

Regarding the LC entering judgments:
"Proposed section 98(a)(5) provides that if the defendant fails to submit an answer on time, the Labor Commissioner "shall" issue the ODA in the amount alleged due in the claim. Sections 98(d)(4) and (c)(1) provide that if the defendant fails to appear at the hearing or at the settlement conference, the Labor Commissioner 'may' issue the ODA in the amount alleged due in the claim.

Presently, if the defendant does not appear or answer on time, the Labor Commissioner may issue an ODA 'in accordance with the evidence.' That current law mirrors what happens in civil court where there is a default: the plaintiff must provide a declaration laying out the evidence after a default is issued. The court may then request a hearing if there are questions about the declaration prior to entering a default judgment. AB 1234 provides that the Labor Commissioner must enter ODA in the full amount requested even if there is no evidence other than the complaint where there is no answer, and that it can do the same if the defendant is not present at the conference or hearing. We believe that the Labor Commissioner, like the courts, should consider the evidence presented and have the right to request testimony or further evidence from the claimant. Otherwise, simply being late in filing an answer would *automatically* result in an ODA in the full amount claimed, regardless of whether the claimant was accurate or truthful. While we understand the goal of expediting

claims against non-responsive employers, we believe the Labor Commissioner should be able to review the evidence and request further testimony, if needed, to ensure the allegations are accurate."

Regarding consolidation and appeals being "unlimited":
"Proposed section 98.2(f) provides that a court may not consolidate any action filed for appeal with any other action that does not arise out of the wage claim covered by the ODA. Courts should have discretion to manage their own dockets to enable the just and efficient resolution of cases. *See, e.g.*, CRC Standard No. 2.1. If there is a situation in which consolidating one action with another would achieve those goals, the same rules as in other cases should apply. That principle also makes sense in conjunction with proposed 98.2(e), which says that the court shall have jurisdiction over claims not stated in the underlying wage claim.

Proposed section 98.2(a) provides that all appeals to the superior court shall be classified as an unlimited civil case. There are already thresholds surrounding when a case is classified as unlimited. If the amount in controversy does not exceed $25,000, the case is 'limited' because there is a streamlined judicial process for faster resolution. We believe whether a case is classified as unlimited or limited should fall under the same demand thresholds.

Proposed 98(f) provides that while a defendant may seek relief from the Labor Commissioner under Code of Civil Procedure section 473 (which allows defaults to be set aside), the power for the Labor Commissioner to grant that relief terminates if an appeal is filed. Parties only have ten days to appeal. A party would effectively always be forced to file for an appeal instead of waiting to see if the Labor Commissioner grants relief under section 473.

Proposed 98.2(b) would require every defendant appealing to post their own bond. So, if three defendants are jointly liable for $1,000, then a bond must be posted for $3,000 because each defendant needs to post a bond. Where two defendants are the same entity, (e.g., a company and a managing agent), this is a higher hurdle to be able to appeal.

Finally, we are concerned under proposed 98.2(c) that a 'prevailing party' for purposes of attorneys fees includes a scenario where the employer voluntarily chooses to settle the case."

6. Double Referral:

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

7. Prior/Related Legislation:

SB 261 (Wahab and Wiener, 2025) would 1) require the DLSE to post online information of employers with unsatisfied ODAs on a claim for unpaid wages; 2) prescribe when a posting can be removed; 3) subject, for final judgments unsatisfied after a period of 180 days, the employer to a civil penalty not to exceed three times the outstanding judgment amount; and 4) authorize the Labor Commissioner to adopt regulations to enforce these provisions. *SB 261 is pending the Assembly Labor and Employment Committee.*

SB 310 (Wiener, 2025) would permit the penalty for failure to pay wages owed to employees to be recovered through an independent civil action, as specified. *SB 310 is currently on the Senate Inactive File.*

SB 355 (Perez, 2025) would 1) require employers with unsatisfied judgments for owed wages to provide documentation to the LC that the judgment is fully satisfied or the judgment debtor entered into an agreement for the judgment to be paid in installments, as prescribed; 2) subjects the judgment debtor employer to a civil penalty for violations; and 3) requires the LC to notify the Tax Support Division of the Employment Development Department of unsatisfied judgments as a notice of potential tax fraud. *SB 355 is pending in the Assembly Labor and Employment Committee.*

AB 485 (Ortega, 2025) would require state agencies to deny a new license or permit, or the renewal of an existing license or permit, for employers that have outstanding wage theft judgments and have not obtained a surety bond or reached an accord with the affected employee to satisfy the judgment. *AB 485 is pending before this Committee.*

AB 1002 (Gabriel, 2025) would authorize the AG to bring a civil action for the temporary suspension or permanent revocation of a contractor's license for failing to pay workers the full amount of wages they are entitled to, failing to pay a wage judgment or for being in violation of an injunction or court order regarding the payment of wages. *AB 1002 is pending in the Senate Business, Professions and Economic Development Committee.*

AB 594 (Maienschein, Chapter 659, Statutes of 2023), until January 1, 2029, clarified and expanded public prosecutors' authority to enforce the violation of specified labor laws through civil or criminal actions without specific authorization from the DLSE.

SUPPORT

California Federation of Labor Unions, AFL-CIO (Co-Sponsors)
Center for Workers' Rights (Co-Sponsor)
Bet Tzedek (Co-Sponsor)
American Federation of State, County and Municipal Employees, AFL-CIO
Asian Law Caucus
California Coalition for Worker Power
California Domestic Workers Coalition
California Employment Lawyers Association
California Farmworker Coalition
California Federation of Teachers, AFT, AFL-CIO
California Immigrant Policy Center
California Nurses Association
California Rural Legal Assistance Foundation
California Safety and Legislative Board of SMART – Transportation Division California State Association of Electrical Workers
California State Pipe Trades Council
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Centro Binacional de Desarrollo Indigena Oaxaqueño
Centro Legal de la Raza

Chinese Progressive Association
CLEAN Carwash Worker Center
Community Legal Services in East Palo Alto
Employee Rights Center
Filipino Community Center
Garment Worker Center
Inland Empire Labor Council, AFL-CIO
Instituto De Educacion Popular Del Sur De California (IDEPSCA)
Los Angeles Alliance for a New Economy
Maintenance Cooperation Trust Fund
Mission Action
Mixteco/Indigena Community Organizing Project
North Valley Labor Federation
Pilipino Workers Center
Public Counsel
Santa Clara County Wage Theft Coalition
South of Market Community Action Network (SOMCAN)
Street Level Health Project
Sunita Jain Anti-Trafficking Initiative Loyola Law School
TODEC Legal Center
Western States Council of Sheet Metal Workers
Women's Employment Rights Clinic of Golden Gate University
Worksafe

OPPOSITION

Acclamation Insurance Management Services
Agricultural Council of California
Allied Managed Care
American Subcontractors Association of California
Anaheim Chamber of Commerce
Associated General Contractors of California
Associated General Contractors - San Diego Chapter
Brea Chamber of Commerce
California Alliance of Family Owned Businesses
California Apartment Association
California Association of Sheet Metal & Air Conditioning Contractors National
California Chamber of Commerce
California Farm Bureau
California Hotel & Lodging Association
California Landscape Contractors Association
California League of Food Producers
California Manufacturers & Technology Association
California Retailers Association
California State Council of the Society for Human Resource Management
California Trucking Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce

Corona Chamber of Commerce
Elk Grove Chamber of Commerce
Flasher Barricade Association
Gateway Chambers Alliance
Glendora Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Housing Contractors of California
LA Cañada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
National Federation of Independent Business
Newport Beach Chamber of Commerce
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Palos Verdes Peninsula Chamber of Commerce
Paso Robles and Templeton Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Rancho Mirage Chamber of Commerce
Roseville Area Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Simi Valley Chamber of Commerce
Society of Human Resources Management California
Southwest California Legislative Council
Torrance Area Chamber of Commerce
Tri-County Chamber Alliance
Valley Industry & Commerce Association
West Ventura County Business Alliance
Western Carwash Association
Western Electrical Contractors Association
Western Growers Association
Wine Institute

-- END --

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

Bill No:	AB 1309	**Hearing Date:**	June 25, 2025
Author:	Flora		
Version:	February 21, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: State employees: compensation: firefighters

KEY ISSUE

This bill 1) requires the state to pay Department of Forestry and Fire Protection (CALFIRE) Bargaining Unit 8 (BU-8) firefighters within 15 percent of the average salary for corresponding ranks in specified local fire departments; and 2) requires CalHR, on or before January 1, 2027, to conduct a survey on the salaries and benefits for fire chiefs and report to CALFIRE, as specified.

ANALYSIS

Existing law:

1) Creates the state civil service that includes every officer and employee of the state except a limited number of specified, exempted officers and employees. Existing law also requires that the state make "permanent appointment and promotion in the civil service under a general system based on merit ascertained by competitive examination." Case law and custom refer to this provision as the merit principle and it governs the administration of the state's civil service system. (CA CONST. art. VII, §1 and §4)

2) Creates, under the Dills Act, a system of collective bargaining between the state and its employees' exclusive representatives to negotiate for terms and conditions of employment (Government Code §3512 et seq.)

3) Requires CalHR to 1) establish and adjust salary ranges for each class of position, as specified, on the principle that the state shall pay like salaries for comparable duties and responsibilities; and 2) consider the prevailing rates for comparable service in other public employment and in private business in establishing or changing these ranges. (Government Code §19826 (a))

4) Prohibits, however, CalHR from establishing, adjusting, or recommending a salary range for any employees represented by an exclusive representative, as specified. Instead, existing law requires CalHR to submit to the respective parties that are meeting and conferring over the salaries and to the Legislature, a report containing CalHR's findings relating to the salaries of employees in comparable occupations in private industry and other governmental agencies at least six months before the end of an existing memorandum of understanding (MOU) or as otherwise specified. (Government Code §19826 (b)-(c))

5) Requires the state to pay, as specified, sworn members of the California Highway Patrol who are rank-and-file members of State Bargaining Unit 5 the estimated average total compensation for each corresponding rank for the Los Angeles Police Department, Los Angeles County Sheriff's Office, San Diego Police Department, Oakland Police Department,

and San Francisco Police Department. Total compensation shall include base salary, educational incentive pay, physical performance pay, longevity pay, and retirement contributions made by the employer on behalf of the employee. (Government Code §19827)

6) Declares that it is the state's policy to consider prevailing salaries and benefits prior to making salary recommendations in order for the state to recruit skilled firefighters for CAL FIRE and requires CalHR to take into consideration the salary and benefits of other jurisdictions employing 75 or more full-time firefighters who work in California in order to provide comparability in pay. (Government Code §19827.3)

This bill:

1) Makes various findings and declarations regarding the increasing frequency of wildfires and the health of CAL-FIRE firefighters.

2) Requires the state to pay rank-and-file BU-8 firefighters within 15 percent of the average salary for corresponding ranks in the following 20 California fire departments, as agreed to by BU-8 and the CalHR in 2017:

   a. The cities of Bakersfield, Chula Vista, Corona, Escondido, Fullerton, Hayward, Milpitas, Ontario, Oxnard, Rialto, Roseville, San Mateo, Santa Monica, and Torrance.
   b. The Livermore-Pleasanton Fire Department.
   c. The Novato Fire District.
   d. The counties of Los Angeles and Ventura.

3) Requires the state and BU-8's exclusive bargaining representative to jointly survey and calculate the comparable departments' estimated average salaries based on their projected average total salary as of July 1 of the year in which the parties conduct the survey.

4) Requires CalHR, on or before January 1, 2027, to conduct a cursory survey on the salaries and benefits for the prior year of each of the fire chiefs for the following five California fire departments and report to CALFIRE:

   a. The City of Fresno
   b. The County of Los Angeles
   c. The County of San Bernardino
   d. The City of San Diego
   e. The City of County of San Francisco

5) Declares that, when determining compensation for CAL FIRE's uniformed classifications, it is the state's policy to consider the salary of corresponding ranks within the comparable jurisdictions, as well as other factors, including internal comparisons.

6) Requires the state to implement any increase in salary for BU 8 firefighters resulting from this bill's provisions through an MOU negotiated pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1).

7) Provides that if this bill's provisions and an MOU conflict, the MOU shall control without further legislative action except that if the MOU's provisions require the expenditure of

funds, the provision shall not become effective unless approved by the Legislature and the annual Budget Act.

COMMENTS

1. Background:

Bargaining Unit 8 (BU-8)
BU-8 represents state-employed firefighters, almost all of whom work for CALFIRE. BU-8's current MOU went into effect on July 1, 2024 and expires on June 30, 2026. The MOU includes several provisions intended to increase firefighter retention. Specifically, it reduced the duty workweek from 72 hours to 66 hours, modified staffing schedules, increased general base pay by 2.5 percent, and specified special salary adjustments for each of the two covered fiscal years.

Existing law requires CalHR, when determining compensation for state firefighters, to take into consideration the compensation provided by jurisdictions employing 75 or more full-time firefighters who work in California. The most recent compensation survey found that state compensation for firefighters lags behind compensation provided to local fire department firefighters by as much as 11 percent to 29 percent, depending on the classification.[1] Additionally, the survey found that state firefighters work more days of the year than local department firefighters.[2]

Bargaining Unit 5 (BU-5) Highway Patrol (CHP)
AB 1309's provisions are modeled after BU-5's pay structure. Existing law requires CalHR to survey the total compensation provided to peace officers in five specified jurisdictions to determine salary increases for sworn members of the CHP who are rank-and-file members of BU-5. The five jurisdictions are Los Angeles County and the Cities of Los Angeles, Oakland, San Diego, and San Francisco. This statutory requirement, established in 1974, predates the state employee collective bargaining process established by the Dills Act. Due to the high cost of living in the specified jurisdictions, sworn members of the CHP consistently receive annual salary increases far greater than other state employees.

This Bill
AB 1309 would require the state to pay CALFIRE BU-8 firefighters within 15 percent of the average salary for corresponding ranks in specified local fire departments. Any salary increase would be implemented through an MOU negotiated pursuant to the Dills Act. Unlike the author's previous version of this bill (AB 1254, Flora, 2023) AB 1309 would also require CalHR, on or before January 1, 2027, to conduct a survey and report to CALFIRE on the salaries and benefits for fire chiefs in five specified fire departments.

2. Need for this bill?

According to the author:

"CAL FIRE are overworked and severely underpaid comparative to local agencies. CAL FIRE works a 72 hour workweek compared a 54 hour work week for local fire departments. [AB 1309] Requires the state to provide comparative pay for rank-and-file state firefighters

[1] "2023 California Firefighter Total Compensation Survey," CalHR, May 2024, 2023-California-Firefighter-Total-Compensation-Survey.pdf
[2] Ibid

in Bargaining Unit 8 employed by CAL FIRE, ensuring their salaries are within 15% of the average salaries for corresponding ranks in 20 specified fire departments across California. This compensation standard must be implemented through collective bargaining, along with other related provisions."

3. Proponent Arguments:

The sponsors of the bill, CAL FIRE Local 2881, argue:

"On behalf of the almost 10,000 CAL FIRE Firefighters who confront disasters on the front line, we are proud to sponsor AB 1309, which requires pay for rank and file members of Bargaining Unit 8 within 15% of the average salary for corresponding ranks within the cities of Bakersfield, Chula Vista, Corona, Escondido, Fullerton, Hayward, Milpitas, Ontario, Oxnard, Rialto, Roseville, San Bernardino, San Mateo, Santa Monica, Stockton, Torrance, and Ventura, the Livermore-Pleasanton Fire Department, the Novato Fire District and the County of Los Angeles.

An agreement was made in 2017 between Bargaining Unit 8 (CAL FIRE Local 2881) and CalHR to follow such protocol. This bill codifies that agreement.

CAL FIRE has the most diverse mission and with a new pattern of historically catastrophic fires, our men and women work onerous schedules that have physical and psychological risk. Comparative pay is essential. Because of low pay, more than 400 firefighters in the past couple of years have left CAL FIRE for better paying departments. This bill will help stanch the loss."

According to the California Professional Firefighters:

"Devastating wildfires have become a regular occurrence in California, exacerbated by a changing climate and years of dry conditions. Large scale incidents such as the Dixie Fire, the Camp Fire, and the Eaton and Palisades Fires have strained not only the resources of fire departments to the limit, but placed unimaginable burdens onto the firefighters employed by CAL FIRE who are on the front lines of many of these blazes. Deployments during wildfire season, which now can stretch through the entire year, can extend up to and over 60 days in a row, with exhausting 48-hour shifts lined up back-to-back with little to no opportunities for rest. And even when they are not on the forefront of pushing back against mega-fires that threaten entire communities, CAL FIRE firefighters work daily to protect their communities and the entire state with every ounce of dedication and skill employed by their peers in other departments.

For years however, the wages for CAL FIRE have lagged significantly behind what is offered in municipal and county departments, devaluing the critical work done by these professionals and making it increasingly difficult to recruit and retain firefighters where they are desperately needed. Short staffing only compounds the dangers inherent to this work through exhaustion and critical stress, but also presents long-term health impacts from extended exposure to toxic smoke with no respiratory protection as well as the negative repercussions for behavioral health from lack of sleep, overwork, and months on end spent away from family. In order to retain the skilled and trained firefighters that are so desperately needed at safe levels it is imperative that wages are commensurate with the critically important work that they perform."

4. Opponent Arguments:

None received.

5. Prior Legislation:

AB 252 (Bains, 2025) would have required CAL FIRE to maintain no less than full staffing levels throughout the calendar year and meet specified staffing requirements. *This bill was held in the Assembly Appropriations Committee.*

AB 393 (Connolly, 2025) would require the California Department of Corrections and Rehabilitation and the Department of State Hospitals to take specified actions before entering into a personal services contract to fill a Bargaining Unit 16 physician position and a Bargaining Unit 19 psychologist position. *This bill is pending in Senate Appropriations Committee.*

AB 2872 (Calderon, Vetoed, 2024) would have required the state to pay sworn members of the Department of Insurance who are rank-and-file members of Bargaining Unit 7 the same compensation paid to corresponding rank-and-file sworn peace officers of the Department of Justice. Governor Newsom's veto message stated:

> "This bill requires the state to pay sworn members of the California Department of Insurance who are rank-and-file members of State Bargaining Unit 7 the same compensation paid to corresponding rank-and-file sworn peace officers of the Department of Justice. While I appreciate the author's intent, this bill effectively circumvents the collective bargaining process and the California Department of Human Resources' salary-setting authority. By setting a salary for one state department's employees, in statute, the bill limits the state's ability to consider factors that impact the state or other state employee bargaining units when proposing compensation packages through collective bargaining. For these reasons, I cannot sign this bill."

AB 1677 (McKinnor, Vetoed, 2024) would have required the University of California at Berkeley Labor Center to undertake a study of the existing salary structure and provide recommendations for alternative models, if applicable, as applied to rank-and-file scientists in State Bargaining Unit 10, among other provisions. *This bill was vetoed by the Governor.*

AB 1254 (Flora, 2023) was nearly identical to AB 1309 and would have required the state to pay CAL-FIRE firefighters within 15 percent of the average salary for corresponding ranks in 20 listed California fire departments. *This bill was ordered to the Inactive File on the Senate Floor.*

SUPPORT

CAL FIRE Local 2881 (Sponsor)
California Professional Firefighters

OPPOSITION

None received.

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

Bill No:	AB 1331	**Hearing Date:**	June 25, 2025
Author:	Elhawary		
Version:	June 19, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Workplace surveillance

KEY ISSUES

This bill limits employer use of workplace surveillance tools by 1) prohibiting an employer from using such tools to monitor workers in employer-designated off-duty areas; 2) authorizing employers to use video cameras in certain locations for safety purposes but with limitations, as specified; and 3) authorizes the use of workplace surveillance tools in specified circumstances, including to access locked or secured areas. This bill 1) includes anti-discrimination provisions protecting workers' exercise of these rights; 2) makes an employer who violates these provisions subject to a specified civil penalty; 3) authorizes the Labor Commissioner (LC) to enforce these prohibitions, issue citations, and file civil actions for any violations; 4) additionally authorizes enforcement by public prosecutors; and 5) provides exemptions to specified security, military and airspace employers.

ANALYSIS

Existing law:

1) States that the "right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them." Further states these findings of the Legislature:

    a. The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies.
    b. The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information.
    c. In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits.
    (Civil Code §1798.1)

2) States that advances in science and technology have led to the development of new devices and techniques for the purpose of eavesdropping upon private communications and that the invasion of privacy resulting from the continual and increasing use of such devices and techniques has created a serious threat to the free exercise of personal liberties that cannot be tolerated in a free and civilized society. (Penal Code §630)

3) Prohibits a person from intentionally, and without the consent of all parties to a confidential communication, using an electronic amplifying or recording device to eavesdrop upon or record the confidential communication. For purposes of these provisions, defines a "person" to mean an individual, business association, partnership, corporation, limited liability company, or other legal entity. (Penal Code §632)

4) 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.)

5) 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))

6) 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)

7) Establishes within the DIR, 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 in every workplace and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)

8) 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)

9) Prohibits an employer from causing an audio or video recording to be made of an employee in a restroom, locker room, or room designated by an employer for changing clothes, unless authorized by court order. No recording made in violation of this prohibition may be used by an employer for any purpose. A violation of this section constitutes an infraction. (Labor Code §435)

10) Authorizes, until January 1, 2029, a public prosecutor to prosecute an action, either civil or criminal, for a violation of certain provisions of the labor code or to enforce those provisions independently. (Labor Code §181)

This bill:

1) Defines, among other terms, the following:

    a. "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.

i. "Employer" includes an employer's labor contractor.
ii. "Employer" includes private entities and public entities, including, but not limited to, 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.

b. "Employer-designated area" means an area in the workplace the employer provides or has historically provided to workers to use for breaks or to purchase, obtain, or consume food or beverages.

c. "Worker" means 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 a system, application, instrument, or device that collects or facilitates the collection of worker activities, communications, actions, biometrics, or behaviors, or those of the public that are capable of passively surveilling workers, by means other than direct observation by a person, including, but not limited to, video or audio surveillance, electronic workplace tracking, geolocation, electromagnetic tracking, photoelectronic tracking, or utilization of a photo-optical system or other means.

i. "Workplace surveillance tool" does not include smoke or carbon monoxide detectors or weapon detection systems that automatically screen a person's body.

e. "Public prosecutor" means the Attorney General, a district attorney, a city attorney, a county counsel, or any other city or county prosecutor.

2) Prohibits an employer, unless directed by a court order, from using a workplace surveillance tool to monitor or surveil workers, including data collection on the frequency of a worker's use of those areas, in the following employee-only, employer-designated areas:

a. Bathrooms.
b. Locker rooms.
c. Changing areas.
d. Breakrooms.
e. Lactation spaces.
f. Cafeterias.

3) Authorizes a worker to leave behind workplace surveillance tools that are on their person or in their possession when entering the off-duty areas listed above, including during off-duty hours, such as meal periods, unless a worker is required to remain available during meal or rest periods pursuant to federal law or existing state law.

4) Notwithstanding the above, *authorizes an employer* to do all of the following:

a. For worker safety purposes only, use video cameras to record breakrooms, employee cafeterias, or lounges, subject to the following requirements:

   i. The video camera does not record audio.
   ii. The employer posts signage in areas recorded by the video camera notifying workers that they are subject to video surveillance.
   iii. The video camera does not use artificial intelligence or other digital monitoring capacity.
   iv. The employer does not monitor or review video surveillance of breakrooms, employee cafeterias, or lounges unless one of the following conditions is met:
      1. A worker or their authorized representative requests video surveillance they are in and the employer only reviews the surveillance to find the requested segment.
      2. Law enforcement or a court of law requests the video. Video footage provided to law enforcement shall also be made available to a worker who is recorded.
   v. The video surveillance is stored in a form that can only be accessed by a worker who is reviewing the video surveillance for the purposes specified above.

b. Use workplace surveillance tools that passively surveil workers in a work area not listed in (2) above, even if an off-duty worker may be present, as long as the worker is made aware in advance that a workplace surveillance tool is in use.

c. Check workplace surveillance tools for the one-time entry and exit in the off-duty areas for health and safety purposes, as long as it is not used to monitor the frequency of a worker's use of those areas.

5) Prohibits an employer from requiring a worker to physically implant a device that collects or transmits data, including a device that is installed subcutaneously in the body.

6) On a multiemployer jobsite, requires the controlling employer to post a notice at the jobsite providing a general description of the types of activities that may be monitored or surveilled and for what purposes. Specifies that such a notice satisfy the requirement for any employer whose employees perform work on that jobsite.

7) Specifies that an employer is not in violation of the bill's provisions in any of the following circumstances:

   a. A worker brings a workplace surveillance tool into an off-duty area, specified in (2) above, because it is required to access a locked or secured area.
   b. A worker uses a workplace surveillance tool to access a locked or secured area during off-duty hours.
   c. A worker voluntarily chooses to bring a workplace surveillance tool into an off-duty area.
   d. A worker voluntarily keeps a workplace surveillance tool on their person during off-duty hours.

8) Prohibits an employer from discharging, threatening to discharge, demoting, suspending, or in any manner discriminating against an employee for using, or attempting to use, the employee's rights under this part, including the filing of a complaint, as specified.

9) Specifies that in addition to any other remedy, an employer who violates these provisions shall be subject to a civil penalty of $500 per employee for each violation.

10) In addition to any other remedy, authorizes the Labor Commissioner 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 including by issuing a citation and filing a civil action, as specified.

11) Authorizes these provisions to also be enforced by a public prosecutor, as specified.

12) Provides that the above provisions do not preempt any local law that provides equal or greater protection to workers.

13) Specifies that the above provisions are severable and if any provision is held invalid, that invalidity shall not affect other provisions or applications that can be given effect.

14) Provides that these provisions do not limit the authority of the Attorney General, a district attorney, or a city attorney, either upon their own complaint or the complaint of any person acting for themselves or the general public, to prosecute actions, either civil or criminal, for violations of these provisions, or to enforce the provisions independently and without specific direction of the LC or the Division of Labor Standards Enforcement.

15) Specifies that these provisions do not prohibit any employer from using workplace surveillance tools as required by federal law or existing state law.

16) Specifies that these provisions do not authorize any employer to use workplace surveillance tools as prohibited by federal law or existing state law.

17) Exempts from all these provisions, an employer that does either of the following:

    a. Develops products for national security, military, space, or defense purposes.
    b. Develops aircraft for operation in national airspace.

COMMENTS

1. Background:

Artificial Intelligence and Workplace Surveillance Tools

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. With regards to employee monitoring and surveillance, employers are deploying AI-powered tools that monitor and manage workers, including by tracking their locations, activities, including emotions, and productivity.

Employee monitoring and surveillance is not a new phenomenon, unfortunately, the technological advancements of the last few years is putting into question just how far is too far? As noted by the Assembly Privacy and Consumer Protection Committee analysis of this bill:

> "Employers are using more surveillance technology than ever — digital cameras, motion scanners, RFID badges, Apple Watch badges, Bluetooth beacons, keystroke logging — to track every single movement of workers in the office and to gauge their productivity. Some workplaces are using biometric data such as eye movements, body shifts, and facial expressions, captured by computer webcams, to evaluate whether or not their employees are being appropriately attentive in their work tasks. As an example, artificial intelligence (AI) systems at call centers record and grade how workers are handling calls. This technology can be used to 'coach' workers while they are talking to customers, telling them to sound happier or be more sympathetic. Another example is wearable technology that, among other things, tracks a worker's movements throughout the day, gathering biometric data, measuring how many times they use the bathroom, how long they spend in break areas, and which employees are spending time together. According to the author, at least one company sells biometric ID badges with microphones, sensors, and other tools to record conversations, monitor speech, body movements, and location. Even body temperature, sweat, and frequency of bathroom visits can be tracked and analyzed by employers."

Existing law generally allows employers to surveille their employees as long as they notify employees about their surveillance practices, including the places being monitored, and avoid restrooms, locker rooms or places where people change clothes. Some additional limitations and requirements apply for audio recording surveillance.

Prevalence:
A 2024 study by the Washington Center for Equitable Growth, which surveyed 1,273 workers and sought to estimate the prevalence of automated management and surveillance technologies at work and their impact on workers' well-being, found that:

- 68.5 percent of workers reported electronic monitoring some or all of the time
- 36.8 percent reported productivity monitoring
- 44.6 percent reported camera monitoring
- 26.6 percent reported location monitoring
- 52.1 percent reported technology monitoring (for those who reported regularly using smartphones, tablets, or computers at work)

Unfortunately, "many workers may be unaware of the extent to which they are being tracked by their employer; only two states, Delaware and Connecticut, mandate that employers inform their employees of electronic tracking."[1]

Amazon is an extreme example of the extent that AI and workplace monitoring and surveillance has taken us. According to various sources, including a claim filed with the National Labor Relations Board by employees, Amazon tracks every minute that workers spend off their tasks.[2] Workers claim they get written warnings for every 30 minutes of time off-task and can be fired if they accumulate 120 minutes of time off-task in a single day or if they have accumulated 30 minutes of time off-task on three separate days in a one-year

[1] Ifeoma Ajunwa, Kate Crawford, and Jason Schultz, Limitless Worker Surveillance, 105 Cal. L. Rev. 735 (2017)., Available at SSRN: https:// theguardian ssrn.com/abstract=2746211
[2] The Guardian, Michael Sainato, May 21, 2024. "You feel like you're in prison': workers claim Amazon's surveillance violates labor law." https://www..com/us-news/article/2024/may/21/amazon-surveillance-lawsuit-union

period.[3] Activities that amount to "time off task" include going to the bathroom, talking to another worker, or going to the wrong work station. Workers reported that they were afraid to go to the bathroom or get a drink of water for fear of being disciplined.[4] In addition to tracking time off-task, Amazon also uses AI cameras at workstations to catalog worker mistakes.[5] Monitoring the workers' activities non-stop also helps improve the AI computer system, which learns from the responses of Amazon's video reviewers and becomes more accurate over time.[6]

California Consumer Privacy Act (CCPA) and Worker Rights:
As of January 1, 2023, the CCPA covers employees of specified large employers by granting them certain rights and protections with regards to their privacy at work. Specifically, the CCPA grants workers, among other things, the right to know when their employers are collecting data on them, the right to access that data, the right to correct and delete data, and grants employees protections from retaliation for exercising these rights. The CCPA applies to a worker's personal information, such as their IDs, demographics, employment-related data, biometric data, social media data, geolocation data, audio data, and any inferences about the worker's characteristics and abilities, personal information like religious beliefs and sexual orientation, among other information.

Unfortunately, the CCPA only applies to employees at for-profit companies doing business in the State that meet one or more of the following qualifications[7]:

- Have more than $25 million in gross annual revenue;
- Buy, sell, or share the personal information of 100,000 + consumers or households;
- Derive 50 percent or more of their annual revenue from selling or sharing consumers' personal information;

In terms of enforcement, the CCPA applies to independent contractors, job applicants, former employees, and third parties that control the collection of an employer's worker data, as specified. The California Privacy Protection Agency (CPPA) was created to enforce the CCPA and is able to investigate alleged violations and impose administrative fines. California's AG is also authorized to enforce the CCPA. There is no private right of action except in cases of data breaches.[8]

Recent Legislative Efforts to Regulate AI
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 by establishing key definitions, including a uniform definition for

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[3] Lauren Kaori Gurley, "Internal Documents Show Amazon's Dystopian System for Tracking Workers Every Minute of Their Shifts" *Vice* (Jun. 2, 2022) https://www.vice.com/en/article/internal-documents-show-amazons-dystopian-system-for-tracking-workers-every-minute-of-their-shifts/
[4] *Ibid.*
[5] Niamh McIntyre and Rosie Bradbury, *The eyes of Amazon: a hidden workforce driving a vast surveillance system*, The Bureau of Investigative Journalism (Nov. 21, 2022) https://www.thebureauinvestigates.com/stories/2022-11-21/the-eyes-of-amazon-a-hidden-workforce-driving-a-vast-surveillance-system/
[6] *Ibid.*
[7] UC Berkeley Labor Center, Kung Feng, December 6, 2023. "Overview of New Rights for Workers under the California Consumer Privacy Act." https://laborcenter.berkeley.edu/overview-of-new-rights-for-workers-under-the-california-consumer-privacy-act/
[8] *Ibid.*

"artificial intelligence." 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 Automated Decision System (ADS) is being used, the right to opt out of its use, and an explanation of how it is used.

There were several other bills in 2024, although the focus has mostly been on consumers and their technology rights, such as collection of social media data 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 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.

Several other bills regulating AI are pending this year, including SB 7 (McNerney, 2025), which is pending in the Assembly Labor and Employment Committee, would be the first attempt at comprehensively regulating the use of ADS in the workplace. AB 1018 (Bauer-Kahan, 2025) would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined. AB 1355 (Ward, 2025), which was held under submission in the Assembly Appropriations Committee, would have prohibited the collection, sale, and sharing of individual's location data, except under certain narrow circumstances.

AB 1221 (Bryan, 2025) which was specifically on workplace surveillance, was held under submission in the Assembly Appropriations Committee, but would have required 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 regarding the toll and intended uses. Additionally, the bill would have prohibited an employer from using certain workplace surveillance tools, including a workplace surveillance tool that incorporates facial, gait, or emotion recognition technology.

This bill:
Finally, this bill (AB 1331 Elhawary) would limit the use of workplace surveillance tools by employers, including by prohibiting an employer from monitoring or surveilling workers in employer-designated off-duty areas, as specified, and authorizing the use of such tools in certain circumstances.

2. Committee Comments:

As noted above, AI and workplace surveillance technology is being used in new ways that we had never previously imagined. This bill attempts to limit the ways in which surveillance tools are used to monitor and control workers in the workplace. Existing law requires employers to ensure a safe and healthful workplace, but this bill is crucial to ensuring workers are not monitored and surveilled to such extremes that their health and safety is put on the line. At the same time, we need to ensure that employers have the tools they need to ensure a safe workplace. It is imperative, for the sake of our workers and their livelihoods, that the Legislature take a proactive and measured approach to address the issue.

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

- A previous version of this bill authorized a worker to disable a workplace surveillance tool that is on their person during off-duty hours including meal periods in a worker's residence, personal vehicle, or property owned, leased, or sued by a worker. The current version of this bill authorizes a worker to leave behind a workplace surveillance tool when entering off-duty areas and public bathrooms and *during off-duty hours*, as specified. The bill also specifies that an employer is not in violation of these provisions if "a worker *voluntarily* keeps a workplace surveillance tool on their person during off-duty hours."

  Presumably, the author intends this provision to capture workers who have to take a workplace surveillance tool with them during off-duty hours, but what if the employer requires such equipment to stay with them during those off-duty hours? An employee may have a work laptop that they are required to keep with them at all times. A worker may have a badge that they need to take home in order to unlock the office the next day. *How would this bill's requirements and prohibitions apply in these types of circumstances?*

- The bill specifies that in addition to any other remedy, an employer who violates these provisions shall be subject to a civil penalty of five hundred dollars ($500) *per employee for each violation.* In practice, if an employer were to violate these provisions, would the penalty amount to $500 for each employee who appears in a surveillance video? Or, could it amount to $500 for every employee in the workforce on that given day? *The author may wish to amend the civil penalty provisions further to ensure clarity.*

- The California Gaming Association, California Cardroom Alliance, and the Communities 4 California Cardrooms are seeking an exemption for licensed California cardrooms. They argue that this bill is in direct conflict with current gaming regulations and workplace safety laws, and would make it impossible for cardroom operators to comply with both existing law and this bill. They argue that video surveillance is uniquely crucial in their industry in order to deter money laundering and for law enforcement to go after criminals. *Whether the author decides to exempt this industry or not, the author may wish to amend the bill to at least specify that the bill's provisions do not prohibit any employer from using workplace surveillance tools as required by state and federal law and their implementing regulations.*

  1563(d) This part does not prohibit any employer from using workplace surveillance tools as required by federal law or existing state law, **and their implementing regulations.**

- At the next opportunity for amendments, the author should make this technical fix:

  1561(d) (2) Use workplace surveillance tools that passively surveil workers in ~~**an area in**~~ a work area not listed in paragraph (1) of subdivision (a) even if an off-duty

worker may be present, as long as the worker is made aware in advance that a workplace surveillance tool is in use.

3. Need for this bill?

According to the author:

"As technology's capabilities have increased, employer surveillance of workers has increased. Recent reports from ExpressVPN found that close to 80% of employers use monitoring software to track employee performance. With employer surveillance on the rise, workers have limited access to spaces in their workplace, that are not under constant surveillance. Employers use workplace surveillance to track, monitor, manage, and prevent workers from advocating for their rights. The new surveillance state at the workplace has proven to increase psychological distress, stress, and lower job satisfaction among workers. Part of the stress stems from the invasiveness of surveillance technology that follows a workers' every movement through wearable devices that eliminate the need for workplace cameras. Humanyze sells biometric ID badges with microphones, sensors, and other tools to record conversations, monitor speech, body movements, & location. Even body temperature, sweat, and frequency of bathroom visits can be tracked and analyzed by employers. Workers often don't know how or when they're being surveilled or what the employer is doing with that sensitive, personal data. …

In 2018 Amazon patented a technology in the form of a wristband to be worn by warehouse workers with the intent of precisely tracking employees in warehouses. The tool could be used to track productivity but also to monitor for potential organizing. The tool allows supervisors to track where workers were at all times and could even determine how many 'wristbands' were together in a given location, tracking which workers were talking to each other. Amazon also developed a centralized AI system that can detect union-friendly phrases and behaviors in Amazon warehouses in real time. AI then analyzes the data to learn 'how to devise strategies to neutralize their programmed target,' which, in this case, is 'workers in a break room' who are potentially pro-union or at least, asking questions about their rights. Perceptyx – a company that collects and analyzes employee surveys, digital focus groups, and other information – said it could create a 'union vulnerability index' so employers can see which group of workers is at highest risk of unionizing. Wearables and other surveillance tools can be used to track which workers spend time together, giving employers another tool to union-bust.

The future of surveillance is also rapidly developing. A Swedish company called Biohax makes radio-frequency identification chips that can be implanted in workers instead of using key cards or other RFID devices at work. Several companies, including the Swedish railway, have adopted the technology and news outlets report that over 4,000 Swedes have opted to use the implantable devices which could easily be used at workplaces as well as train stations. This bill updates existing workplace privacy laws to cover new and developing high-tech surveillance tools."

4. Proponent Arguments:

According to a coalition of proponents, including the sponsors, the California Federation of Labor Unions:

"Workplace surveillance is not a new phenomenon; employers have surveilled workers for decades with traditional cameras and microphones. However, today's workplace surveillance capabilities differ in scale, speed, and invasiveness. Employers now have access to a plethora of military grade tools, such as wearable devices, to monitor worker biometrics, speech, and location, as well as heat and retina tracking technology. With the use of these powerful surveillance tools, workers have limited access to spaces in their workplace that are not under constant surveillance. A 2024 study found two-thirds (68%) of U.S. workers report at least one form of electronic monitoring. The study also found 88% of large companies (1000 or more workers) have some form of monitoring, compared to 43% in smaller organizations. Areas such as restrooms, lactation spaces, and worker lounges are not protected from being surveilled with advanced technology that does not rely solely on traditional audio or visual recordings. The new surveillance state at the workplace has proven to increase the likelihood of discrimination, harassment, and psychological distress of workers.

To protect worker privacy in sensitive areas and from developing implantable technology, AB 1331 will update and expand existing workplace privacy laws to address new powerful forms of surveillance technology. AB 1331 protects workers by prohibiting employers from using surveillance tools to monitor workers in employee-only, employer designated: restrooms, lactation spaces, changing areas, and locker rooms. AB 1331 also prohibits all methods of surveillance – except video surveillance for purposes of worker safety – in employee-only, employer designated cafeterias and break rooms. To prevent union busting, the video surveillance may not be AI-enabled or have audio capacity. Additionally, AB 1331 gives workers the right to leave behind any surveillance device, including wearables, trackers, company vehicles, or tools, in their possession when off-duty or when entering breakrooms, cafeterias, and bathrooms. Lastly, AB 1331 prohibits employers from requiring workers to implant or embed tracking devices in their body to ensure state law is ahead of technology being developed and tested currently. AB 1331 gives workers a break from the relentless surveillance and monitoring in the workplace so they can rest, talk, eat, and organize without the boss watching."

5. Opponent Arguments:

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

Regarding breakrooms and cafeterias:
"One of our primary outstanding concerns with AB 1331 is that Section 1561 prohibits monitoring or even reviewing security video footage unless one of two narrow exceptions is satisfied: 1) an employee who is in the video requests review or 2) law enforcement or a court requests review.

Break rooms and cafeterias are high-traffic areas. … Unfortunately, our members have had many incidents occur in these areas, including: theft of personal belongings, theft of merchandise, harassment, suspicious personnel or active shooter alerts, bringing weapons into break rooms, stalking, bringing drugs or alcohol onto work premises, selling drugs on work premises, and physical altercations. We have serious concerns that prohibiting any active monitoring of these areas and severely limiting the circumstances under which footage can be reviewed will increase the frequency of these types of incidents. It also prohibits employers from responding in real time where they are alerted about an incident or there is an active shooter warning or an employee presses a panic button in or around those areas.

Further, its outright prohibition on the use of AI in video or the use of any audio, including audio analytics, would prohibit technology that allows employers to more quickly find suspicious personnel who may be on premises or suspicious activity.

While we understand the concern about using footage to spy on employees who may be organizing, the National Labor Relations Act (NLRA) already prohibits surveillance for this purpose. The NLRB has a long history of prohibiting the use of surveillance for purposes of infringing on employees' rights to organize."

Regarding the use of video cameras:
"Pursuant to recent workplace safety legislation (SB 553 – Cortese [2023]) – and in response to multiple high-profile workplace violence incidents – California put into place a workplace violence regulation in 2024. ... Cal/OSHA is now in the rulemaking process, and one of their preferred developments from SB 553's text *is to specifically push employers to use video cameras to monitor and record in the workplace to identify and respond to workplace violence*.[9] Cal/OSHA's draft regulation also requires employers to implement controls like cameras to 'eliminate or minimize employee exposure to identified workplace violence hazards' (section 3342(c)(10)(A)), including potential employee-on-employee violence, identified as 'Type 3 violence' in the regulation. Indeed, employers would be legally prohibited from monitoring cameras even if employees specifically asked them to due to a prior incident.

AB 1331 implicitly contradicts Cal/OSHA's workplace safety draft by ***prohibiting employers from monitoring such cameras*** in two of the most common places for employees to gather in the workplace – breakrooms and cafeterias. In fact, a meal break in the cafeteria or break room may be the largest group gathering of the entire work shift, making it all the more likely for violence to occur there. For that reason, we see AB 1331 as contradicting the draft workplace safety regulation that Cal/OSHA is presently working on."

Regarding the use of badges:
"While we appreciate recent amendments to ensure that there is no violation of the bill where an employee chooses to walk into certain areas with a badge (which may be a surveillance tool under the bill's broad definition if it is also used to access secure areas), we do want to make sure that employers are also allowed to *require* identification like badges to be worn while anywhere on premises. This would include if an employee were on a lunch break or using the restroom or break room if they are on premises. Many employers like hospitals, schools, or others have such policies."

Regarding the inclusion of independent contractors:
"The bill's definition of 'worker' includes independent contractors, which should be removed from the bill. The above concerns are even more prominent when involving independent contractors. Contractors are often limited-term workers who are coming onto an employer's premises to do a specific job. They are new to the workplace, and often are not previously known to the employer (or its employees, customers, patients, residents, pupils, etc.), so potential security risks are heightened. And, similar to the exempt employees discussed above, the very nature of an independent contractor means that the company does not have

[9] *See* Cal/OSHA's recent Revised Discussion Draft, released May 13, 2025, available at: https://www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/. Specific text at proposed section 3342(b)(3) – Engineering Controls – "…Video monitoring and recording …"

control over their schedule. They can likely come and go as they please or take breaks at any time or place – making it impossible for an employer to even know when AB 1331's prohibitions would go into effect."

There is additional opposition from several public employer organizations, including the CA State Association of Counties and the League of CA Cities, who argue that the bill would vastly complicate the work of local governments, endanger their ability to perform essential public services, impede their ability to manage and respond to workplace violence threats, and make local governments vulnerable to waste, fraud, and abuse of public resources. In addition to similar concerns raised by private sector employers, they write:

"Unfortunately, we have seen rising hostility and threats against government entities and their workforces. That includes violence and threats of violence against government employees whose job requires them to serve the public, like library staff, teachers, firefighters, benefits officers, among myriad other examples. It also includes public officials who are frequently targeted with threats or actual violence, including election workers, health officers, and public officials. AB 1331 would heighten vulnerability for public servants at a time of strong anti-government sentiment.

The ability for employees to request video footage also raises critical privacy concerns about the disclosure of those in the footage, placing public agencies in the difficult position of potentially violating an employee's privacy or incurring considerable costs to blur or pixelate the images of those in the footage.

To compound all of our concerns, AB 1331 imposes severe financial penalties for non-compliance. For public agencies, these penalties can be staggering and severely impact funds needed to provide essential public services. At a time of significant budget constraints at the state and local level, now is not the time to subject public agencies to nuclear fines for providing basic security measures.

We understand the sponsors are advancing this bill to address activities by private employers that use security tools to undermine efforts to organize a union, influence union elections, or retaliate against union leaders. Existing law already provides significant protections for public employee union activities. For example, Government Code § 3550 provides that a public employer shall not deter or discourage public employees, or applicants to be public employees, from becoming or remaining members of an employee organization. Section 3551.5 imposes significant penalties for violations of § 3550 and grants employee organizations standing to bring the claims.

Put simply, public agencies use the 'surveillance tools' defined in this law to protect public resources, employees, and the public – not to influence employee organization activities. We once again urge the author to amend the bill to remove public agencies entirely from its provisions."

Lastly, there is opposition from the California Gaming Association, California Cardroom Alliance, and the Communities 4 California Cardrooms – in addition to the California Cities for Self-Reliance Joint Powers Authority representing some cities where these cardrooms are located – representing licensed cardrooms across the state who are seeking an exemption for licensed California cardrooms. They argue that this bill is in direct conflict with current

gaming regulations and workplace safety laws making it impossible for cardroom operators to comply with both regulatory requirements and this bill. They write:

"Licensed cardrooms are among the most heavily regulated workplaces in California. Our facilities are required by the California Bureau of Gambling Control and the California Gambling Control Commission to operate under strict surveillance protocols, including continuous video monitoring of gaming areas, cashier cages, and even employee-only areas such as break rooms. These measures are not optional—they are mandated by state law to deter criminal activity, ensure compliance with gaming regulations, and maintain the trust of law enforcement, the safety of our patrons, employees, and the public. …

AB 1331 conflicts with new and existing Cal/OSHA workplace violence prevention requirements, including SB 553 (2023), which encourages employers to implement robust safety measures—many of which rely on continuous monitoring. It would also impede compliance with numerous public safety and regulatory standards mandated by Cal/OSHA, Title 31, and workplace violence prevention plans. Our industry takes these obligations seriously and must have the tools to meet them without facing lawsuits for simply protecting employees and the public. Even as proposed to be amended, the bill would still create areas where an employer could not adequately protect employees from workplace violence due to the bill's desire to remove surveillance from areas where employees congregate…. In fact, this legislation could hamper Department of Justice and other law enforcement investigations were an incident to involve non-surveilled areas of a cardroom. These unique and cardroom-specific issues require careful consideration and a clean and clear exemption from the bill language both in print and as proposed to be amended."

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), mentioned above, would regulate the use of automated decision systems (ADS) in the employment setting. *SB 7 is pending in the Assembly Labor and Employment Committee.*

SB 503 (Weber Pierson, 2025) would require the creation of an advisory board related to the use of AI in health care services. *SB 503 is pending in the Assembly Health 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. *AB 1018 is pending in the Senate Judiciary Committee.*

AB 1221 (Bryan, 2025) would have required 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. The bill would have also prohibited an employer from using certain tools, including one that incorporates facial, gait, or emotion recognition technology. The bill would have required the LC to enforce these provisions, authorized an employee to bring a civil action for violations, and authorized a public prosecutor to also enforce these provisions. *AB 1221 was held under submission in the Assembly Appropriations Committee.*

AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) established a uniform definition for "artificial intelligence," among other terms, in California law.

AB 2930 (Bauer-Kahan, 2024) would have regulated the use of ADSs in order to prevent "algorithmic discrimination." This bill 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. *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 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," as specified. *AB 331 was held under submission in the Assembly Appropriations Committee.*

AB 302 (Ward, Ch. 800, Stats. 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 Federation of Labor Unions (Sponsor)
Air Line Pilots Association, International
American Federation of State, County and Municipal Employees (AFSCME) California
Association of Flight Attendants - CWA
California Alliance for Retired Americans
California Coalition for Worker Power
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Employment Lawyers Association
California Federation of Teachers AFL-CIO
California Immigrant Policy Center
California Nurses Association
California Professional Firefighters
California School Employees Association
California State Legislative Board of the SMART - Transportation Division
California State University Employees Union
California Teamsters Public Affairs Council
Center for Democracy and Technology
Center for Inclusive Change
Center on Policy Initiatives
Church State Council
Coalition for Humane Immigrant Rights
Coalition of Black Trade Unionists, San Diego County Chapter
Communications Workers of America, District 9
Community Agency for Resources, Advocacy and Services
Consumer Attorneys of California
Consumer Federation of California
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
International Cinematographers Guild, Local 600, IATSE
International Lawyers Assisting Workers Network
Los Angeles Alliance for a New Economy
National Employment Law Project
National Union of Healthcare Workers
Northern California District Council of the International Longshore and Warehouse Union
Oakland Privacy
Pillars of the Community
PowerSwitch Action
Rise Economy
San Diego Black Workers Center
Secure Justice
Service Employees International Union, California State Council
Surveillance Resistance Lab
Teamsters California
TechEquity Action
The Center for AI and Digital Policy
The Workers Lab
Transport Workers Union of America, AFL-CIO
UNITE HERE, AFL-CIO
UNITE HERE! Local 11
United Food and Commercial Workers, Western States Council

Utility Workers Union of America
Warehouse Worker Resource Center
Workers' Algorithm Observatory
Working Partnerships USA
Worksafe

OPPOSITION

Acclamation Insurance Management Services
ADT Security Services
Aerospace and Defense Alliance of California
Agricultural Council of California
Allied Managed Care
American Petroleum and Convenience Store Association
American Property Casualty Insurance Association
Anaheim Chamber of Commerce
Associated General Contractors of California
Associated General Contractors – San Diego Chapter
Association of California Healthcare Districts
Association of California School Administrators
Association of Orange County Deputy Sheriff's
Brea Chamber of Commerce
CalBroadband
Calforests
California Alliance of Family Owned Businesses
California Apartment Association
California Association of Health Facilities
California Association of Joint Powers Authorities
California Association of Licensed Security Agencies, Guards & Associates
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Association of Winegrape Growers
California Attractions and Parks Association
California Automatic Vendors Council
California Bankers Association
California Beer and Beverage Distributors
California Cardroom Alliance
California Chamber of Commerce
California Cities for Self-reliance Joint Powers Authority
California Coalition on Workers Compensation
California Construction and Industrial Materials Association
California Credit Union League
California Farm Bureau
California Fitness Alliance
California Fraternal Order of Police
California Fuels and Convenience Alliance
California Gaming Association
California Grocers Association
California Hospital Association
California Hotel & Lodging Association
California Landscape Contractors Association

California League of Food Producers
California Manufacturers and Technology Association
California Moving and Storage Association
California Pawnbrokers Association
California Pest Management Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties
California Statewide Law Enforcement Association
California Travel Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce
Communities 4 California Cardrooms
Construction Employers' Association
Corona Chamber of Commerce
County of Humboldt
Dairy Institute of California
Dana Point Chamber of Commerce
Flasher Barricade Association
Garden Grove Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Housing Contractors of California
Insights Association
LA Canada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
League of California Cities
Livermore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Long Beach Police Officers Association
Los Angeles Area Chamber of Commerce
Morgan Hill Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
National Association of Theatre Owners of California
National Electrical Contractors Association
National Health and Fitness Association
Oceanside Chamber of Commerce
Orange County Business Council
Pacific Association of Building Service Contractors
Paso Robles and Templeton Chamber of Commerce
Public Risk Innovation, Solutions, and Management
Rancho Cordova Area Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redondo Beach Chamber of Commerce
Rural County Representatives of California

Sacramento County Deputy Sheriff's Association
San Diego Regional Chamber of Commerce
San Jose Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Security Industry Association
Sheriff's Employee Benefits Association
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
TechNet
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
United Contractors
Urban Counties of California
Valley Industry and Commerce Association
Walnut Creek Chamber of Commerce & Visitors Bureau
Western Car Wash Association
Western Electrical Contractors Association
Western Growers Association
Wilmington Chamber of Commerce
Wine Institute

-- END --

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

Bill No:	AB 1336	**Hearing Date:**	June 25, 2025
Author:	Addis		
Version:	February 21, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Farmworkers: benefits

KEY ISSUE

This bill 1) creates a rebuttable presumption that a heat-related injury arose out of the course of employment if the employer in the agriculture industry, as defined, fails to comply with existing heat illness prevention standards and 2) establishes the Farmworker Climate Change Heat Injury and Death Fund consisting of a one-time transfer of $5 million from the Workers' Compensation Administration Revolving Fund for the purpose of administrative costs relative to the provisions of this bill.

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 (DIR) to self-insure or by obtaining insurance from a company authorized by the state. (Labor Code §§3200-6002)

2) Establishes the Division of Workers' Compensation (DWC) and Workers' Compensation Appeal Board (WCAB) within DIR and charges them with monitoring the administration of workers' compensation claims and providing administrative and judicial services to assist in resolving disputes that arise in connection with claims for workers' compensation benefits. (Labor Code §3200)

3) Creates a series of rebuttable presumptions of an occupational injury for peace and safety officers for the purpose of the workers' compensation system. These presumptions include: heart disease, hernias, pneumonia, cancer, tuberculosis, blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection (MRSA), bio-chemical illness, and meningitis. The compensation awarded for these injuries must include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by workers' compensation law. (Labor Code §§3212-3213.2)

    a. Specifies that the presumptions listed above are rebuttable and may be controverted by evidence. However, unless controverted, the WCAB must find in accordance with the presumption. (Labor Code §3212 et seq.)
    b. Specifies that the compensation awarded for these injuries must include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by workers' compensation law. Specifies that these presumptions tend to run for 5 to 10

years commencing on the last day of employment, depending on the injury and the peace office classification involved. Further specifies that peace officers whose principal duties are clerical, such as stenographers, telephone operators, and other office workers are excluded from these presumptions. (Labor Code §3212 et seq.)

4) Creates the Workers' Compensation Administration Revolving Fund as a special account in the State Treasury, upon appropriation by the Legislature, for the administration of the workers' compensation program, the Return-to-Work Program, and the enforcement of the insurance coverage program established and maintained by the Labor Commissioner. (Labor Code §62.5)

    a. Requires the director to levy a surcharge upon all employers, as defined in Labor Code Section 3300, in order to fund, among other things, the Workers' Compensation Administrative Revolving Fund. (Labor Code §62.5(a), 62.5(f))

5) Defines an "employer" as:

    a. The State and every State agency,
    b. Each county, city, district, and all public and quasi-public corporations and public agencies therein,
    c. Every person including any public service corporation, which has any natural person in service, or
    d. The legal representative of any deceased employer. (Labor Code §3300)

6) Establishes the Division of Occupational Safety and Health (Cal/OSHA) within DIR requires the division to enforce all occupational safety and health standards, as specified. (Labor Code §6300 et seq.)

7) Requires Cal/OSHA to investigate the employment or place of employment, with or without notice or hearings, if it learns or has reason to believe that an employment or place of employment is unsafe to the welfare of an employee. If Cal/OSHA receives a complaint from an employee or an employee's representative that their employment or place of employment is not safe, requires Cal/OSHA, with or without notice or hearing, to summarily investigate the complaint of serious violation within three working days. (Labor Code §6309)

8) Establishes heat illness prevention standards applicable to the following agriculture, construction, landscaping, oil and gas extraction, and transportation or delivery of agricultural products, as specified, including requiring all of the following:

    a. Provision of free, cool, potable water as close as practicable to areas where employees work;
    b. Access to shade, with ventilation or cooling, when temperatures exceed 80 degrees Fahrenheit (°F);
    c. Implementation of high-heat procedures when temperatures equal or exceed 95°F;
    d. For employees employed in agriculture, assurance of a ten minute per two hour cool down break when temperatures exceed 94°F, which may be taken with a meal break or rest period;
    e. Implementation of emergency response procedures and effective communication by voice, observation, or electronic means to ensure employees can contact a supervisor;

f. Observation of employees during temperatures of 80°F and above to monitor acclimatization;
g. Employee and supervisor training on heat illness detection, prevention, and occurrence; and
h. Establish, implement, and maintain a heat illness prevention plan, either as part of the employer's written Injury and Illness Program or maintained in a separate document. (Labor Code §6721, 8 CCR Section 3395)

9) Requires the Labor and Workforce Development Agency (LWDA), on or before July 1, 2023, to establish an advisory committee to study and evaluate the effects of heat on California's workers, businesses, and the economy, and to submit a report of its findings to the Legislature by January 1, 2026. (Government Code §15562.5)

This bill:

1) Creates a rebuttable presumption that a heat-related injury arose out of the course of employment if the employer in the agriculture industry, as defined, fails to comply with existing heat illness prevention standards.

   a. Defines "injury" to include any heat-related injury, illness, or death that develops or manifests after the employee was working outdoors during or within the pay period in which an employee suffers any heat-related illness, injury, or death.
   b. Specifies that this presumption is disputable and may be controverted by other evidence, but unless it's controverted, the WCAB shall find in accordance with it.
   c. Requires compensation awarded under the provisions of this bill to include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by workers' compensation law.

2) Establishes the Farmworker Climate Change Heat Injury and Death Fund that would consist of a one-time transfer of $5 million from the Workers' Compensation Administration Revolving Fund for the purpose of administrative costs relative to the provisions of this bill.

3) Makes a series of legislative findings and declarations related to the working conditions of farmworkers in relation to climate change.

COMMENTS

1. Background:

Workers' Compensation Presumptions
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. This simple premise is sometimes referred to as the "grand bargain."

The Legislature has created disputable or rebuttable presumptions within the workers' compensation system, which shifts the burden of proof in an injury claim from the employee to the employer. If an injury is covered by a presumption, the employer carries the burden to

prove the injury is not related to work. Presumptions reflect unique circumstances where injuries or illnesses appear to logically be work-related, but it is difficult for the injured worker to prove them as such. For certain occupations, such as firefighters and peace officers, where workers are exposed to more types of injuries than in other occupations, the law presumes certain injuries and illnesses (i.e. heart disease, hernias, pneumonia, cancer, post-traumatic stress disorder injuries, tuberculosis, blood-borne infectious diseases, bio-chemical illness, and meningitis) are occupational injuries for purposes of workers' compensation coverage.

This bill, AB 1336, proposes to create a new presumption applicable to heat-related injuries for agricultural workers *only* if it is determined that their employer failed to comply with existing heat illness prevention standards at the time of the injury. In several ways, this presumption differs from the existing scope and the structure of workers' compensation presumptions.

Cal/OSHA Heat Standards

Cal/OSHA has jurisdiction over health and safety complaints, including the heat illness prevention standards[1] which apply to all outdoor places of employment such as those in the agriculture, construction, and landscaping industries. For outdoor workplaces, employers must take steps to protect workers from heat illness. Some of the requirements include providing water, shade, rest, and training.

Farmworker Heat-Related Illnesses

California is a global leader in agriculture, with over 830,000 workers throughout the course of any given year. Unfortunately, many of these farmworkers face arduous labor, low wages, and deplorable working conditions. As climate change worsens, droughts, wildfires, extreme heat, and flooding only exacerbate the challenges to farmworkers at their workplace. In addition, fear of retaliation or deportation prevents many farmworkers from filing complaints for any workplace violations.

It is no surprise that farmworkers are especially vulnerable to the impacts of extreme heat and heat-related illnesses or injuries. As the author notes, "[f]armworkers are at a particularly high risk of heat-related illness, especially given the strenuous nature of their work and the fact that it primarily takes place outdoors. Mortality from heat-related illness is 20 times higher for farmworkers in the U.S. than private industry and non-federal government workers. The average U.S. agricultural worker is currently exposed to 21 working days in the summer growing season that are unsafe due to heat. The farmworker community also faces unique circumstances that make them more susceptible to heat-related complications, including low wages, social and cultural isolation, barriers to medical care, substandard housing, and inadequate regulatory standards. [Additionally,] the risks to farmworkers are only expected to grow due to climate change."

The author shared data from Cal/OSHA inspection reports from January 1, 2020 until September 28, 2022 that reveals continued heath illnesses and death. They argue that this "demonstrates that employers are still failing to comply with health illness preventions in the state." If employers don't comply with heat illness prevention standards or if their workers

[1] For more information on Cal/OSHA Heat Illness Prevention Guidance and resources, visit: https://www.dir.ca.gov/dosh/HeatIllnessInfo.html. For more information on the Title 8, California Code of Regulations 3395: https://www.dir.ca.gov/title8/3395.html

do not know they are required to have access to drinking water, shade, and training, then this leads to unsafe working conditions. In fact, the Farmworker Health Study survey, funded by California's Department of Public Health to examine dynamic challenges facing farmworker health, found that nearly half of farmworkers reported never being informed of a heat illness prevention plan as mandated under the law.[2]

A Heat-Related Presumption

This bill, AB 1336, proposes to create a presumption for agricultural employees who suffered heat-related injury if their employer failed to comply with the heat illness prevention standards.

According to the sponsors, the United Farm Workers (UFW):

> "The bill would […] promote employer compliance with existing state outdoor heat illness prevention standards by creating a rebuttable presumption – if a farm worker's heat-related injury or death occurs in the same time frame as their agricultural employer is found to be noncompliant with the state heat illness prevention standards, the injury or death is presumed to have occurred in the course of employment.
>
> This rebuttable presumption is unlike any other rebuttable presumption in existing law, whether in the public sector or private sector. And it is unlike any other worker's compensation bill approved by the Legislature.
>
> Under AB 1336, no rebuttable presumption is triggered unless a heat-injured employee can show that their employer was out of compliance with the existing outdoor heat regulation.
>
> This burden of demonstrating noncompliance is on the injured farm worker, not the employer. And even in that circumstance, the employer retains their right to rebut the presumption. […]
>
> Nothing in AB 1336 changes workers compensation from a no-fault system. Nothing in the bill prevents Cal/OSHA from continuing with their responsibilities. Nothing in the bill changes the existing outdoor heat regulation – ensuring farm workers have access to water, shade and breaks. Nothing in the bill changes the worker compensation benefit levels for farm workers.
>
> Rather, this bill is a market-based approach to compliance that serves to supplement inadequate state efforts."

The workers' compensation system was established to ensure that injured workers during the course of their employment receive the medical treatment and compensation they need in order to return back to gainful employment, or be compensated when they can no longer return to work. Typically, presumptions are deemed necessary when the links between an injury and employment are difficult to demonstrate, but there is evidence to support the

[2] Brown, Paul et al (2022), Farmworker Health in California: Health in Time of Contagion, Drought, and Climate Change, UC Merced Community and Labor Center, https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fwhs_report_2.2.2383.pdf

worker's claims. Normally, presumptions have not been used to incentivize compliance with other labor laws or standards.

WCAB v. Cal/OSHA on Heat Illness Prevention Standards

The main function of the WCAB is to be the administrative law court of appeals for workers' compensation claims in the State. WCAB only hears claims that are appealed after a decision by a DWC administrative law judge. It is not typically WCAB's role to determine if any Cal/OSHA standards were violated. As mentioned earlier, Cal/OSHA has jurisdiction over health and safety complaints and the heat illness prevention standards.

Under existing presumptions, it is not necessary for WCAB to make a determination of fact before the presumption applies. Instead, the presumption applies as soon as the injury occurs and the employer has the opportunity to rebut it.

In this bill, the presumption would only apply under the limited circumstances where a violation of the heat illness prevention standards has occurred. Although the bill does not specifically state *who* will make that determination, a determination that an agricultural employer failed to comply with the heat illness prevention standards would be necessary for this presumption to apply. This means that WCAB would likely have to determine whether there was a violation.

The opponents, a coalition of business groups, explain:

> "The bill does not include mechanics as far as how establishing applicability of the presumption would work. The bill does not specify how it would be determined that an employer did in fact violate the applicable provisions of heat illness prevention standard. If the bill contemplates that determination being made by the Workers Compensation Appeals Board (WCAB), we have strong concerns with imparting that responsibility on an entity that specializes in workers' compensation claims, not workplace safety."

If it is WCAB, it is unclear whether WCAB's role in making that determination would conflict with Cal/OSHA's own investigation and determinations on whether the agricultural employer is or is not complying with the heat illness prevention standards. It is also unclear what would happen if WCAB makes a determination of a violation, but Cal/OSHA is also investigating and makes a different determination.

The author and sponsors point to existing Labor Code Section 4551 and 4553.1, which they argue supports a precedent where the WCAB *does* have to make a determination that a Cal/OSHA provision or safety order was violated in the context of determining whether an employee's injury was caused by the serious and willful misconduct of an employer:

> "Where the injury is caused by the serious and willful misconduct of the injured employee, the compensation otherwise recoverable therefor shall be reduced one-half, except […] *(c) Where the injury is caused by the failure of the employer to comply with any provision of law, or any safety order of the Division of Occupational Safety and Health, with reference to the safety of places of employment.* (Labor Code Section 4551)
>
> "In order to support a holding of serious and willful misconduct by an employer based upon violation of a safety order, *the appeals board must specifically find all of the following:*

> *(1) The specific manner in which the order was violated.*
> *(2) That the violation of the safety order did proximately cause the injury or death, and the specific manner in which the violation constituted the proximate cause.*
> *(3) That the safety order, and the conditions making the safety order applicable, were known to, and violated by, a particular named person, either the employer, or a representative designated by Section 4553, or that the condition making the safety order applicable was obvious, created a probability of serious injury, and that the failure of the employer, or a representative designated by Section 4553, to correct the condition constituted a reckless disregard for the probable consequences.*" (Labor Code Section 4553.1)

The author and sponsors further claim that there would not be a conflict if the WCAB determines, separate from Cal/OSHA, that an employer violated the heath illness prevention standards. They argue this is because WCAB "routinely handles 'serious and willful violations' that lead to injuries. The WCAB makes these determinations by considering evidence that OSHA safety violations were not adhered to [and t]his bill's provisions are aligned with the current WCAB duty." The author also argues that a finding by WCAB "that an applicable heat safety standard has been violated has no bearing on any Cal-OSHA proceeding. A finding by a workers' compensation judge that a heat safety standard was violated only means that a worker who suffers a heat-related injury is entitled to the heat-injury presumption."

Expanding Workers' Compensation Presumptions to Private Sector Employees
As mentioned earlier, there is a long history of workers' compensation presumptions for public safety employees, such as peace officers and firefighters, who have unique occupational hazards including fires, accidents, and exposure to carcinogens and other toxic or hazardous material.

However, there has been no presumption applied to private sector employees besides a temporary presumption granted during the COVID-19 pandemic. In 2020, SB 1159 (Hill, Chapter 85), established a rebuttable presumption that specified employees who contracted COVID-19 in their workplace were covered under workers' compensation. The COVID-19 presumption was limited in scope and only in effect from late 2020 until January 1, 2024.

By limiting existing presumptions to public safety officers, the costs associated with presumptions are only incurred by state and local government employers, and only for those narrow class of employees.

Prior Attempts to Create a Heat-Related Presumption for Agricultural Workers
This bill is identical to SB 1299 (Cortese, 2024) which was approved by the Legislature but vetoed by Governor Newsom. In his veto message, the Governor outlined several steps his administration has taken to protect Californians from extreme heat, and agreed that farmworkers need strong protections from the risk of heat-related illness. He further stated:

> "However, the creation of a heat-illness presumption in the workers' compensation system is not an effective way to accomplish this goal. Current laws establishing, regulating, and enforcing heat illness prevention standards fall under the jurisdiction of Cal/OSHA, not the Division of Workers' Compensation, and the workers' compensation system is not equipped to make determinations about employers' compliance with Cal/OSHA standards."

Proposed Farmworker Climate Change Heat Injury and Death Fund
This bill, AB 1336, also seeks to establish a Farmworker Climate Change Heat Injury and Death Fund for the purpose of paying any administrative costs related to this proposed presumption. This new fund is proposed under the Workers' Compensation Administration Revolving Fund, which is a special account in the State Treasury for the administration of the workers' compensation program, the Return-to-Work Program, and the enforcement of the insurance coverage program established and maintained by the Labor Commissioner. All employers, including public entities, pay into the Workers' Compensation Administrative Revolving Fund.

Opponents claim, "It is also unclear whether the fund would help with any of [the] costs. While we appreciate the intent behind the proposed Farmworker Climate Change Heat Injury and Death Fund is to assist workers who suffer occupational injuries, the bill does not say what the fund would cover. The language provides that it will fund "paying any administrative costs related to Section 3212.81". It is unclear if that is the workers' costs or if it is the state's administrative costs. Further, the fund is coming from the Workers' Compensation Administration Revolving Fund. The Workers' Compensation Administration Revolving Fund is funded through workers' compensation assessments paid by all employers, including public entities. Generally, other industry-specific funds are funded by that industry alone."

According to the author and sponsors, the intent of this fund is to cover the state's administrative costs related to the provisions of this bill.

2. Need for this bill?

According to the author:

"In California, employers must take steps to protect workers from heat illness in outdoor workplaces under California Code of Regulations Title 8, Section 3395. An employer must: (1) provide access to potable drinking water; (2) provide access to shade and preventative cool-down rests; (3) as a high-heat procedure, observe employees for alertness and heat illness symptoms and remind employees of related rights; (4) establish emergency response procedures; (5) closely observe employees during a heat wave; (6) provide related training for supervisory and non-supervisory employees; and (7) develop an in-language heat illness prevention plan available to employees upon request.

Troublingly, many agricultural employers remain out of compliance. For example, in 2019, Cal/OSHA conducted more than 4,000 heat-related inspections and cited employers for noncompliance with the heat illness prevention standards in 47 percent of the inspections. However, with over 63,000 farms in the state, and given our current budget situation, it would be impossible for Cal/OSHA to enforce the state's heat regulation on every farm. It's worth noting that, from 2018 to 2019, the number of suspected and confirmed farm worker heat-related deaths increased approximately 130 percent.

Employers are subject to penalties for violations; however, given the prevalence of violations, these penalties are not deterring agricultural employers from violating heat illness standards. […]

Farmworkers are at a particularly high risk of heat-related illness, especially given the strenuous nature of their work and the fact that it primarily takes place outdoors. Mortality from heat-related illness is 20 times higher for farmworkers in the US than private industry and non-federal government workers. The average U.S. agricultural worker is currently exposed to 21 working days in the summer growing season that are unsafe due to heat. The farmworker community also faces unique circumstances that make them more susceptible to heat-related complications, including low wages, social and cultural isolation, barriers to medical care, substandard housing, and inadequate regulatory standards. As outlined above, the risks to farmworkers are only expected to grow due to climate change.

Farmworkers also face a climate of fear when it comes to reporting workplace violations or injuries, particularly given the rhetoric and actions of the new federal administration. According to the US Department of Labor, approximately 77 percent of farm workers were born outside the US and many do not speak English. It is estimated that around 75% of California's farmworkers are undocumented. Fear of retaliation or losing their jobs due to reporting work-related injuries or violations strongly discourages farmworkers from making reports."

3. Proponent Arguments

According to the sponsors, the United Farm Workers (UFW):

"The United States Department of Labor estimates approximately 77 percent of farm workers are born outside the United States and many do not speak English. Fear of retaliation and being fired for work-related injuries strongly discourages farm workers from reporting heat-related injuries or violations by their employers.

If fact, what happened to the six Yolo County farm workers who complained of heat illness at a non-compliant farm and then got fired, the data in a CalMatters article, and the recent Sacramento Bee article chart in the article's subtitled section "On-site Cal-OSHA inspections dwindle while inspection-by-letter soar" are among the compelling reasons for AB 1336.

The 2022 UC Merced 'Farmworker Health Study,' funded by the California Department of Public Health, found that 43% of farm workers reported they had 'never' worked at an employer that provided a heat illness prevention plan, 15% of farm workers reported they had 'never' worked for an employer that provided sufficient shade, and 22% of farm workers reported they had 'never' worked for an employer that monitored their workforce for heat illness.

Nothing in AB 1336 changes workers compensation from a no-fault system. Nothing in the bill prevents Cal/OSHA from continuing with their responsibilities. Nothing in the bill changes the existing outdoor heat regulation – ensuring farm workers have access to water, shade and breaks. Nothing in the bill changes the worker compensation benefit levels for farm workers.

Rather, this bill is a market-based approach to compliance that serves to supplement inadequate state efforts.

While much has been done to prevent outdoor heat illness, no amount of public personnel or public resources are able to ensure the thousands of agricultural employers, who remain out

of compliance with state law, are keeping farm workers safe from the deadly danger of climate change. AB 1336 recognizes these facts and offers a modest step toward improvement."

4. Opponent Arguments:

According to opponents, including a large coalition of business groups and the California Chamber of Commerce:

"AB 1336 would create a presumption that a heat-related illness or injury is occupational if the employer fails to comply with any one of the dozens of heat illness prevention standard provisions in Sections 6721 or 3395 of Title 8 of the California Code of Regulations. […]

Proposed section 3212.81 provides that any injury 'resulting' from an employer's failure to comply with applicable heat standards would fall under the presumption. If the worker has demonstrated that an injury 'resulted' from their job, they have already met their burden of proof under the workers' compensation system and that injury would be covered without the need for a presumption. […]

It applies regardless of any causal link to the claim at issue and regardless of whether a citation was issued.

We are unaware of any data demonstrating that there is a need for a presumption for agricultural workers for heat-related illnesses and injuries. Indeed, a recent CWCI study of an identical bill last year (SB 1299 (Cortese)) shows that agriculture claims are accepted at a rate of 89% - which is higher than other industries, including other outdoor industries."

5. Prior Legislation:

SB 1299 (Cortese, 2024, Vetoed) was virtually identical to this bill, and would have created a rebuttable presumption that a heat-related injury for an employer in the agriculture industry that fails to comply with heat illness prevention standards, as defined, arose out of and came in the course of employment. The bill would have established the Farmworker Climate Change Heat Injury and Death Fund that would consist of a one-time transfer of $5,000,000 derived from nongeneral funds of the Workers' Compensation Administration Revolving Fund for the purpose of administrative costs associated with this presumption. *This bill was vetoed.*

SB 1105 (Padilla, Chapter 525, Statutes of 2024) authorized the use of accrued paid sick leave for outdoor agricultural workers to avoid smoke, heat, or flooding conditions created by a local or state emergency.

AB 2264 (Arambula, 2024) would have required an employee to obtain and maintain a heat illness prevention training certification from Cal/OSHA within 30 days after the date of hire and require an employer to reimburse the employee for training time. *This bill was held in the Assembly Committee on Labor and Employment.*

AB 1156 (Bonta, 2023) would have established workers' compensation rebuttable presumptions that specified diagnoses are occupational for a hospital employee who provides direct patient care in an acute care hospital. These diagnoses included infectious diseases,

cancer, musculoskeletal injuries, post-traumatic stress disorder, and respiratory diseases. The bill would also have included the 2019 novel coronavirus disease (COVID-19) from SARS-CoV-2 and its variants, among other conditions, in the definitions of infectious and respiratory diseases. The bill would have further extended these presumptions for specified time periods after the hospital employee's termination of employment. *This bill was held in the Assembly Committee on Insurance.*

AB 597 (Rodriguez, 2023) would have, for injuries occurring on or after January 1, 2025, created a rebuttable presumption for emergency medical technicians and paramedics that PTSI is an occupational injury and covered under workers' compensation. *This bill was held in the Assembly Committee on Insurance.*

AB 699 (Weber, 2023, Vetoed) would have extended rebuttable presumptions for hernia, pneumonia, heart trouble, cancer, tuberculosis, blood-borne infectious disease, methicillin-resistant Staphylococcus aureus skin infection, and meningitis-related illnesses and injuries to a lifeguard employed on a year-round, full-time basis in the Boating Safety Unit by the City of San Diego Fire-Rescue Department, as specified. It would also have expanded the presumptions for post-traumatic stress disorder or exposure to biochemical substances, as defined, to a lifeguard employed in the Boating Safety Unit by the City of San Diego Fire-Rescue Department. *This bill was vetoed.*

AB 1145 (Maienschein, 2023, Vetoed) would have provided, until January 1, 2030, that for specified state nurses, psychiatric technicians, and various medical and social services specialists, the term "injury" also included post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill would have applied to injuries occurring on or after January 1, 2024. The bill would have prohibited compensation from being paid for a claim of injury unless the member performed services for the department or unit for at least 6 months, unless the injury is caused by a sudden and extraordinary employment condition. *This bill was vetoed.*

SB 623 (Laird, Chapter 621, Statutes of 2023) extended the sunset until January 1, 2029 for a rebuttable presumption that a diagnosis of post-traumatic stress disorder injuries for specified peace officers and firefighters is an occupational injury, and required the Commission on Health and Safety and Workers' Compensation to submit both reports to the Legislature analyzing the effectiveness of the presumption and a review of claims filed by specified types of employees not included in the presumption, such as public safety dispatchers, as defined.

AB 1643 (R. Rivas, Chapter 263, Statutes of 2022) required, on or before July 1, 2023, the Labor and Workforce Development Agency to establish an advisory committee of specified representatives to evaluate and recommend the scope of a study on the effects of heat on California's workers, businesses, and the economy.

SB 213 (Cortese, 2021) would have created a series of rebuttable presumptions that infectious disease, COVID-19, cancer, musculoskeletal injury, post-traumatic stress disorder, or respiratory disease are occupational injuries for a direct patient care worker employed in an acute care hospital, as defined. *This bill was held in the Assembly Committee on Insurance.*

SB 1159 (Hill, Chapter 85, Statutes of 2020) created a rebuttable presumption for specified employees, including active firefighting members of a fire department that provides fire

protection to a commercial airport, as defined, that illness or death resulting from COVID-19 under specified circumstances, and until January 1, 2023, is an occupational injury and therefore covered by workers' compensation.

SB 416 (Hueso, 2019) would have expanded the presumption that certain defined injuries and illnesses are occupational injuries and therefore covered by workers' compensation for all peace officers, as specified. *This bill was held at the Assembly Desk.*

AB 2676 (Calderon, 2012, Vetoed) would have made it a misdemeanor, punishable by jail time and fines, to fail to provide water and shade, as specified, to employees. *This bill was vetoed.*

AB 2346 (Butler, 2012, Vetoed) would have, among other things, made growers and the farm labor contractors they hire jointly liable for failure to supply farm workers with shade and water. *This bill was vetoed.*

SUPPORT

United Farm Workers (Sponsor)
California Environmental Voters (formerly Clcv)
California Farmworker Coalition
California Federation of Labor Unions, Afl-cio
California Food and Farming Network
California Medical Association (CMA)
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Centro Binacional Para El Desarrollo Indígena Oaxaqueno
Cft- a Union of Educators & Classified Professionals, Aft, Afl-cio
Cpca Advocates, Subsidiary of the California Primary Care Association
Farm2people
Mixteco/indigena Community Organizing Project (MICOP)
Sierra Harvest

OPPOSITION

African American Farmers of California
Agricultural Council of California
American Property Casualty Insurance Association
Associated Equipment Distributors
Association of California Egg Farmers
Brea Chamber of Commerce
Building Owners and Managers Association
California Association of Joint Powers Authorities
California Association of Wheat Growers
California Association of Winegrape Growers
California Bean Shippers Association
California Business Properties Association
California Chamber of Commerce
California Citrus Mutual
California Coalition on Workers Compensation
California Cotton Ginners and Growers Association

California Farm Bureau
California Fresh Fruit Association
California Grain and Feed Association
California Hispanic Chambers of Commerce
California League of Food Producers
California Pear Growers Association
California Restaurant Association
California Seed Association
California State Floral Association
California Strawberry Commission
California Walnut Commission
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Corona Chamber of Commerce
Cupertino Chamber of Commerce
Danville Area Chamber of Commerce
Family Business Association of California
Family Winemakers of California
Fontana Chamber of Commerce
Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Huntington Beach Chamber of Commerce
Imperial Valley Regional Chamber of Commerce
LA Canada Flintridge Chamber of Commerce
Livermore Valley Chamber of Commerce
Lodi District Chamber of Commerce
Long Beach Area Chamber of Commerce
Modesto Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
Naiop California
National Federation of Independent Business (NFIB)
Newport Beach Chamber of Commerce
Nisei Farmers League
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Pacific Egg and Poultry Association
Paso Robles Templeton Chamber of Commerce
Porterville Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Rancho Mirage Chamber of Commerce
Redondo Beach Chamber of Commerce
Roseville Area Chamber of Commerce
San Pedro Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Santee Chamber of Commerce

Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Tri County Chamber Alliance
Tulare Chamber of Commerce
West Ventura County Business Alliance
Western Growers Association
Western Tree Nut Association
Wine Institute

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

Bill No:	AB 1510	**Hearing Date:**	June 25, 2025
Author:	Committee on Public Employment and Retirement		
Version:	June 13, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: Santa Clara Valley Transportation Authority: employee relations

KEY ISSUE

This bill provides Santa Clara Valley Transportation Authority (VTA), its unions, and intervenors the right to appeal decisions of the Public Employment Relations Board (PERB), as specified.

ANALYSIS

Existing law:

1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights (29 United State Code §151 et seq.).

2) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Meyers-Milias-Brown Act (MMBA) which provides for public employer-employee relations between local government employers and their employees, including some, but not all public transit districts. (Government Code §3500 et seq.)

3) Establishes PERB, a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations. (Government Code §3541)

4) Does not cover all California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, many transit agencies are instead subject to labor relations provisions found in each district's specific Public Utilities Code (PUC) enabling statute, in joint powers agreements, or in articles of incorporation and bylaws. (e.g., Public Utilities Code §28500)

5) Provides transit employees not under the MMBA with basic rights to organization and representation, but does not define or prohibit unfair labor practices. Unlike other California

public agencies and employees, these transit agencies and their employees traditionally rely upon the courts to remedy alleged violations. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of 1947 (Taft-Hartley) and the 1964 Urban Mass Transit Act, now known as the Federal Transit Act, commonly referred to as Section 13 (c). (Public Utilities Code §24501 et seq.; 49 United State Code §5333 (b))

6) Provides that the following provisions shall govern disputes between exclusive bargaining representatives of public transit employees and local agencies not covered by the MMBA:

   a. The disputes shall not be subject to any fact-finding procedure otherwise provided by law.
   b. Each party shall exchange contract proposals not less than 90 days before the expiration of a contract, and shall be in formal collective bargaining not less than 60 days before that expiration.
   c. Each party shall supply to the other party all reasonable data as requested by the other party.
   d. At the request of either party to a dispute, the California State Mediation and Conciliation Service shall assign a conciliator to mediate the dispute and shall have access to all formal negotiations. (Government Code §3611)

7) Authorizes the Governor to appoint a committee to investigate a transit district's labor dispute relating to an impasse in bargaining that results in a threatened or actual strike and provides a process to resolve the dispute. (Government Code §3612 to §3616)

8) Authorizes the establishment of the Santa Clara Valley Transportation Authority (VTA) through the Santa Clara Valley Transportation Act (SCVTA), which includes provisions governing labor relations between the VTA and its employees and which provides for labor organization representation, unit determination, collective bargaining, and retirement benefits. (Public Utilities Code §100000 et seq.)

9) Authorizes VTA employee unions to make an irrevocable selection to move one or more of its represented bargaining units to PERB's jurisdiction for unfair practice charges, as specified. (Public Utilities Code §100310 (b).

10) Provides that the option to select PERB jurisdiction shall not displace or supplant the impasse resolution and injunctive relief procedures requirements provided pursuant to Government Code Sections 3612 to 3614, inclusive, which shall remain exclusive. (Public Utilities Code §100310 (a))

This bill:

1) Authorizes any charging party, respondent, or intervenor aggrieved by a PERB final decision or in an unfair practice case, except a PERB decision not to issue a complaint in such a case, to petition for a writ of extraordinary relief from that decision or order.

2) Requires the aggrieved party to file petition for a writ of extraordinary relief:

   a. In the district court of appeal having jurisdiction over any county in which the VTA operates;

b. Within 30 days from the date of PERB's issuance of its final decision or order, or order denying reconsideration, as applicable.

3) Requires the appellate court, upon the party's filing of the petition, to cause the party to serve notice upon PERB and thereafter for the court to have jurisdiction of the proceeding.

4) Requires PERB to file its certified record of the proceeding in the court within 10 days after the clerk's notice unless the court extends that time for good cause.

5) Authorizes the court to have jurisdiction to grant any temporary relief or restraining order it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as modified, or setting aside in whole or in part, the PERB decision or order.

6) Makes PERB's findings conclusive with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole.

7) Applies Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, to the proceeding except where specifically superseded by this bill's provisions.

COMMENTS

1. Background

Until recently, unfair labor practice charges (ULPs) at the VTA were not under PERB's jurisdiction and were resolved through litigation in superior court or through the federal Section 13 (c) process and U.S. Department of Labor intervention. Recent legislation provided individual VTA bargaining units that are represented by different unions the right to individually elect PERB jurisdiction while allowing other bargaining units the right to continue resolving ULPs through their traditional process in the superior court.

The bill adds language that is standard in other public employer-employee acts to provide a mechanism for PERB to adjudicate ULPs and seek enforcement of its decisions from appellate courts (and effectively remove ULP decisions from the jurisdiction of superior courts). However, the VTA act is different from those other acts in that not all of VTA's bargaining units have elected PERB's jurisdiction.

The language was discussed but not included in prior legislation, in part, because the committee had concerns that an "intervenor" or other aggrieved party could interfere with the superior court process of a party not electing PERB jurisdiction by raising a related ULP at PERB.

Thus, the bill's language enhancing PERB's jurisdiction is not technical. However, it appears to be uncontroversial. The committee understands that bargaining units represented by three VTA employee unions have elected PERB jurisdiction. One union has elected to continue under the superior court process. According to the author, all four VTA unions find the bill's provisions acceptable.

2. Need for this bill?

According to the author:

"This bill would add a necessary provision to the existing SCVTA employer-employee relations statute by authorizing a party aggrieved by a decision or order of the PERB to be able to appeal that decision or order in a court of competent jurisdiction. This addition is substantially similar to provisions that currently exist in, and apply to, other statewide collective bargaining statutes."

3. Proponent Arguments

According to the American Federation of State, County and Municipal Employees:

"Currently, the VTA's employer-employee relations statute lacks explicit provisions for both PERB enforcement and judicial review. This creates a disparity compared to other public sector employees in California who are under PERB's jurisdiction. By addressing this discrepancy, AB 1510 will provide VTA workers with the same fundamental rights and protections afforded to their counterparts across the state. The proposed amendments are essential for creating a more balanced and just labor environment."

4. Opponent Arguments:

None received.

5. Dual Referral:

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

6. Prior Legislation:

AB 2524 (Kalra, Chapter 789, Statutes of 2022) authorized PERB jurisdiction over disputes relating to employer-employee relations of the VTA for those exclusive representatives that have elected to move one or more of its bargaining units to the jurisdiction of the PERB for unfair practice charges.

SB 957 (Laird, Chapter 240, Statutes of 2022) transferred jurisdiction over unfair labor practice charges involving the Santa Cruz Metropolitan Transit District from the judicial system to PERB.

SB 598 (Pan, Chapter 492, Statutes of 2021) provided exclusive employee organizations the option of transferring jurisdiction over unfair labor practice charges for their represented bargaining units within SacRT from the judicial system to PERB.

SUPPORT

American Federation of State, County and Municipal Employees

OPPOSITION

None received.

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