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

Bill No:	AB 1054	**Hearing Date:**	June 24, 2026
Author:	Gipson		
Version:	January 5, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: Public employees' retirement: deferred retirement option program.

KEY ISSUE

This bill establishes a Deferred Retirement Option Program (DROP) to allow participating State Bargaining Unit (BU) 5 peace officers (CAHP) and State BU 8 firefighters (CalFire Local 2881) to elect a deferred retirement date, continue working 1-5 years, freeze their defined benefit (DB) pension benefit accrual, divert their employee contributions and potentially the employer contributions to their DROP account, earn the higher of a guaranteed 5 % interest or CalPERS' investment return rate on their DROP savings, and upon reaching the deferred retirement date, receive their pension and a one-time lump-sum payment of their program account balance upon termination of employment and subsequent retirement from CalPERS.

ANALYSIS

Existing law:

1) Establishes the Department of the California Highway Patrol within the California State Transportation Agency, which is the successor to and is vested with the duties, powers, purposes, responsibilities, and jurisdiction of the former Division of Enforcement of the Department of Motor Vehicles, known as the California Highway Patrol, and of the officers and employees thereof. (Vehicle Code § 2100 et seq.)

2) Establishes the California Department of Forestry and Fire Protection (CAL FIRE) within the California Natural Resources Agency, which is responsible for the fire protection, fire prevention, maintenance, and enhancement of the state's forest, range, and brushland resources, contract fire protection, associated emergency services, and assistance in civil disasters and other non-fire emergencies. (Public Resources Code § 700 et seq).

3) Establishes the State Employer-Employee Relations Act ("Dills Act") authorizing collective bargaining between state employees and the Governor or the Governor's designated representatives. (Government Code § 3512 et seq)

4) Provides that the scope of representation in collective bargaining pursuant to the Dills Act shall be limited to wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. (Government Code § 3516)

5) Establishes the California Department of Human Resources (CalHR), the Governor's designated representative, and requires it to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized

employee organizations, and to consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action. (Government Code § 3517 and §19815 et seq.)

6) Requires the bargaining parties, if they reach an agreement, to jointly prepare a written memorandum of such understanding to be presented, when appropriate, to the Legislature for determination. (Government Code § 3517.5)

7) Requires CalHR to provide to the Joint Legislative Budget Committee (JLBC) any side letter to the MOU requiring the expenditure of $250,000 or more related to salary and benefits and requires JLBC to determine within 30 days whether the side letter requires legislative action, as specified. (Government Code § 3517.63)

8) Establishes the California Public Employees' Retirement System (CalPERS) governed by a board of administration under the Public Employees' Retirement Law (PERL) and constitutional provisions providing the board with plenary authority over CalPERS' investments and administration. (Government Code § 20000 et seq. and CA CONS art. 16, §17)

9) Provides that the purposes of the PERL is to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting of retirement compensation and death benefits. (Government Code §20001)

10) Establishes the California Public Employee Pension Reform Act (PEPRA) of 2013, a comprehensive public employee retirement reform implemented in response to the 2002 Dot Com financial crash and the 2008 Financial Crisis, which together dramatically increased the costs of substantial pension benefit enhancements provided by SB 400 (Ortiz), Chapter 555, Statutes of 1999. (Government Code § 7522 et seq.) [1]

11) Establishes the County Employees Retirement Law of 1937 ("CERL," "1937 Act," or "'37 Act"), which governs 20 independent county retirement associations and provides for retirement systems for county and district employees in those counties adopting its provisions. Currently, 20 counties operate retirement systems under the CERL. (Government Code § 31450 et seq.)

12) Authorizes CERL retirement associations to offer a DROP for *county* retirement members, as specified, to provide eligible members who elect to participate in the program, access to a lump sum, or in some cases, additional monthly payments for a specified period in addition to a monthly retirement allowance. (Government Code § Sections 31770 through 31779.3, Gov. Code)

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[1] PEPRA increased contribution rates towards retirement, decreased retirement benefit formulas, and increased the age of retirement that apply to new members of the system first hired on or after January 1, 2013, and made changes that apply to all members towards resolving unfunded liabilities, manipulation of compensation for purposes of calculating a retirement allowance (e.g., pensions spiking and double-dipping), and included other prescribed prudent pension policy measures.

13) Provides local cities and counties self-governing authority under local charters established pursuant to the constitution, including authority to regulate their employees and provide for their compensation. Under their charter authority, several local governments have established independent public retirement systems for their employes, including San Francisco, Los Angeles, and San Diego. (CA CONST art. 11, §1 et seq)

This bill:

1) Finds and declares that: state patrolmen and firefighters have increasingly complex and dangerous missions; the CHP and CAL FIRE suffer from a personnel shortage from a deficiency in recruitment and retention; both departments need experienced and expert personnel; a DROP can address these challenges by allowing sworn peace officers and firefighter personnel who would otherwise retire, the ability to remain employed in the same classification by the employer for a period of up to five years beyond their planned date of retirement for service; and the Legislature's intent is to establish a DROP, as specified, to address this immediate and ongoing need.

2) Creates the DROP to provide state BU 5 peace officer and BU 8 firefighter CalPERS members with the option to receive a one-time lump-sum payment of their DROP account upon termination of employment and subsequent retirement from the system.

3) Provides, upon the member's election date, that they cease to accrue retirement benefits in CalPERS' defined benefit plan and instead begin to accrue deferred retirement benefits pursuant to the DROP, credited to their program account, as specified.

4) Provides that the member's election to participate in DROP is irrevocable, however, requires CalPERS to revoke the member's participation and distribute their accrued DROP benefits as a lump sum if the member retires for disability during the DROP period, as specified. Prohibits the member from participating in DROP thereafter.

5) Provides that DROP participants retain all rights, privileges, and benefits of employment, as specified. Also, provides that if they are terminated for cause, CalPERS shall terminate their DROP participation and disburse their lump sum payment upon a final order sustaining the termination or reinstate the participant effective on the termination date if the termination is reversed.

6) Requires DROP participants to make their normal CalPERS pension contributions and for CalPERS to credit those contributions to their DROP account.

7) Relieves the state from making the normal employer pension contributions required under the PERL or PEPRA to the CalPERS defined benefit plan. However, it allows the state to make those equivalent contributions to their employees' DROP account pursuant to an MOU.

8) Requires CalPERS, subject to its initial actuarial analysis prior to the program's implementation, to credit the DROP accounts monthly with the following:

    a) All normal contributions of the participant, as specified. It also permits the participant to make additional monetary contributions to their account above the normal contributions.
    b) All employer contributions, as specified.

c) All interest credited semiannually at a rate that is equal to the interest rate, if any, applicable to employee contributions to the system, or a rate determined semiannually by the board. Notwithstanding the foregoing, the interest rate shall not be less than 5 percent annually.
d) Accrued sick leave prior to the election date, as specified.
e) The balance of all unused sick leave accrued during the DROP period.
f) The balance of all unused vacation leave accrued during the DROP period.

9) Provides that leave credits credited to the DROP account cannot be used for service or disability retirement under the CalPERS DB plan and that a participant's election to apply them to the DROP account is irrevocable.

10) Provides that DROP shall become operative on the date specified in an MOU only after CalPERS certifies that it is cost neutral and adopts regulations to implement the program.

11) Specifies that the program becomes operative and applicable to BU 5 and BU 8 members, respectively, only after all of the following have occurred:

a) CalPERS completes an actuarial analysis of the proposed program, determines that it is cost neutral, and provides the analysis to the Department of Finance and CalHR.
b) CalPERS adopts regulations to implement and administer this bill's provisions.
c) CalHR and the respective bargaining units have agreed to implement the program pursuant to an MOU.

12) Prohibits CalHR and the respective bargaining units from agreeing to implement the program prior to the completion and provision of the required actuarial analysis.

13) Applies the bill's provisions only to the following members of BU 5 and BU 8, respectively, and as applicable:

a) A state safety member whose duties consist of active law enforcement highway patrol service, as defined in Government Code § 20045, and who is a peace officer, as defined in Penal Code § 830.2.
b) A state safety member who renders active fire suppression, active fire search and rescue, or active fire investigatory service.

14) Restricts DROP participation to a member who has at least attained the requisite minimum age and years of credited service accrued in the system that they otherwise would be required to attain to be eligible to retire for service.

15) Requires the member to make the election to participate in DROP prior to their retirement for service.

16) Prohibits a member who has retired for service, retired for disability, or is employed as a retired annuitant, on the bill's effective date, from participating in the program.

17) Requires a member who elects to participate in the program to do the following:

a) Waive any claims with respect to age and other employment discrimination laws relative to the program required by the employer or system.

b) Waive and forfeit any application, claim, or right to a disability retirement by any public employee retirement system of which they are a member, and where the application, claim or right to a disability retirement is based on a condition related to an industrial or nonindustrial injury.
c) Terminate employment and DROP participation in accordance with their program election.
d) Not participate in a reduced worktime schedule for partial service retirement.
e) Not modify their DROP election after submittal to CalPERS, except to identify, modify, or change a beneficiary for the receipt of the program benefit.
f) Not reinstate from retirement and again elect DROP participation.
g) Retire concurrently from any other public retirement system of which they are a member, upon termination of employment and DROP participation consistent with their program election.

18) Requires that the eligible member's election be:

a) One time only and irrevocable.
b) Made in writing and signed by the member on a form prescribed by, and submitted to, CalPERS, as specified.
c) Accompanied by a signed statement executed by the member's spouse, if any, on a CalPERS-prescribed form acknowledging the spouse's understanding of, and agreement with, the member's election to participate in the program together with an express statement of the spouse's understanding and agreement that benefits payable to the spouse may be reduced as a result of participation.

19) Requires participants' or their spouses' program rights to be subject to applicable marriage dissolution, community property, or related child/spousal support law or court orders.

20) Prohibits participants' or their spouses' program rights from being subject to execution or any other process except, as specified in the Civil Code of Procedure. It also provides that those rights are unassignable, as specified.

21) Requires CalPERS to do the following:
a) Notify the member in writing of its receipt of the member's DROP election and provide a final date by which the member may withdraw the election but not more than 30 calendar days from the system's receipt of the election. The withdrawal must be a signed writing by the member and submitted on a CalPERS-prescribed form.
b) Maintain a record of the member's election, withdrawal, and if applicable, the spouse's executed acknowledgement and understanding forms.
c) Establish a separate DROP account for each participant but prohibits any system assets from being separately aggregated for any program account, and also prohibits a participant from having a claim, or right to claim, of any specific assets of the system.
d) At least once annually, provide a statement to the participant that displays the value or balance of their account that summarizes any credits or other transactions that occurred after the immediately preceding valuation date.
e) Perform, prior to the adoption of regulations to implement the program, an actuarial analysis to determine whether it will result in reduced costs or be cost neutral.
f) Perform, commencing July 1, 2027, an actuarial analysis on and after the program's implementation and on that date every five consecutive fiscal years thereafter, regarding the cost impact or cost neutrality of the program, and submit a report of that analysis to

CalHR, the Department of Finance, and the Legislature relating to the prior five-year period.

22) Requires the Department of Finance, in consultation with CalHR and the bargaining units, to make recommendations to the Legislature to modify the program in a manner consistent with the actuarial analysis to make the program cost neutral if it determines that the program has resulted in significant increased costs.

23) Provides that, notwithstanding the required actuarial reports and determinations, nothing prevents the Legislature from making changes to the program.

24) Prohibits a participant or their survivor or beneficiary from electing a distribution that does not satisfy the requirements of the bill's provisions or any other state or federal law.

25) Provides that if the Legislature modifies the program, participants who entered the program prior to the modification's effective date shall be entitled to elect whether to become subject to the program's modified provisions or to remain subject to the program as it existed on the participant's election date.

26) Subject to PEPRA's felony forfeiture and continued investigation provisions, provides that a participant has a vested right to 100 percent of the balance of their account which accrues when the person becomes a participant. If a participant is found guilty of a felony as specified, they shall forfeit all employer contributions and interest accrued on that portion of contributions to the extent that such contributions have been negotiated and agreed in which case, all employer contributions shall be returned to the credit of the employer.

COMMENTS

1. Background:

DROP accounts permit an employee to continue working, receive salary and benefits, and have their pension contributions allocated to a separate account whose accrued balance is paid out in a lump sum when the employee eventually separates from employment and retires. Upon entering the program, the employee ceases to accrue further pension benefits in their defined benefit pension and begins to accrue the DROP benefits. Upon retirement, they receive their defined pension allowance and a lump sum payment, which they can generally roll over into an eligible tax-advantaged account.

Some highly compensated employees may find the program particularly attractive because pension compensation limits may cap the pension benefits from their defined benefit pension plan such that the employee's pension contributions no longer generate any further benefit. Diverting those contributions to a DROP provides a substantial benefit.

Another attribute is that the IRS treats DROP accounts separately for purposes of contribution limits to 401K, 457K, and IRA accounts so employees can make additional pre-tax contributions, with some limitations, if they have already maximized contributions to those accounts. Furthermore, the DROP's lump sum payout may allow the employee to organize their post-employment income streams to optimize tax planning by delaying taxable distributions from those accounts; extending time to grow tax-deferred holdings; and

reducing exposure to federal high earner income tests that result in supplemental charges like Medicare's Income-Related Monthly Adjustment Amount (IRMA) surcharge.

Employers are also attracted to DROP accounts because it allows them to forgo required employer contributions to the defined benefit pension plan, potentially reduces their pension liability since their employees' pension benefit accrual ends earlier than otherwise anticipated, and serves as leverage in bargaining negotiations. Plus, it helps to incentivize experienced employees to remain on the job longer than they otherwise might.

DROPS are controversial because past programs at the local level have led to abusive practices.[2] But they are also problematic because they can harm the financial condition of a pension fund, depending on their structure. They may divert employee and employer pension contributions from the pension fund, thereby reducing the amount the fund has available to invest and earn investment return (therein undermining actuarial valuations that established the parties' contribution rates and increasing unfunded liability). They may cause liquidity issues since they require lump sum payouts whereas pension allowance payments are paid over a longer period of 10-40 years, leaving assets in the fund over a longer period to generate investment return.

Additionally, they can increase a system's liquidity needs and exacerbate a liquidity crisis if the lump sum payments occur during a financial crisis and should the system need to sell assets to raise cash to pay current benefits (again resulting in a reduction of the system's ability to produce future investment income since it no longer has the assets).

In short, DROP-type programs increase risk to a pension fund's financial stability. Given current uncertainty regarding the economy's near-term condition, it is difficult not to be concerned with adding a DROP to the state plan. Layered over the general economic inquietude is CalPERS' policy to shift greater portions of its portfolio into private equity, an asset class that has produced higher returns in the recent past but has generated substantial concern about the illiquid tendency of those assets and the accuracy of their valuations.

This bill's DROP contains some guardrails (e.g., it does not permit the payment of the participant's pension allowance into the DROP account while the participant continues in employment) but also has characteristic hallmarks of less prudent approaches toward the pension system (i.e., it shifts risk to CalPERS by guaranteeing a minimum interest rate on account balances and puts pressure on CalPERS' liquidity by creating lump sum payment obligations instead of long-term annuities).

Committee Concerns

- The bill seems to prohibit members retired for service or disability or who are working as a retired annuitant from participating in the program but only until the bill's effective date, creating the possibility that an employee could enter the DROP, go on disability, cease work but still receive an amount similar to their salary and collect the DROP contributions or some other form of double-dipping.

[2] *Battling treacherous office chairs and aching backs, aging cops and firefighters miss years of work and collect twice the pay*, Los Angeles Times, February 3, 2018, https://www.latimes.com/local/california/la-me-drop-20180203-htmlstory.html

- The bill requires CalPERS to credit the DROP accounts at CalPERS' investment return rate but no less than 5 percent. Effectively, participants benefit substantially in CalPERS' good years but are shielded from CalPERS' underperforming years. To the extent CalPERS earns high returns, the DROP accounts become larger liabilities resulting in large lump sum payments that create liquidity pressures. To the extent CalPERS' underperforms the 5 percent minimum interest rate, the bill creates unfunded liability that will raise employer and employee contribution rates, including for lower earning members and members not eligible for or participating in the DROP.

- The bill permits participants to deposit additional contributions into the DROP accounts, creating the possibility that the final lump sum balances will be substantially larger than anticipated. This could create a much larger unfunded liability if CalPERS fails to earn more than the guaranteed minimum 5 percent credited rate. It could also result in much larger liquidity pressures on the system when the lump sums become payable.

- Although the bill contains language allowing the Legislature to modify the program, it provides participants a vested right to continue in the original, pre-modified program. This could prove problematic in the event of another financial crisis since changes could only be made for new employees.

- If this bill and AB 1383 (McKinnor), currently before the committee, both become law, the combination of large lump sum liabilities for CalPERS and higher pension allowances from the new McKinnor formulas create unanticipated financial demands on the pension fund that would make recovering from another financial crisis especially difficult. At a minimum, it would raise employer and employee contributions and/or increase unfunded liability substantially.

- This bill, if passed, is likely to create substantial pressure on and competition between local governments to also offer DROP. Again, combined with the McKinnor formulas, the result is likely to be higher unfunded pension liability resulting in increased employer and employee contribution rates. Such increases would reduce local governments' ability to respond to other funding shortfalls in critical services to vulnerable communities.

- Although the bill's proponents argue that the DROP is critical to resolving recruitment and retention challenges, it is not clear that either CAL FIRE or CHP have a problem attracting applicants. To the extent the bill's costs require the state to reduce positions in both departments if economic conditions worsen, the bill could actually exacerbate recruitment and retention challenges.

2. Recommended Committee Amendments:

The committee recommends the following amendments to address some of the concerns listed above:

I. Re: clarifying participant ineligibility of service and disability retirees and retired annuitants:

21717.7. …(b) For purposes of participation pursuant to this chapter, a member shall make the election prior to their retirement for service consistent with this part. A member who has retired for service, retired for disability, or is employed pursuant to Section 7522.56, on ***or after*** *the effective date of this chapter, shall not be permitted to participate in the program.*

II. Re: reducing unanticipated lump sum liability by prohibiting additional contributions:

21717.21. (a) Subject to the results of the actuarial analysis required in Section 21717.19, the implementing and administrative regulation adopted by the board shall provide the following amounts to be credited monthly to the participant's program account:

(1) All normal contributions of the participant required pursuant to paragraph (2) of subdivision (c) of Section 21717.13 made by, or on behalf of, the participant during the program period. ~~A participant may make additional monetary contributions to their account above the normal contributions required by paragraph (2) of subdivision (c) of Section 21717.13, and may modify the amount of such contributions annually on a date determined by the board.~~ …

III. Re: reducing potential liquidity risk and unfunded liability by reducing the required credited interest CalPERS pays on the DROP balances:

21717.21. (a) … (3) All interest credited semiannually at a rate that is equal to the interest rate, if any, applicable to employee contributions to the system ***minus one and one-half percent****, or a rate determined semiannually by the board. Notwithstanding the foregoing, the interest rate shall not be less than ~~5~~* ***zero*** *percent annually….*

IV. Re: reserving the Legislature's authority to modify the DROP for all participants in the event of another financial crisis:

21717.25. Notwithstanding Section 21717.23 or any other law, the Legislature reserves the right to suspend the program through legislative action ratified by the Governor if the Department of Finance, in consultation with the system actuary and the California Actuarial Advisory Panel as established pursuant to Section 7507.2 of the Government Code, determines that a deleterious economic event has substantially weakened the system's financial position. If the Legislature and Governor approve the program's suspension, all participants' benefit accrual shall terminate upon the effective date of the legislation suspending the program and no participant, eligible spouse, or beneficiary shall have any vested right to any program benefit after the legislation's effective date.

V. Re: reducing effect of combined DROP accounts and new McKinnor formulas (AB 1383) of potential liquidity risk and unfunded liability:

21717.26. This chapter shall only be applicable to a member retired pursuant to the California Public Employees' Pension Reform Act of 2013 (Section 7522 et seq. of the Government Code) as it read on June 30, 2026.

VI. Other minor conforming amendments.

3. Need for this bill?

According to the author:

"The California Highway Patrol (CHP) has become the statewide law enforcement entity. CAL FIRE is the state's fire department. Both are increasingly called upon to respond to complex, large-scale emergencies, including wildfires, natural disasters, and statewide public safety incidents. These evolving responsibilities require highly experienced officers and firefighters with specialized training and institutional knowledge. However, recruitment and retention have resulted in a chronic shortage of personnel at a time when operational demands are increasing. While a Deferred Retirement Option Plan (DROP) exists in other localities and in other states, there is currently no system in place to allow for a deferred retirement for CHP and CAL FIRE, limiting the ability of these departments to retain seasoned officers and firefighters beyond retirement eligibility".

"AB 1054 seeks to address this shortage by establishing a voluntary DROP program within CalPERS for eligible employees within State Bargaining Units 5 (CAHP) and 8 (CAL FIRE Local 2881). This program is intended to retain experienced personnel while supporting long-term recruitment and training efforts."

4. Proponent Arguments

According to Cal Fire Local 2881 and the California Association of Highway Patrolmen:

"The California Highway Patrol (CHP) has taken on an increasingly diverse and dangerous mission as it is now called upon to serve as the statewide law enforcement entity. The Department of Forestry and Fire Protection (CAL FIRE) is California's fire department, and the new normal of catastrophic disasters has significantly increased the complexity of its mission. The challenges now being confronted by the CHP and CAL FIRE are dangerously protracted and require experience and expertise to confront. Lack of recruitment and retention of seasoned vets has resulted in a chronic shortage of personnel needed.

AB 1054 will allow an officer/firefighter who is eligible for retirement to continue working for up to five additional years while accumulating retirement benefits in an interest-bearing account. Upon retirement, the officer/firefighter will receive their accumulated funds, supplementing their pension.

DROP serves as a voluntary program allowing eligible officers and firefighters to extend their careers while securing enhanced retirement benefits at no cost to the state. AB 1054 not only addresses the critical staffing shortage but retains the knowledge and experience of veteran officers and firefighters which will greatly enhance public safety."

5. Opponent Arguments:

According to the California Policy Center:

"Deferred Retirement Option Programs (DROP) are, at their core, a form of double-dipping by allowing retirement-eligible employees to simultaneously collect a pension deposited into

a separate account and continue drawing a full salary for the same work. This practice is out of line with what the private sector offers and is patently unfair to taxpayers who foot the bill. Rather than incentivizing experienced employees to transition out of government service at the appropriate time, DROP programs perversely reward them for staying on while collecting two streams of public compensation and increasing the government's unfunded liability."

"The deeper fiscal danger of DROP programs lies in how they interact with California's already chronically underfunded pension systems. Pension costs that appear manageable under optimistic actuarial assumptions can deteriorate rapidly when market conditions shift. Layering a DROP benefit on top of an already stressed defined benefit system — as AB 1054 proposes for CalPERS — adds new actuarial complexity and cost exposure at precisely the moment when the state should be moving in the opposite direction. The bill's requirement of a cost neutral actuarial analysis before implementation offers cold comfort given California's well-documented history of pension actuaries producing optimistic assumptions that consistently understate long-term costs."

6. Prior Legislation:

AB 704 (Calderon, 2009) would have created a DROP program for excluded and exempt employees of state BUs 5, 6 (Corrections), 7 (Protective Services and Public Safety), and 8. The bill died in the Assembly Appropriations committee.

AB 991 (Calderon, 2008) would have established a DROP as a supplemental benefit program in CalPERS for exempted and excluded employees in BUs 5, 6, 7, and 8. This bill died in the Assembly Appropriations Committee.

SB 274 (Soto, Chapter 897, Statutes of 2003) established the DROP as an optional benefit program for safety members of counties operating retirement systems under the County Employees' Retirement Law of 1937 ('37 Act).

SB 1409 (Soto, 2002) would have enacted a DROP for local safety members whose employers contract for the option. This bill was vetoed by the Governor due to cost concerns.

AB 293 (Shelley, 2001) would have enacted a DROP for members in BUs 5, 6, and 8. This bill was vetoed by the Governor because of concerns that the details specified in the bill should be the subject of collective bargaining where, if agreed to, they could be included in a Memorandum of Understanding and ratified by the Legislature.

SB 193 (Soto, 2001) would have enacted a DROP for local safety members whose employers contracted with CalPERS for the option. This bill was vetoed by the Governor due to cost concerns but in his veto message the Governor stated, in part, "I would be open to considering a truly cost neutral program for local government."

AB 2030 (Correa, 2000) would have established a DROP for school members and local contracting agency members whose employer contracts with CalPERS for the DROP. This bill died in the Senate Appropriations Committee.

SB 1312 (Ortiz, 2000) would have enacted a DROP for state members subject to collective bargaining and for local members whose employers contract with CalPERS for this option.

This bill was vetoed by the Governor. In his veto message, the Governor stated, in part, "This bill would result in increased retirement costs to the State and school employers, and for contracting local agency employers opting for the DROP. This bill is overly broad. These benefits, if at all, should accrue only to Safety personnel."

SUPPORT

California Association of Highway Patrolmen (Co-Sponsor)
Cal Fire Local 2881 (Co-Sponsor)

OPPOSITION

California Policy Center

-- END --

Committee Amendments Agreed Upon by Author
AB-1054 (Gipson (A))

Mock-up based on Version Number 97 - Amended Assembly 1/5/26

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Department of the California Highway Patrol (CHP) has taken on an increasingly diverse and dangerous mission, as it is now regularly called upon to serve as both a local and statewide law enforcement entity.

(b) The Department of Forestry and Fire Protection (CAL FIRE) is California's fire department, and catastrophic disasters have significantly increased the complexity of its mission.

(c) A deficiency in the recruitment and retention of CHP officers and CAL FIRE firefighters has resulted in a chronic shortage of needed personnel, and the challenges now being confronted by both the CHP and CAL FIRE are dangerously protracted, requiring an increasing reliance on existing experience and expertise.

(d) A Deferred Retirement Option Program is a method to address these challenges that other public safety agencies in California successfully use to address these challenges.

(e) A Deferred Retirement Option Program allows sworn peace officers and firefighter personnel who would otherwise retire the ability to remain employed in the same classification by the employer for a period of up to five years beyond their planned date of retirement for service. This benefits California public safety agencies by allowing them to keep highly trained and experienced public safety personnel actively employed, and able to meet the ongoing public safety needs of the State.

(f) To address this immediate and ongoing need, it is the intent of the Legislature to establish a Deferred Retirement Option Program for eligible California Public Employees' Retirement System safety members of State Bargaining Unit 5 (CHP) and State Bargaining Unit 8 (CAL FIRE) to ensure that California can effectively maintain and provide vital safety services to the public as the next generation prepares to enter these public service professions.

SEC. 2. Chapter 20 (commencing with Section 21717) is added to Part 3 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 20. Deferred Retirement Option Program

21717. This chapter shall be known and may be cited as the Deferred Retirement Option Program.

21717.1. (a) The Deferred Retirement Option Program is hereby created to add flexibility to the state employers and eligible employees of State Bargaining Unit 5 and State Bargaining Unit 8, respectively, who are a peace officer or firefighter member of the California Public Employees' Retirement System and who may elect to participate in the program to receive a one-time lump-sum payment of their program account upon termination of employment and subsequent retirement from the system through the Deferred Retirement Option Program.

(b) Pursuant to Sections 21717.4, 21717.5 and 21717.6, as applicable, the Deferred Retirement Option Program shall become operative with respect to peace officer or firefighter members of State Bargaining Unit 5 and State Bargaining Unit 8, respectively, on the date specified in a memorandum of understanding between the employer and the recognized employee organization only after certification that program is cost neutral and the Board of Administration of the Public Employees' Retirement System has adopted regulations to implement and administer the program pursuant to this chapter.

21717.2. (a) (1) Unless the context otherwise requires, the definitions and general provisions set forth in this chapter shall govern its construction.

(2) The Public Employees' Retirement Law (Part 3 (commencing with Section 20000)) shall apply, as necessary and applicable.

(3) Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 shall apply, as necessary and applicable.

(b) Notwithstanding paragraph (3) of subdivision (a), a member who elects to participate in the program shall, on and after the election date, return to employment with the employer, but shall cease to accrue, nor shall have any right or entitlement to accrue, any additional service credit or retirement benefit in any public employee retirement system for service performed during the program period.

(c) The implementation and administration of the Deferred Retirement Option Program shall conform to the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.

21717.3. For purposes of this chapter, the following definitions apply:

(a) "Board" has the same meaning as in Section 20021.

(b) "Deferred retirement date" means all of the following:

(1) The date on which the member's employment shall be terminated.

(2) The date on which the member shall be retired for service from the system, except as otherwise provided in this chapter.

(3) The date on which the member's program participation shall conclude and be terminated.

(4) The period of time for which the present value of deferred retirement option program benefits, including cumulative contributions and accrued interest in the participant's account, shall become payable as a one-time lump-sum payment to the participant or their survivor or beneficiary.

(c) "Deferred retirement calculation date" means the date prior to the member's actual program retirement date at which time benefits under the program shall be calculated for distribution as provided in this chapter.

(d) "Department" means the Department of Human Resources.

(e) "DROP" or "program" means the Deferred Retirement Option Program established by this chapter.

(f) "Election date" means the date the member elects to participate and begins active participation in the program.

(g) "Participant" or "member" means an eligible peace officer member of State Bargaining Unit 5 or firefighter member of State Bargaining Unit 8, as applicable and consistent with Section 21717.6, who is an active member of the system and who elects to participate in the program.

(h) "Program account" means an account established by the system for each program participant pursuant to Section 21717.10.

(i) "Program period" means the period of time commencing on the date the member has elected to participate in the program and ending on the member's deferred retirement date, and where the total duration of program participation by the participant shall not exceed 60 consecutive months from the date of the member's election date.

(j) "Public retirement system" has the same meaning as subdivision (j) of Section 7522.04.

(k) "Regulations" means the administrative regulations adopted by the board pursuant to subdivision (c) of Section 21717.2, and Sections 21717.4, 21717.5, and 21717.21, providing for the implementation and administration of the program.

(l) "System" means the Public Employees' Retirement System established pursuant to Article 1 (commencing with Section 20000) of Chapter 1.

21717.4. (a) This chapter shall become effective and applicable to State Bargaining Unit 5 only after all of the following have occurred:

(1) The board has completed an actuarial analysis of the proposed program pursuant to Section 21717.18 and determined that the proposed program will be cost neutral. The actuarial analysis shall be provided to both the Department of Finance and the department.

(2) The board has adopted regulations to implement and administer this chapter.

(3) The department and State Bargaining Unit 5 have agreed to its implementation pursuant to the State Employer-Employee Relations Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1).

(b) Notwithstanding paragraph (3) of subdivision (a), the department and State Bargaining Unit 5 shall not agree to the implementation of this chapter prior to the completion of paragraphs (1) and (2), inclusive, of subdivision (a).

21717.5. (a) This chapter shall become effective and applicable to State Bargaining Unit 8 only after all of the following have occurred:

(1) The board has completed an actuarial analysis of the proposed program pursuant to Section 21717.18 and determined that the proposed program will be cost neutral. The actuarial analysis shall be provided to both the Department of Finance and the department.

(2) The board has adopted regulations to implement and administer this chapter.

(3) The department and State Bargaining Unit 8 have agreed to its implementation pursuant to the State Employer-Employee Relations Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1).

(b) Notwithstanding paragraph (3) of subdivision (a), the department and State Bargaining Unit 8 shall not agree to the implementation of this chapter prior to the completion of paragraphs (1) and (2), inclusive, of subdivision (a).

21717.6. This chapter shall only apply to the following members of State Bargaining Unit 5 and State Bargaining Unit 8, respectively, and as applicable:

(a) A state safety member whose duties consist of active law enforcement highway patrol service, as defined in Section 20045, and who is a peace officer, as defined in Section 830.2 of the Penal Code.

(b) A state safety member who renders active fire suppression, active fire search and rescue, or active fire investigatory service.

21717.7. (a) Subject to Sections 21717.4 or 21717.5, as applicable, and Section 21717.6, a member may elect to participate in the program provided that the member has at least attained the requisite minimum age and years of credited service accrued in the system that they otherwise would be required to attain to be eligible to retire for service.

(b) For purposes of participation pursuant to this chapter, a member shall make the election prior to their retirement for service consistent with this part. A member who has retired for service, retired for disability, or is employed pursuant to Section 7522.56, on or after the effective date of this chapter, shall not be permitted to participate in the program.

21717.8. A member who elects to participate in the program shall be subject to all of the following requirements:

(a) The member shall waive any claims with respect to age and other discrimination in employment laws relative to the program as are required by the employer or the system.

(b) The member shall waive and forfeit any application, claim, or right to any disability retirement benefit administered by any public retirement system of which they are a member, and where such an application, claim, or right to any disability retirement benefit is based on a condition relating to an illness or injury that occurred prior to their election to participate in the program, regardless of whether the illness or injury is industrial or nonindustrial.

(c) The member shall terminate employment and program participation in accordance with their election submitted to the system consistent with paragraphs (1) through (4), inclusive, of subdivision (b) of Section 21717.3.

(d) A member shall not be eligible or authorized to modify their election after submittal to the system, except to identify, modify, or change a beneficiary for the receipt of the program benefit.

(e) The member shall not be authorized or permitted to participate in a reduced worktime schedule for partial service retirement pursuant to Article 4 (commencing with Section 21110) of Chapter 12.

(f) A member who participates in the program and reinstates from retirement shall not be eligible to again elect participation in the program.

(g) The member shall concurrently retire from any other public retirement system of which they are a member upon the termination of employment and subsequent date of their deferred retirement date consistent with their program election. A concurrent retirement from any other public retirement system of which they are a member also applies in the event of a retirement exercised pursuant to Section 21717.16.

21717.9. (a) An election made by a member who satisfies the requirements in Sections 21717.6 or 21717.7, as applicable, and Section 21717.8, shall be subject to all of the following requirements:

(1) The election shall be one time only and is irrevocable.

(2) The election shall be made in writing and signed by the member on a form prescribed by, and submitted to, the board pursuant to regulations adopted by the board.

(3) If the member is married, the member's spouse shall execute a signed statement on a form prescribed by the board acknowledging the spouse's understanding of, and agreement with, the member's election to participate in the program together with an express statement of the spouse's understanding and agreement that benefits payable to the spouse may be reduced as a result of participation pursuant to this chapter, as determined by the board.

(b) (1) Upon receipt of the member's election, the system shall notify the member in writing of the date of its receipt of the election, and the final date, consistent with paragraph (2), by which the member may withdraw their election.

(2) Notwithstanding paragraph (1), a member may withdraw their election no more than 30 calendar days from the date of the system's receipt of the member's election.

(3) A withdrawal of an election pursuant to paragraph (2) shall be made in writing and signed by the member on a form prescribed by, and submitted to, the system pursuant to regulations adopted by the board.

(c) The board shall maintain a record of the member's election, withdrawal, and, as applicable, the executed spousal acknowledgment and understanding forms.

21717.10. (a) A program account shall be established within the system for each program participant. No system assets shall be separately aggregated for any program account, and a participant shall not have a claim on, or right to claim, any specific assets of the system.

(b) The board shall, at least once annually, provide a statement to the participant that displays the value or balance of the participant's program account and summarizes any credits to the account or other transactions that occurred after the immediately preceding valuation date.

21717.11. The rights of a program participant or their spouse under the program shall be subject to any applicable provisions of law or court orders relating to dissolution of marriage, division of community property, including Chapter 9 (commencing with Section 22960.75) of Part 7, and child or spousal support.

21717.12. The right of a program participant to benefits under the program is not subject to execution or any other process, except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and is unassignable except as otherwise provided by this chapter.

21717.13. (a) On and after the member's election date, the participant shall cease to accrue retirement benefits under this part and, instead, shall begin to accrue deferred retirement benefits

under the program pursuant to the terms of this chapter, which benefits shall be credited to the participant's program account pursuant to Section 21717.10.

(b) Except as provided in Section 21717.9, a member's election to participate shall be irrevocable. However, the board shall revoke participation in the program if the member is injured during the period of program participation and elects to retire for disability, in which case, the member's participation in the program shall immediately cease and the member's accrued deferred benefits shall be calculated as of the date of disability determination and distributed as a lump-sum payment to the participant. The member shall not again be permitted to elect participation in the program thereafter.

(c) (1) A participant in the program shall have all rights, privileges, and benefits of employment, but shall be subject to all terms and conditions of that employment, including, but not limited to, eligibility for other benefit programs not related to retirement benefits, and that are subject to the requirements of other laws or an agreement reached between the employer and recognized employee organization pursuant to the State Employer-Employee Relations Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1).

(A) If the employment of a participant is terminated for cause, their program participation shall immediately cease on the date of such termination. If a termination for cause is reversed after a final decision, order, determination, or judgment, the participant's program election shall be reinstated effective the date after the termination. The board shall not disburse a lump-sum payment to a participant until a final decision, order, determination, or judgment has been issued regarding the termination for cause.

(B) On and after the date of a final decision, order, determination, or judgment that has been issued regarding a termination for cause that is not reversed, the board shall disburse a lump-sum payment of the participant's account minus interest on the balance of their account that accrued from the date of such termination. A program participant shall not have a claim of right, or entitlement to, a deferred retirement program benefit on and after the date of termination for cause that is not reversed.

(2) A participant shall continue to make the normal contribution required under this part, or Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1, as applicable, during the program period where such contributions shall be credited to the participant's program account.

(3) The employer shall not be required to make contributions pursuant to this part, or Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1, as applicable, during the participant's program period. The employer may make contributions credited to the participant's account pursuant to this chapter and consistent with contributions required of the employer pursuant to this part, or Section 7522.30, as applicable, and as agreed to by a memorandum of understanding between the employer and recognized employee organization adopted by the parties thereto.

(4) In the event a participant makes an election pursuant to subdivision (b), the participant shall not be entitled to claim a right to receive, nor shall they receive, the employer share of normal contributions that would have been required under this part had the member not elected to participate in the program, towards the calculation of their program benefit.

(d) Except as otherwise provided in Section 21717.14, eligibility of a spouse for any benefits, including survivor benefits, shall be based on the participant's marital status and the duration of the marriage as of the date of retirement.

21717.14. (a) If a participant dies during the program period prior to their elected deferred retirement date, they shall be deemed to be retired from the program as of the date of their death. No additional deferred retirement benefits resulting from their program participation on and after the date of their death shall accrue, except for interest accrued on the balance of their account through the date of their death. The participant's eligible spouse, or other beneficiary designated by the participant, shall receive a lump-sum payment of the participant's account, including accrued interest through the date of participant's death, under this chapter as provided in subdivisions (b) and (c).

(b) Eligibility of a spouse for any benefits shall be based on the participant's marital status and duration of the marriage as of the date of death.

(c) The balance in the participant's program account shall be distributed pursuant to Section 21717.15.

21717.15. (a) A participant may designate a person or persons as beneficiaries of the participant's program account at any time during the program period from their election date to the deferred retirement calculation date. The beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the participant, and filed with the board.

(b) Notwithstanding subdivision (a), the participant's beneficiary designation shall not be given effect to the extent that the designation would impair the rights of an eligible surviving spouse or surviving children under applicable federal or state laws.

(c) Unless otherwise provided in the beneficiary designation form, each designated beneficiary shall be entitled to equal shares of the lump-sum distribution that shall be payable from the participant's program account upon the death of the participant.

(d) If a participant dies without a valid beneficiary designation on file with the board, or if a beneficiary or all beneficiaries predecease the participant, the participant's account shall be payable to the participant's estate.

21717.16. A participant may exercise a retirement at any time during the program period prior to their deferred retirement date and the participant shall only receive a lump-sum payment of accumulated contributions and interest accrued on the balance of their program account as of the date of that retirement. A retirement exercised under this section shall be deemed as an early

program retirement and the participant shall not have any right or entitlement to claim a program benefit after the date of such retirement. A participant who exercises a retirement pursuant to this section shall not again be permitted to elect participation in the program pursuant to this chapter.

21717.17. (a) For purposes of this chapter, upon disbursement of a lump-sum retirement benefit by the system to the program participant, their eligible spouse, or their beneficiary pursuant to Section 21717.14, the obligations of the system to the participant, their eligible spouse, or beneficiary shall be construed and deemed to be fully discharged without further obligation.

(b) The board and its employees, agents, and contractors shall be held harmless by the participant, their survivor, or beneficiary after the disbursement of program benefits as directed by the program participant.

21717.18. Program participation and program benefits pursuant to this chapter, including amounts in a participant's account, are not intended, nor shall be used in any manner, to enhance a member's retirement benefit provided under this part. Program participation and program benefits pursuant to this chapter, including amounts in a participant's account, are not intended, nor shall be used in any manner, to calculate a member's retirement under this part. Participation and program benefits pursuant to this chapter, including amounts in a participant's account, are not intended, nor shall be used in any manner, to abridge or otherwise circumvent Sections 7522.18, 7522.43, or 7522.44.

21717.19. (a) Prior to the adoption of regulations to implement the program, the board shall cause an actuarial analysis to be performed to determine whether the program will result in reduced costs or be cost neutral. The program shall be deemed to be cost neutral only if, based on the applicable actuarial assumptions, it will not have a significant negative financial impact on the employer or the retirement system, as specified in subdivisions (b) and (c).

(b) The actuarial analysis shall take into account the impact of the program, including, but not limited to, negotiated employer contributions provided for in paragraph (3) of subdivision (c) of Section 21717.13, the system's actuarial accrued liability, if any, and the present value of benefits payable to program participants upon reaching the deferred retirement date. The program shall not be deemed to be cost neutral if there is an anticipated increase in any of these measures attributable to the implementation of the program, except negotiated employer contributions over a period of five consecutive fiscal years.

(c) (1) The actuarial analysis shall identify all cost elements anticipated to change due to the implementation of the program and shall include the impact of those changes. These cost elements may include, but are not limited to:

(A) Administration of the program.

(B) Anticipated retirement age for service and election for program participation.

(C) Anticipated retirement age on the deferred retirement date.

(D) Retirement for disability, in which case program participation is terminated.

(2) The actuarial analysis shall not take into account items unrelated to the proposed program, including the investment return on fund assets, minimum interest accrued on a participant's account pursuant to paragraph (3), subdivision (a) of Section 21717.21, or the life expectancy of active members.

21717.20. (a) On and after implementation of the program pursuant to the requirements of this chapter, commencing July 1, 2027, and on that date every five consecutive fiscal years thereafter, the board shall cause an actuarial analysis of the cost impact or cost neutrality of the program to be performed and submit a report of that analysis to the department, the Department of Finance, and the Legislature, relating to the prior five-year program period. If the Department of Finance determines that the program has resulted in significant increased costs in a manner inconsistent with Section 21717.19, excluding employer contributions negotiated pursuant to paragraph (3) of subdivision (c) of Section 21717.13, the Department of Finance, in consultation with the department and the exclusive representative, shall make recommendations to the Legislature to modify the program in a manner consistent with the actuarial analysis to make the program cost neutral.

(b) Notwithstanding subdivision (a), nothing in this chapter shall prevent the Legislature from making changes to this chapter or the terms of the program.

(c) The report required to be submitted to the Legislature pursuant to subdivision (a) shall be submitted in accordance with Section 9795.

21717.21. (a) Subject to the results of the actuarial analysis required in Section 21717.19, the implementing and administrative regulation adopted by the board shall provide the following amounts to be credited monthly to the participant's program account:

(1) All normal contributions of the participant required pursuant to paragraph (2) of subdivision (c) of Section 21717.13 made by, or on behalf of, the participant during the program period. ~~A participant may make additional monetary contributions to their account above the normal contributions required by paragraph (2) of subdivision (c) of Section 21717.13, and may modify the amount of such contributions annually on a date determined by the board.~~

(2) All employer contributions to the system made during the program period consistent with paragraph (3) of subdivision (c) of Section 21717.13.

(3) All interest credited semiannually at a rate that is equal to the interest rate, if any, applicable to employee contributions to the system minus one and one-half percent, or a rate determined semiannually by the board. Notwithstanding the foregoing, the interest rate shall not be less than ~~5~~ zero percent annually.

(4) Prior to the deferred retirement date, a member may select the balance of all sick leave accrued under this part and prior to the election date to be credited to their program account, instead of

their retirement for service under this part. If selected by the member, all sick leave accrued prior to the election date shall not be credited in any manner as a combination among the participant's program account and the member's retirement for service.

(5) The balance of all unused sick leave accrued during the program period.

(6) The balance of all unused vacation leave accrued during the program period.

(b) The provisions of this section shall not be applied to the calculation of the participant's final compensation for purposes of a retirement for service or retirement for disability under this part.

(c) The options selected by a member pursuant to paragraphs (4) through (6), inclusive, of subdivision (a) shall be irrevocable.

21717.22. Notwithstanding any other provision of this chapter, a participant or their survivor or beneficiary shall not be permitted to elect a distribution that does not satisfy the requirements of this chapter or any other state or federal law.

21717.23. Except as provided in Section 21717.25, if ~~If~~ the program is modified pursuant to Section 21717.20, participants who entered the program prior to the effective date of the modification shall be entitled to elect whether to become subject to the modified provisions of the program or to remain subject to the program as it existed on the participant's election date.

21717.24. Subject to Section 7522.76, Section 21717.20, and Section 21717.25, a participant has a vested right to 100 percent of the balance of the participant's account which accrues when the person becomes a participant. If a participant is found guilty of a felony consistent with Section 7522.76, the participant shall forfeit all employer contributions and interest accrued on that portion of contributions to the extent that such contributions have been negotiated and agreed to pursuant to paragraph (3) of subdivision (c) of Section 21717.13, in which case, all employer contributions shall be returned to the credit of the employer.

21717.25. Notwithstanding Section 21717.23 or any other law, the Legislature reserves the right to suspend the program through legislative action ratified by the Governor if the Department of Finance, in consultation with the system actuary and the California Actuarial Advisory Panel as established pursuant to Section 7507.2 of the Government Code, determines that a deleterious economic event has substantially weakened the system's financial position. If the Legislature and Governor approve the program's suspension, all participants' benefit accrual shall terminate upon the effective date of the legislation suspending program and no participant , eligible spouse, or beneficiary shall have any vested right to any program benefit after the legislation's effective date.

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

Bill No:	AB 1383	**Hearing Date:**	June 24, 2026
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Consultant:	Glenn Miles		

SUBJECT: Public employees' retirement benefits

KEY ISSUE

This bill requires public employers to raise their PEPRA firefighter and peace officer safety pension benefit formulas to new formulas (hereafter referred to as McKinnor formulas) effective January 1, 2027, to give at age 55 what their PEPRA formula gives at age 57 unless the parties bargain for a higher or lower McKinnor formula, as specified.

The bill freezes existing PEPRA *safety* formulas to apply only to service from January 1, 2013, to December 31, 2026, and provides new formulas for service from 1/1/27.

It also increases the PEPRA pensionable compensation caps (i.e., the maximum amount that the pension system will use to calculate a member's pension) for ***both non-safety and safety members*** in two ways. The McKinnor cap first resets the PEPRA base from the 2013 Social Security 430(b) limit to the 2027 limit. Second, it increases the percentage from 120% of the PEPRA base to 135% of the McKinnor base for safety members. In short, it raises pensions for those employees whose compensation is above the existing PEPRA caps. Under the McKinnor cap, a *non-safety* member would have to earn above $184,500 and a *safety member* would have to earn above $249,075 before their respective compensation was limited for purposes of calculating their pension.[1]

[1] McKinnor Two-step adjustment to raise the pension compensation limits:
- PEPRA 2013 CPI adjusted base raised to McKinnor 2027 CPI adjusted base
- Non-safety limit: 100% of PEPRA base ($159,733) raised to 100% of McKinnor base ($184,500)
- Safety limit:120% of PEPRA base ($191, 679) raised to 135% of McKinnor base ($249,075)

In dollar terms:
- PEPRA: $159,733 (originally $110,100 in 2013) pension compensation limit raised to McKinnor: $184,500 for non-safety
- PEPRA: $191,679 (originally $132,120 in 2013) pension compensation limit raised to McKinnor: $249,075 for safety

The change from PEPRA's 2013 base as adjusted by CPI to the McKinnor 2027 base *affects all public retirement system members, not only safety members.*

The higher limits result in higher pensions for members who currently are earning more than the existing PEPRA compensation limits. For example, a firefighter whose compensation is at the new cap with 30 years of service, retiring at 57 would receive approximately $201,751 annually instead of $155,260. If that firefighter lived until 77 years of age (i.e., 20 years), this bill' change just in the base would provide an additional lifetime pension increase of $929,820. Furthermore, if their employer offers the optional fourth McKinnor formula, that firefighter would receive a pension of $224,168 annually or $4,483,360 (PVB) if they lived until 77 (i.e., 20 years). This should be a conservative estimate given that actuarial mortality factors are increasing (i.e., people are living longer, especially the highly compensated).

CalPERS estimates that imposing the first three McKinnor formulas [2] and compensation limit base would raise the system's *normal cost* by $282 million annually and increase member benefits by $4.8 billion in present value of benefits (PVB). This estimate does not include the fourth McKinnor formula [3]which is bargainable, and which CalPERS estimates would raise *normal costs* by $353 million annually and increase members' PVB by $3.4 billion.

Because historically, CalPERS has not been 100% funded, it is likely that it will continue to collect less than *actual* normal costs and that the bill's future costs will include undetermined unfunded liability costs associated with the McKinnor benefits indefinitely.

ANALYSIS

Existing law:

1) Establishes the Public Employees' Pension Reform Act of 2013 (PEPRA) which applies to all public employers and public pension plans on and after January 1, 2013. (Government Code § 7522 et seq.)

2) Establishes a cap on the amount of compensation that can be used to calculate a retirement benefit for all new members, as specified, of a public retirement system equal to the Social Security wage index limit (originally $110,100, now $159,733) for employees who participate in Social Security, or 120% of that limit (originally $132,120, now $191,679) if they do not participate in Social Security. (Government Code § 7522.10)

3) Requires the retirement systems to adjust the compensation cap annually, as specified, based on changes in the Consumer Price Index (CPI) for all Urban Consumers. (Government Code § 7522.10 (d))

4) Specifies that the Legislature reserves the right to modify the annual CPI adjustments to the compensation cap prospectively. (Government Code § 7522.02 (d)(2))

5) Prohibits an employer from offering a defined benefit (DB) plan, or combination of DB plans, on compensation in excess of the compensation cap. (Government Code § 7522.02 (e))

6) Allows an employer to offer a defined contribution (DC) plan on earnings above the compensation cap up to the federal limit on compensation that can be creditable to DB plans. Any such DC plan must comply with federal laws, and employees do not have a vested right to an employer contribution to such a plan. (Government Code § 7522.02 (f))

7) Defines "new member" with regard to eligibility for PEPRA as:

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[2] (i.e., McKinnor Basic Safety 2% @ 55, Safety Option One 2.5% @ 55, and Safety Option Two 2.7% @ 57)

[3] (i.e., McKinnor Safety Option 3 3% @ 55 w/ pension limited to 90 % final compensation)

a) An individual who has never been a member of any public retirement system prior to January 1, 2013.

b) An individual who moved between retirement systems with more than a six month break in service, as specified.

c) An individual who moved between public employers within a retirement system after more than a six month break in service, as specified. (Government Code § 7522.04 (f))

8) Defines "Normal Cost" to mean the portion of the present value of projected benefits under the defined benefit that is attributable to the current year of service, as determined by the public retirement system's actuary according to the most recently completed valuation. (Government Code § 7522.04 (g))

9) Specifies that the retirement formula for the DB plan will be 2% at age 62 for all new non-safety employees, excluding teachers. The formula is adjusted to encourage members to retire at later ages. The earliest an employee would be eligible to retire is age 52 with a 1% factor and the maximum retirement factor of 2.5% is provided at age 67. (Government Code § 7522.20)

10) Specifies that the retirement formula for new members of the California State Teachers' Retirement System (CalSTRS) will be 2% at age 62. The earliest an employee would be eligible to retire is age 55 with an actuarially reduced formula, and with a maximum formula of 2.4% at age 65. (Government Code § 7522.02 (c), Education Code § 24202.6 and § 24202.7)

11) Provides for three retirement formulas for the DB plan that apply to new safety employees, as specified. The three formulas are: 2% at age 57 (basic plan); 2.5% at age 57 (safety option plan one); and 2.7% at age 57 (safety option plan 2). (Government Code § 7522.25)

12) Requires contributions from employees to the DB plan to equal to one-half of normal cost of the DB. (Government Code § 7522.30)

13) Requires that final compensation be defined for all new employees as the highest average annual compensation over a three-year period. (Government Code § 7522.32)

14) Defines "pensionable compensation" and prohibits the following types of compensation from being used to calculate a retirement benefit: compensation paid to enhance a retirement benefit; compensation previously provided "in-kind" and converted to cash in the final comp period; one-time or ad hoc payments; severance pay; pay for unused leave or time off; pay for work outside of normal hours; uniform, housing or vehicle allowances; pay for overtime, except planned overtime, extended duty workweek, or pay defined in the federal labor codes; employer contributions to DC plans; bonuses, and other pay determined to not be pensionable compensation. (Government Code § 7522.34)

15) Limits the maximum salary taken into account for <u>any</u> retirement plan (DB and DC combined) to the federal limit established under 401(a)(17) of the Internal Revenue Code (IRC) and prohibits an employer from seeking a federal exemption from the limit. (Government Code § 7522.42)

16) Prohibits an employer from making contributions to any public retirement plan (DB or DC) on any amounts of compensation that exceeds the 401(a)(17) limit. (Government Code § 7522.42)

17) Prohibits a public employer from offering a benefit replacement plan for any member or survivor who is subject to the federal limit on benefits established by section 415(b) of the IRC for an employee first hired on and after January 1, 2013, or to any group of employees that was not offered a benefits replacement plan prior to that date. (Government Code § 7522.43)

18) Prohibits a retroactive enhancement to a benefit formula, either due to a change to an existing formula, or due to a change to the retirement classification for a specific job. (Government Code § 7522.44)

19) Requires a public employer's contribution to a defined benefit plan, in combination with employee contributions, to be not less than the normal cost rate for that defined benefit plan for that fiscal year. (Government Code § 7522.52)

20) Prohibits post-retirement employment from exceeding 960 hours in a consecutive 12 month period. If a retiree receives unemployment benefits, he or she is prohibited from working for 12 months as a retiree for a public employer.

21) Prohibits a person who retires on or after January 1, 2013, from returning to work as a retired annuitant for a period of 180 days after retirement unless the action is approved in an open meeting, as specified by the governing body of the employer, or by California Department of Human Resources (CalHR) authority if state retiree, as specified. However, in no case could a person who receives a retirement incentive (e.g., a "golden handshake") return to work as a retired annuitant for a period of 180 days after retirement. (Government Code § 7522.56)

22) Establishes the following exceptions to 180 day rule:

    a) The retiree is participating in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University.

    b) The retiree is a public safety officer or firefighter.

    c) The retiree is a trustee, administrator, or fiscal advisor appointed to address academic or financial weaknesses in a school or community college district, pursuant to specified requirements.

    d) The retiree is a subordinate judicial officer whose position, upon retirement, is converted to a judgeship and he or she returns to work in the converted position.

    e) The retiree is a person taking office as a judge, as specified. (Government Code § 7522.56)

23) Allows more flexibility for bargaining increased cost sharing between employers and existing employees in CalPERS and retirement systems established pursuant to the County Employees' Retirement Law of 1937 (37 Act). Using impasse procedures to impose cost sharing arrangements achieved through this new flexibility would be prohibited if the

proposed contribution exceeds statutorily required contributions for current employees or half of the normal cost of benefits for employees first hired on or after January 1, 2013. (Government Code § 7522.30)

This bill:

1) Freezes existing PEPRA safety formulas and makes them applicable only for service from 1/1/2013 – 12/31/26, increases safety retirement plans as of 1/1/2027 for all public employers, and makes the new McKinnor formulas bargainable, as specified.

2) Requires employers to move, beginning January 1, 2027, from their existing PEPRA safety formula[4] to one of three new, richer McKinnor retirement formulas that would give at age 55 what their PEPRA formula gives at age 57 unless the parties bargain for a higher or lower McKinnor formula, as specified. [5] However, the bill prohibits employers from using impasse procedures to impose a lower plan.

3) Establishes a bargainable fourth McKinnor formula that would provide 3% @ 55 rather than PEPRA's current maximum formula that provides 2.7% @ 57.

4) Resets, through a two-step modification, PEPRA's limits on compensation that a retirement system is permitted to include in the calculation of a member's retirement. [6]
    - First, the bill increases the 2013 adjusted base on which a retirement system determines the pensionable compensation caps by mandating the system use the 2027 Social Security 430 (b) base instead, for all retirement system members, non-safety as well as safety.[7]
    - Second, it increases for members not covered by Social Security (e.g., safety members) the pensionable compensation cap from 120% to 135% of the new 2027 Social Security 430(b) base.

5) After imposing one of the McKinnor formulas closest to the employer's PEPRA formula, authorizes a public employer and a recognized employee organization to negotiate for a

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[4] Current law requires employers to offer one of three PEPRA safety formulas:
- o Basic Safety 2% @ 57
- o Safety Option One 2.5% @ 57
- o Safety Option Two 2.7% @ 57
- o (PEPRA has no fourth formula like the McKinnor Option Three)

[5] The bill creates the following four McKinnor Formulas; mandates employers to move to one of the first three, as specified; and authorizes bargaining to move from that formula to one of the other McKinnor formulas.
- o McKinnor Basic Safety 2% @ 55
- o McKinnor Safety Option One 2.5% @ 55
- o McKinnor Safety Option Two 2.7% @ 57
- o McKinnor Safety Option Three 3% @ 55 w/ pension limited to 90 % final comp

[6] see Footnote 1.

[7] The change from PEPRA's 2013 base as adjusted by CPI to the McKinnor 2027 base affects all public retirement system members, not only safety members.

different McKinnor formula for a prospective increase to the retirement benefit formulas for safety members and new safety members.

6) Specifies that a PEPRA member with mixed service in PEPRA and the fourth McKinnor formula is subject to PEPRA's normal cost sharing provisions but is unclear whether a new member is subject to those provisions after the bill's effective date.

7) Exempts the Judges' Retirement System (JRS) and JRS II from the bill's provisions.

8) Requires that benefit formula increases adopted pursuant to this bill, be established in accordance with PEPRA's prohibition against retroactive benefit increases.

9) Declares that it is the intent of the Legislature that this act shall not be construed to affect any retirement benefits or pension rights accrued before its effective date.

10) Finds and declares the following approximately: the state is experiencing significant challenges recruiting firefighters, police, and other first responders; firefighters face heightened risks of occupational diseases; these high-stress positions contribute to increased rates of disability, injury, and early retirement; it is necessary to adjust safety employee pension formulas to sustain an effective workforce and address occupational challenges; retirement benefits should be collectively bargained; and current compensation caps are too low.

COMMENTS

1. Background and Concerns:

PEPRA's Historical Context

It is ironic that Alan Greenspan has died the same week we consider this proposal. Under his stewardship as Chairman of the Federal Reserve, the United States experienced an unprecedented period of low interest rates and economic growth from 1990 to 1999, after recovering from the 1987 Back Friday II stock market crash.[8] California experienced severe budget deficits in the beginning of the 1990s, causing public employee compensation to remain relatively stagnant through most of the decade while private sector compensation grew rapidly from growth related to the Dot Com boom in emerging technology. That same growth, something Greenspan later attributed to "irrational exuberance" in the stock market, fueled CalPERS' investment returns (similarly to current market returns that are often attributed to expected productivity increases from innovative companies developing Artificial Intelligence technology).

During that period, CalPERS' portfolio grew from $57.5 billion to $171.9 billion. CalPERS' investment earnings "had averaged 13.5 percent for a decade, soaring in the two prior years

[8] This period coincided with the opening of previously closed economies, which created high savings rates abroad. Apparently, Greenspan himself believed the investment of those savings in the United States was more responsible for keeping interest rates at historically low levels and inflating asset prices than his policies, as unprecedented levels of investment chased a limited number of assets.

(to 1999) to 20 percent. Funding for a half dozen state and school plans ranged from 100 to 139 percent".[9]

Just three years later, 2002, CalPERS' portfolio dropped to $133.8 billion. It recovered and reached $253 billion by the end of 2007 only to drop the next year to $183.3 billion. [10] Yet, CalPERS funded status went from over 100 percent at the end of the 1990s to 58.4 % by 2009.[11]

CalPERS' funded status was undermined by at least two critical factors: the substantial enhancement of member pension benefits in 1999 by SB 400 (Ortiz, Chapter 555, Statutes of 1999), and the radical deterioration in the value of its portfolio assets, which undermined its prior actuarial valuations.

SB 400's supporters had argued that " (t)he increase in liability for these new benefits can be funded by the excess retirement assets that have been generated through investment income and changes in actuarial assumptions resulting in no immediate increase in costs to the employer" and the enhancements were necessary because "(m)any local government law enforcement and public safety employees have more generous pensions [than non-safety members] that recognize the unique hazardous duties and the more limited tenure of these strenuous stressful positions. The benefit increases provided by this bill will help attract and retain high caliber state safety employees."[12]

In the end, the promise that increased pension benefits could be paid at no cost to public employers because CalPERS had enough money proved hollow. The state and local governments became saddled with significant increases in pension contributions that many are still paying today and that represent part of the reason CalPERS remains approximately 80 percent funded. (A plan that is less than 100 percent funded is basically carrying debt for past pension promises because estimates of normal costs failed to match actual normal costs).

It was within this historical context that Governor Brown proposed significant pension reform that would have eliminated the DB plan and implemented a hybrid plan with a DC component. Those proposals eventually evolved into PEPRA, which kept DB plans, but at reduced benefit formulas and with a series of reforms intended to curtail imprudent practices that had contributed to the unsustainable growth in pension benefits.

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[9] *How a CalPERS-sponsored bill increased pensions*, Capitol Weekly, April 15, 2019, https://capitolweekly.net/calpers-sponsored-bill-increased-pensions/

[10] See *Growth of Fund*, Facts at a Glance, CalPERS, August 2013

[11] *Funded Status and History of Funded Status*, CalPERS Board: Finance and Administration Committee, April 2014 Agenda, Item 8a, Attachment 7 https://www.calpers.ca.gov/sites/default/files/spf/docs/board-agendas/201404/financeadmin/item8a-07.pdf

[12] *Senate Floor Analysis of SB 400, as amended 9/7/99*, page 9, https://lis.calegis.net/LISWeb/faces/bills/billanalysis.xhtml;jsessionid=hYvwdMygxKWCpyUeexbNS_cOMhe5D_Ct9Ivv-No1-F4TITS2a3E0!779765674!2138330037

PEPRA "Savings"

AB 1383's proponents, citing a CalPERS presentation at a January 12, 2024, stakeholder forum, argue that PEPRA has worked so well in reducing pension costs that it "has generated savings to employers of over $4 billion in the first 10 years of implementation and is forecasted to save more than $24 billion over the next 10 years." Yet, in that same period according to its current assumptions, CalPERS will only reach a 90 percent funded status. [13]

It is important to understand what the proponents mean by savings. They are referring to the cost employers have avoided paying to CalPERS by going from the SB 400 formulas to the PEPRA formulas. Costs that would have occurred are not occurring because we have the PEPRA formulas instead of the SB 400 formulas. But cost avoided isn't really savings available. There is no $ 4 billion in actual savings in some fund. It's a bit like the difference between having a $10,000 car loan reduced by 20% versus having a paid off car and $2,000 in the bank. In the first case, you are still in debt $8,000. In the second case, you are not in debt and have $2,000 you can spend or invest. We are still in debt for the enhanced SB 400 formulas passed in 1999 and the unrealized expected investment return from lost assets following the Dot Com Crash and 2008 Financial Crisis. This proposal will likely result in that debt growing, and that's assuming that CalPERS' assumptions pan out, that investment performance continues to outpace the CalPERS' discount rate, and that no significant deleterious economic event occurs.

AB 1383 Risks

According to the California Actuarial Advisory Panel (CAAP):

"In addition to increasing liabilities and normal cost rates, the changes to the benefit formulas and compensation limits can be expected to increase the future volatility of costs. Higher benefits must eventually result in higher liabilities and assets. With more assets invested in the market, investment risk will go up. With higher liabilities, changes in behavior or assumptions that affect those liabilities - such as a potential future reduction in the discount rate - will have a greater impact on the required contributions.

The changes in the benefits may also result in modifications in member behavior that could result in other unexpected downstream effects. For example, improvements in the benefit multiplier for public safety members at earlier ages could result in changes in the retirement patterns for these members. These changes may not only affect plan costs, but also other compensation and personnel-related costs, such as post-retirement medical benefits and training or recruitment expenses."

In other words, if the market goes south and/ or members work longer to earn higher pensions under the McKinnor formulas than they otherwise would have under the PEPRA formulas, both pension costs and other employer costs will be higher than these estimates. Moreover, CalPERS' estimates for AB 1383 are based on 2024 data. The economy has become much more volatile in the last 2 years with the Iran war-related and Trump tariff-related inflation spikes, the increasing concern over private equity valuations (where

[13] *2024 Annual Review of Funding Levels and Risks Report*, CalPERS Finance and Administration Committee, November 19, 2024, Agenda Item 6a, Attachment 2, Page 5

CalPERS has substantially increased its portfolio weighting), the potential that we are living through another era of "irrational exuberance" in the stock market driven by AI technology investments, and the expected disruption of economic activity by those AI innovations.

AB 1383's Potential Inequity from Lifting the Compensation Caps

According to CAAP:

"For PEPRA members, current statutes require that members pay at least half of the normal cost (subject to rounding provisions for some groups). As discussed above, the overall normal cost is expected to increase for all groups if they include members with benefits that are expected to be affected by the current PEPRA compensation limits, including non-Safety groups. If this occurs, PEPRA member contribution rates will increase for all members of the group, unless the employer negotiates to pay more than half the normal cost, which would now be allowed under AB 1383. In other words, it is likely that all PEPRA members would be required to contribute more, even though only the more highly compensated individuals will experience any benefit improvement, at least for the non-Safety groups."

In other words, lower compensated employees whose salary will never hit the current compensation limits will pay more so that highly compensated employees can get an even larger pension.

Unintended Victims if Cost Estimates Are Incorrect (as they almost always are)

Pension benefits, with good reason, have special protection in California under constitutional case law. Once given, employers can almost never take back the benefits for members who were working when the new benefits were offered. If benefit costs exceed projections, pension systems' unfunded liability goes up. That requires the systems to raise employer and employee pension contributions. Those increased costs reduce public funding that could otherwise be used to support vulnerable communities who depend on public services for other critical services, especially in health and welfare programs. Because projected costs are likely to increase during economic downturns, these reductions hit those vulnerable communities at the moment they most need public services and when public employers' resources are most strained.

Ironically, public employee recruitment and retention can also suffer significantly since public employers often respond to resource and cost pressures from increased personnel costs and economic downturns by eliminating positions. That can result in fewer employees being pressured to do far more work with a lot less help and fewer resources. It can also lead to younger employees being blocked from advancement opportunities because of position and wage freezes.

AB 1383's Effect on Local Government with Pension Systems other than CalPERS

The proponents have focused exclusively on costs to the state from changes to CalPERS' plans. However, AB 1383's provisions mandate that all public pension funds adopt the McKinnor compensation caps and formulas. There are 20 CERL county systems and several other independent systems that will face increasing costs because of AB 1383's mandate. Those costs have not been evaluated, presumably because they are local costs not General Fund costs. Yet should those local governments fail to be able to pay the increased pension

costs, there will be great pressure for the state to bail them out. In any event, those costs will compound the reduction for services to vulnerable populations as outlined above, given that counties and local districts play an outsized role in providing those services. Committee time constraints prevent a substantive analysis of this bill's potential impact on local government, but opponents and researchers have expressed significant concern that local governments are already under-resourced and unprepared for AB 1383's costs. [14] For example, according to a coalition of local government associations, including the California State Association of Counties:

"Unfortunately, pension costs for many California public agencies continue to be a challenge, threatening the delivery of basic public services, compromising general fund budgets and, indeed, posing a long-term fiscal challenge to the State itself. That is why it is increasingly important that any change to the system be sustainable, fair to taxpayers and employees, and provide long-term financial stability. Any change to PEPRA must protect the fiscal integrity of public agencies and retirement for public employees."

Concluding Considerations

AB 1383 proponents argue that public employees and employers are best positioned to develop the appropriate level of employee compensation and benefits to accomplish their mission of providing services to the public through the collective bargaining process and that AB 1383 restores that flexibility to create mutually agreeable approaches to public financing challenges.

Certainly, neither public employees nor their employers have any interest in policies and programs that could threaten their pension plans. But, upon his passing, Alan Greenspan reminds us that self-interest is not sufficient to prevent parties from causing great calamity to themselves, and to innocent bystanders. "Those of us who have looked to the self-interest of lending institutions to protect shareholders' equity, myself included, are in a state of shocked disbelief," he stated to the House Committee on Oversight and Government Reform on October 23, 2008, testifying on the causes of the 2008 Financial Crisis.[15]

2. Recommended Amendments for future consideration:

Increases to public pension benefits create substantial risks to pension funds, state and local government finances, and to the state's well-being precisely because the courts and our constitution vigorously and rightly guard any effort to reverse those benefits once promised and once the beneficiary has responded to that promise, even during economic shocks.

Given our historical experience and current economic volatility, if the Legislature is going to expand public pension benefits, it should do so with a series of "shock absorbers" in the event that a severe financial crisis once again threatens our economic security.

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[14] State Association of County Retirement Systems (SACRS) June 3, 2025, letter to Honorable Tina McKinnor; Local *Governments Not in Position for AB 1383*, Reason Foundation, May 2026

[15] *Alan Greenspan Was Wrong About One Thing. It was a Big One.* New York Time, June 22, 2026, https://www.nytimes.com/2026/06/22/opinion/alan-greenspan-federal-reserve.html

The following amendments are recommended for future consideration to provide some of those shock absorbers:

- Limit the change to the base year of the compensation cap to safety members only and delay implementation one year to January 1, 2028.
- Raise the percentage applied against the compensation cap to 125% not 135%
- Disallow employer paid contributions to a *defined contribution* plan for compensation in excess of the new compensation limit.
- Eliminate the mandate on employers to implement the new McKinnor formulas and instead allow those to be bargained.
- Conforming with above, do not freeze existing PEPRA formulas, unless the employer and employee have bargained for a new McKinnor formula.
- Reduce from 4 McKinnor formulas to 3 by eliminating the 3%@55.
- Allow the parties to bargain for a pension cap of 100% of compensation for all McKinnor formulas.
- Prohibit Deferred Retirement Option Programs (DROP) for a member that is subject to a McKinnor Formula.
- Reserve the Legislature's power to suspend the McKinnor formulas and revert back to the PEPRA formulas if warranted by economic conditions, as specified.

If adopted the amendments help reduce public employers' and pension funds' risk exposure, ensure that the increased benefits are sustainable, provide time for the parties to bargain for the increased benefits, and provide flexibility for the Legislature to respond appropriately to another financial crisis should one occur.

In any case, the author should consider some mechanism going forward to link the bill's program availabilty to the state's economic condition, perhaps through the condition of the state's rainy day fund.

3. Need for this bill?

According to the author:

"According to a 2024 CalPERS report, since its inception, the PEPRA has generated approximately $5 billion in savings during the first 10 years of implementation and is forecasted to save more than $24 billion over the next 10 years. As of June 30, 2024, the PEPRA has achieved approximately $5.8 billion in savings to the state since 2013 and is projected to accelerate and increase those savings during the remainder of the 30-year projection as more new public employees hired would be subject to the PEPRA formulas under current law. Also as of the aforementioned date, the percentage of active members who are subject to the PEPRA, at least in the California Public Employees' Retirement System (CalPERS), is approximately 64%. Now, 14 years into the implementation of the PEPRA reform, it is appropriate to revisit some targeted provisions to ensure that pensions align with the demands of the occupations across government employment, including our first responders."[16]

[16] Although the author cites in their background documents to the committee, approximate costs of $5 or $5.8 billion, those figures apparently stem from estimates from last year when the bill was heard in the Assembly. Current figures refer to $4.8 billion.

4. Proponent Arguments:

According to the California Professional Firefighters:

"Firefighting is one of the most difficult and dangerous jobs imaginable. Those who answer the call to serve their communities put their mental and physical health on the line every time they respond to an incident, risking a known range of injuries and illnesses to serve the public. Firefighters carry a 14% higher risk of dying of cancer than the general population. This risk is so great that the International Agency for Research on Cancer (IARC) has classified occupational exposure as a firefighter as a Group 1 known human carcinogen.

These cancer risks come from innumerable sources, including circadian rhythm disruption, smoke inhalation, exposure to toxic chemicals and substances, and many more. Every day on the job represents a new set of exposures to these known risks.

Asking firefighters to work for a significantly longer period in a deadly profession for a reduced pension does not make economic sense. While changes to the pension systems that disadvantage workers are nearly always framed in financial terms such as increasing the health of the fund and reducing taxpayer costs, these costs are not fully eliminated but transferred."

According to a coalition of police and sheriff employee associations, including the Fraternal Order of the Police and the Association of Orange County Deputy Sheriffs:

"Departments throughout the state are struggling to fill academy classes and keep experienced officers on the job. A major driver of this problem is PEPRA. Enacted in 2012, PEPRA significantly reduced retirement benefits, raised the retirement age, and restricted collective bargaining over retirement issues. While these changes were intended to generate cost savings, and they have, with CalPERS estimating over $4 billion saved in the first 10 years, they have also had real, lasting consequences for our ability to staff public safety positions."

5. Opponent Arguments:

According to a coalition of approximately nine local government associations, including the League of California Cities, the California State Association of Counties, and the California Special Districts Association:

"AB 1383 increases mandated costs without a way for public agencies to absorb them. The potential cost of this bill comes at a time of fiscal uncertainty. Much like the state, local agencies are facing budget challenges, as revenues are not keeping pace with the costs of delivering services or new mandates and are facing significant loss of resources and heightened responsibilities due to passage of H.R. 1. Some local agencies are currently considering significant budget cuts across all departments. AB 1383 would cause increased benefit costs and new cost pressures, leading to serious cost increases for local government.

According to CalPERS, given the current discount rate of 6.8%, AB 1383 is expected to increase the required contributions of employers and PEPRA members and increase the

present value of future benefits (PVB) by $4.8 billion across State, Schools, and Local Agency plans. In addition to the change in PVB, CalPERS estimates that the change to the accrued liability to be $233 million across State, Schools, and Local Agency plans. Additionally, AB 1383 further proposes that employers may increase their PEPRA formula to 3% at age 55 through individual agency collective bargaining. The benefit for this formula will be limited to 90 percent of final compensation. The increase in the normal cost due to this change could lead to increased annual normal cost contributions of $353 million in the first year and increase the present value of future benefits by $3.4 billion.

The CalPERS analysis does not include estimates for non-CalPERS pension systems, including for the twenty county-operated pension systems. Additionally, these costs are based on a snapshot of current compensation for public employees and could be heightened significantly if compensation increases rise and exceed the current compensation cap.

As of June 30, 2025, the Public Employees Retirement Fund (PERF) was approximately 79% funded. If CalPERS misses its investment return mark of 6.8%, local agencies in CalPERS and the State have to pay the difference. Again, this bill would compound costs for local governments and the State and do nothing to offset the costs."

6. Related/ Prior Legislation:

AB 1054 (Gipson), currently under consideration by this committee, would establish a Deferred Retirement Option Program (DROP) to allow participating State Bargaining Unit (BU) 5 peace officers (CAHP) and State BU 8 firefighters (CalFire Local 2881) to elect a deferred retirement date, continue working 1-5 years, freeze their defined benefit (DB) pension benefit accrual, divert their employee contributions and potentially the employer contributions to their DROP account, earn the higher of a guaranteed 5 % interest or CalPERS' investment return rate on their DROP savings, and upon reaching the deferred retirement date, receive their pension and a one-time lump-sum payment of their program account balance upon termination of employment and subsequent retirement from CalPERS.

SB 292 (Pan, 2015) specified that the requirement for employees subject to the California Public Employees' Pension Reform Act of 2013 (PEPRA) to pay 50% of the actuarial normal cost of their pension benefits does not apply in specific cities and one county in which voter-approved tax levies were enacted prior to 1978 for the purpose of paying pension costs. The Governor vetoed the bill.

SB 13 (Beall), Chapter 528, Statutes of 2013, made technical corrections to the Public Employee's Pension Reform Act of 2013 (PEPRA) in order to clarify the Legislature's intent in enacting PEPRA and to assist affected employers and retirement systems in implementation of PEPRA.

AB 340 (Furutani), Chapter 296, Statutes of 2012, established the Public Employees' Pension Reform Act of 2013 (PEPRA) which made major revisions to the public retirement systems' laws and applied to all public employers and public pension plans on and after January 1, 2013.

SB 400 (Ortiz), Chapter 555, Statutes of 1999, among other things, provided enhanced retirement formulas for State Peace Officer/Firefighter members who retire on or after January 1, 2000. The enhanced formula provided a retirement benefit factor of 3% at and after age 55 and allowed members to retire, on a discounted basis, as early as age 50 and also provided enhanced pension formulas for state patrol members who retire on or after January 1, 2000. The enhanced formula provided a retirement benefit factor of 3% at age 50 and was also available as a contract option for local contracting agencies.

SUPPORT

Alameda City Firefighters Local 689
Alameda County Firefighters IAFF Local 55
American Federation of State, County and Municipal Employees
Anaheim Firefighters Association Local 2899
Apple Valley Professional Firefighters Association
Apple Valley Professional Firefighters Association Local 4742
Arcadia Firefighters Association Local 3440
Arcadia Police Officers' Association
Arcata Professional Firefighters Local 4981
Association for Los Angeles Deputy Sheriffs
Association of Orange County Deputy Sheriffs
Atascadero City Firefighters Local 3600
Barstow Professional Firefighters Association Local 2325
Berkeley Fire Fighters Association Local 1227
Brea Police Association
Brea Professional Firefighters Association
Burbank Fire Fighters Local 778
Burbank Police Officers' Association
Cal Fire Local 2881
California Association of Psychiatric Technicians
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Federation of Labor Unions
California Fraternal Order of Police
California Narcotic Officers' Association
California Professional Firefighters
California Reserve Peace Officers Association
California School Employees Association
California Statewide Law Enforcement Association
Calistoga Professional Firefighters Association Local 5606
Carlsbad Firefighters Association Local 3730
Cathedral City Firefighters Association Local 3654
Central Firefighters Local 3535
Chico Firefighters Local 2734
Chino Valley Professional Firefighters Local 3522
Chula Vista Firefighters Local 2180
City of Gilroy Council Member Zach Hilton
Claremont Police Officers Association
Compton Fire Fighters Local 2216
Contra Costa County Professional Firefighters Local 1230
Corona Firefighters Association Local 3757

Corona Police Officers Association
Coronado Fire Fighters Association Local 1475
Costa Mesa Firefighters Local 1465
County Employees Management Association
Culver City Firefighters Association Local 1927
Culver City Police Officers' Association
Davis Professional Firefighters Association Local 3494
Deputy Sheriffs' Association of Santa Clara County
El Cajon Firefighters Local 4603
El Dorado Hills Professional Firefighters Local 3604
El Segundo Firefighters Association Local 3682
Encinitas Firefighters Association Local 3787
Escondido Firefighters Local 3842
Fallbrook Firefighters Association Local 1622
Five Cities Professional Firefighters Local 4403
Fountain Valley Firefighters Local 4530
Fremont Fire Fighters Local 1689
Fullerton Firefighters Association Local 3421
Fullerton Police Officers' Association
Gilroy Fire Fighters Local 2805
Glendale Professional Firefighters Local 776
Hayward Fire Fighters Local 1909
Healdsburg Fire Fighters Local 2604
Heartland Firefighters of LA Mesa Local 4759
Heartland Firefighters of Lemon Grove Local 2728
Hemet City Firefighters Association Local 2342
Huntington Beach Firefighters Association Local 3354
Imperial Beach Firefighters Association Local 4692
International Union of Operating Engineers, Cal-Nevada Conference
Kern County Firefighters Local 1301 Union
Laguna Beach Firefighters Local 3684
Lakeside Firefighters Association Local 4488
Lieutenant Governor Eleni Kounalakis
Livermore-Pleasanton Firefighters Local 1974
Long Beach Firefighters Local 372
Long Beach Police Officers Association
Los Angeles County Firefighters Local 1014
Los Angeles County Professional Peace Officers Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Marin Professional Firefighters Local 1775
Merced City Firefighters Local 1479
Milpitas Firefighters Local 1699
Modesto City Firefighters Local 1289
Monrovia Firefighters Local 2415
Montebello Firefighters Association Local 3821
Monterey County Probation Association
Monterey Firefighters Association Local 3707
Murrieta Fire Fighters Local 3540
Murrieta Police Officers' Association

Napa City Fire Fighters Local 3124
Nasa JPL Professional Firefighters Local I-94
National City Firefighters Association Local 2744
Nevada County Professional Firefighters Local 3800
Newport Beach Firefighters Association Local 3734
Newport Beach Police Association
Oakland Firefighters Local 55
Oceanside Firefighters Association Local 3736
Office of Lieutenant Governor Eleni Kounalakis
Ontario Professional Firefighters Local 1430
Orange City Firefighters Local 2384
Orange County Professional Firefighters Association, Local 3631
Oxnard Firefighters Local 1684
Palm Springs Firefighters Association Local 3601
Palo Alto Professional Firefighters Local 1319
Palos Verdes Police Officers Association
Pasadena Firefighters Local 809
Paso Robles Professional Firefighters Local 4148
Patterson Firefighters Association Local 4577
Peace Officers Research Association of California
Petaluma Firefighters Local 1415
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Poway Firefighters Association Local 3922
Professional Firefighters of Sonoma County Local 1401
Rancho Cucamonga Firefighters Association Local 2274
Rancho Santa Fe Professional Firefighters Association Local 4349
Redlands Professional Firefighters Association Local 1354
Redondo Beach Fire Association Local 2787
Registered Nurses Professional Association
Rialto Professional Firefighters Local 3688
Richmond International Association of Firefighters Local 188
Riverside City Firefighters Association Local 1067
Riverside Police Officers Association
Riverside Sheriffs' Association
Sacramento Area Firefighters Local 522
Sacramento County Deputy Sheriffs Association
Sacramento County Probation Association
Salinas Fire Fighters Local 1270
San Bernardino County Sheriff's Employees' Benefit Association
San Diego City Fire Fighters Local 145
San Diego County Probation Officers Association
San Francisco Fire Fighters Local 798
San Gabriel City Firemen’s Association Local 2197
San Joaquin County Probation Officers Association
San Jose Fire Fighters Local 230
San Luis Obispo City Firefighters Local 3523
San Marcos Firefighters Association Local 4184
San Mateo County Firefighters Local 2400
San Mateo County Probation Detention Association

San Ramon Valley Firefighters Association Local 3546
Santa Ana Police Officers Association
Santa Barbara City Firefighters Association Local 525
Santa Barbara County Firefighters Local 2046
Santa Clara City Firefighters Local 1171
Santa Clara County Correctional Peace Officers Association
Santa Clara County Firefighters Local 1165
Santa Clara County Probation Peace Officer's Union Local 1587
Santa Cruz City Firefighters Local 1716
Santa Maria City Firefighters Local 2020
Santa Monica Fire Fighters Local 1109
Service Employees International Union, California
Sheriff's Employee Benefits Association
Sierra Madre Professional Firefighters Local 5216
Solana Beach Firefighters Local 3779
State Coalition of Probation Organizations
Stockton Firefighters Local 456
Templeton Firefighters Local 5422
Torrance Fire Fighters Association Local 1138
Tracy City Fire Fighters Local 3355
Union of American Physicians and Dentists
Valley Physicians Group
Vandenberg Professional Firefighters Local F-116
Ventura City Firefighters Association Local 3431
Ventura County Professional Firefighters Association Local 1364
Vista Firefighters Association Local 4107

OPPOSITION

Association of California School Administrators
California Policy Center
California Special Districts Association
California State Association of Counties
City of Adelanto
City of Arcadia
City of Belvedere
City of Beverly Hills
City of Brea
City of Brentwood
City of Burbank
City of Calimesa
City of Carpinteria
City of Coalinga
City of Colton
City of Cotati
City of Fairfield
City of Fillmore
City of Firebaugh
City of Fortuna
City of Fremont

City of Garden Grove
City of Glendora
City of Grand Terrace
City of Hemet
City of Hermosa Beach
City of Highland
City of Inglewood City Hall
City of Kingsburg
City of La Palma
City of La Quinta, Riverside County, California
City of La Verne
City of Lancaster
City of Larkspur
City of Los Alamitos
City of Lynwood
City of Manteca
City of Merced
City of Mission Viejo
City of Morro Bay
City of Murrieta
City of Napa
City Newport Beach
City of Norwalk
City of Oceanside
City of Pacific Grove
City of Paramount
City of Perris
City of Port Hueneme
City of Poway
City of Redlands
City of Reedley
City of Salinas
City of San Luis Obispo
City of San Rafael
City of Santa Paula
City of Santa Rosa
City of Scotts Valley
City of Soledad
City of Solvang
City of Sonoma
City of Stanton
City of Tehachapi
City of Torrance
City of Tulare
City of Vernon
City of Vista
City of Weed
City of Yorba Linda
Contra Costa County
County of Humboldt

County of Kern
Howard Jarvis Taxpayers Association
League of California Cities
Rural County Representatives of California
Rural County Representatives of California (RCRC)
Town of Apple Valley
Town of Fairfax
Town of Moraga
Town of Truckee
Urban Counties of California
Valley Sanitary District

Other

California Actuarial Advisory Panel
Reason Foundation
Sacramento County Employees Retirement System

-- END --

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

Bill No:	AB 605	**Hearing Date:**	June 24, 2026
Author:	Muratsuchi		
Version:	June 10, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: Employment: refineries: task force: safe staffing management plans

KEY ISSUE

This bill establishes the Refinery Safe Staffing Task Force (Task Force) to develop standards and best practices for retaining safe staffing levels at refineries and directs the California Environmental Protection Agency (CalEPA) and the Division of Occupational Safety and Health (Cal/OSHA) to adopt regulations that require all refineries to develop safe staffing management plans, as specified.

ANALYSIS

Existing law:

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

2) Establishes the Division of Occupational Safety and Health (Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, propose, administer, and enforce occupational safety and health standards. (Labor Code §6300 et seq.)

3) Establishes the Occupational Safety and Health Standards Board (Standards Board), within DIR, to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for workers. (Labor Code §140-147.6)

4) Requires Cal/OSHA to issue a citation to an employer who it believes, upon inspection or investigation, has violated specified workplace health and safety laws or any standard, rule or order pursuant to them. Each citation must be in writing and must describe the nature of the violation, including a reference to the provision of the code, standard, rule, regulation, or order alleged to have been violated. The citation must also include a reasonable time for the abatement of the alleged violation. The period specified for abatement shall not commence running until the date the citation or notice is received or the date the return is made to the post office. (Lab. Code § 6317)

5) Directs the Standards Board and Cal/OSHA, in accordance with the California Refinery and Health Standards Board Act of 1990, to promote worker safety through implementation of

training and process safety management (PSM) practices in refineries and chemical plants and other facilities deemed appropriate. (Labor Code §7852(a))

6) Defines "refinery" as an establishment that produces gasoline, diesel fuel, aviation fuel, or biofuel through the processing of crude oil or alternative feedstock. (Labor Code §7853(c))

7) Defines "process safety management" as the application of management programs, which are not limited to engineering guidelines, when dealing with the risks associated with handling or working near hazardous chemicals. PSM is intended to prevent or minimize the consequences of catastrophic releases of acutely hazardous, flammable, or explosive chemicals. (Labor Code §7853(b))

8) Directs the Standards Board to adopt, by March 31, 2014, process safety management standards for refineries, chemical plants, and other manufacturing facilities, as specified. (Labor Code §7856(a))

9) Directs Cal/OSHA to propose, and the Standards Board to consider for adoption, regulations to implement PSM standards for refineries by January 1, 2026. (Labor Code §7856(b))

10) Establishes the California Accidental Release Prevention program (CalARP) with the goal of reducing regulated hazardous substances accident risks and eliminating duplication of regulatory programs. CalARP implements the federal risk management program, as provided in the federal Clean Air Act and as promulgated by the Federal Environmental Protection Agency, in the state, with certain amendments that are specific to the state. (Health & Safety Code §25531 et seq.)

This bill:

1) Establishes the Refinery Safe Staffing Task Force (Task Force) consisting of the following members:

    a) Three representatives of unions representing proprietary employees at refineries, as specified, one each appointed by the Governor or their appointed DIR PSM Unit regional manager, the Speaker of the Assembly, and the Senate Committee on Rules, respectively.
    b) Three representatives of unions representing building trades whose members serve as contractors at refineries, one each appointed by the Governor or their appointed DIR PSM Unit regional manager, the Speaker of the Assembly, and the Senate Committee on Rules, respectively.
    c) Three representatives of refinery employers, one each appointed by the Governor or their appointed DIR PSM Unit regional manager, the Speaker of the Assembly, and the Senate Committee on Rules, respectively.
    d) Three representatives of nongovernmental organizations whose mission relates to the well-being of workers and refinery communities, one each appointed by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules, respectively.
    e) Two members of the public with expertise in refinery process safety, to be appointed by the Governor or their appointed DIR PSM Unit regional manager.

2) Requires all members of the Task Force to be appointed and begin serving no later than January 1, 2028.

3) Provides that the members of the Task Force shall serve without compensation, except that they shall receive, upon appropriation of funds for this purpose, their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses.

4) Requires the Task Force to select one of its members to be its chair. Provides that the Task Force shall have all of the responsibilities, powers, and duties set forth in these provisions.

5) Provides that the Task Force shall consult with, and may utilize, the staff of the DIR PSM Unit.

6) Provides that the purpose of the Task Force shall be to develop a set of standards and best practices for retaining safe staffing levels at refineries, during, and especially in the time period preceding, a refinery closure or long-term idling of a refinery, based upon thorough research and investigation.

7) Requires the Task Force, no later than June 1, 2029, to present to the Legislature, and make available online to the public, both of the following:

    a) A set of standards and best practices for retaining safe staffing levels at refineries and managing understaffing during, and especially in the time period preceding, an announced or anticipated refinery closure or long-term idling of a refinery.
    b) A report documenting the facts, analysis, and investigation upon which the standards are based. The report should consider and evaluate the standards and best practices referenced above, including, as appropriate, a wide range of potential methods and strategies for ensuring maximum employee retention in the time period preceding refinery closure or long-term idling of a refinery, including, without limitation, extended severance periods, paid job training, extended job placement assistance, priority transfer to other refineries, and financial and logistical assistance; and should further consider a wide range of methods and strategies for ensuring safe operation in the event of understaffing.

8) Makes the provisions that establish the Task Force, 1) through 7) above, inoperative on July 1, 2029, and repeals them as of January 1, 2030.

9) Requires CalEPA, by January 1, 2028, to adopt regulations that require all of the following:

    a) All refineries, including, without limitation, all facilities subject to the California Accidental Release Prevention Program 4 regulations, shall develop safe staffing management plans, pursuant to a timeline specified by the agency, to address staffing risks associated with anticipated refinery closure or long-term idling. Each plan shall be required to include the maximum amount of reasonably feasible employee retention strategies and procedures to address risks associated with understaffing.
    b) Within six months following the Task Force's presentation to the Legislature on standards and best practices, or by January 1, 2030, whichever is earlier, the plans shall be required to, at minimum, adhere to the standards and best practices, unless the refinery operator presents evidence sufficient to justify deviating from those standards and best practices.

c) The plans shall be updated periodically and upon announcement of refinery closure or long-term idling pursuant to subdivision (p) Section 25354 of the Public Resources Code, or other applicable law.
d) The plans, and all updates thereto, shall be presented to CalEPA in draft for review and approval, and shall be subject to a public comment period of at least 30 days. CalEPA shall approve a plan after responding substantively in writing to all public comments received concerning it, and shall reject, and require prompt amendment to, any draft plan that does not comply with the standards defined in a) and b).

10) Requires CalEPA, following an announcement of closure or long-term idling, and periodically thereafter, to conduct inspections and investigations to ensure implementation of the refinery's plan and to address noncompliance through all available and necessary enforcement authority.

11) Authorizes CalEPA to, upon a determination of noncompliance with these provisions, issue a citation to the operator of the subject of the refinery. This citation is in addition to existing penalties authorized under the California Accidental Release Prevention program. The citation shall be in writing, describing with particularity the nature of the violation, and fixing a reasonable time for abatement of the alleged violation.

12) Provides that the plans, draft plans, draft updates to the plans, final updates to the plans, and all comments on the draft plans by CalEPA shall be promptly posted on the CalEPA's website. Trade secret claims concerning the contents of the plans shall be addressed, as specified.

13) Requires Cal/OSHA, by January 1, 2028, to propose, and the Standards Board to consider for adoption, regulations that require all of the following:

a) All refinery employers shall develop safe staffing management plans, pursuant to a timeline specified by the division, to address staffing risks associated with anticipated refinery closure or long-term idling. Each plan shall be required to include the maximum amount of reasonably feasible employee retention strategies and procedures to address risks associated with understaffing.
b) Within six months following the Task Force's presentation to the Legislature on standards and best practices, or by January 1, 2030, whichever is earlier, the plans shall be required to, at minimum, adhere to the standards and best practices, unless the refinery operator presents evidence sufficient to justify deviating from those standards and best practices.
c) The plans shall be updated periodically and upon announcement of refinery closure or long-term idling pursuant to subdivision (p) Section 25354 of the Public Resources Code, or other applicable law.
d) The plans, and all updates thereto, shall be presented to Cal/OSHA in draft for review and approval, and shall be subject to a public comment period of at least 30 days. Cal/OSHA shall approve a plan after responding substantively in writing to all public comments received concerning it, and shall reject, and require prompt amendment to, any draft plan that does not comply with the standards defined in a) and b).

14) Requires, following an announcement of closure or long-term idling, and periodically thereafter, Cal/OSHA to conduct inspections and investigations to ensure implementation of

the employer's plan, and to address noncompliance through all available and necessary enforcement authority, including, without limitation, citations.

15) Provides that the plans, draft plans, draft updates to the plans, final updates to the plans, and all comments on the draft plans by Cal/OSHA shall be promptly posted on Cal/OSHA's website. Trade secret claims concerning the contents of the plans shall be addressed, as specified.

COMMENTS

1. Background:

This analysis is limited to AB 605's Cal/OSHA and Task Force provisions. This bill is double referred to the Senate Environmental Quality Committee for an analysis of its CalEPA and CalARP provisions.

Refinery Safety

The PSM Unit within Cal/OSHA is responsible for inspecting refineries and chemical plants that handle large quantities of toxic and flammable materials. Generally, refinery safety rules are built around the concept of process safety, which requires refineries to identify and fix hazards before accidents occur and to involve workers directly in investigations when they do. The first safety standard enforced by the PSM Unit was adopted in 1990 under the California Refinery and Health Act and was substantially similar to the federal one. Following a 2012 chemical release and fire at the Chevron U.S.A. Inc. Refinery in Richmond, however Cal/OSHA and the Legislature moved to strengthen safety standards. An interagency working group, consisting of Cal/OSHA, CalEPA, and the U.S. Environmental Protection Agency, among others, identified serious concerns with Chevron's PSM procedures and expressed the need for stronger preventative safeguards. On May 18, 2017, the Standards Board unanimously adopted an updated PSM standard that requires refinery employers to conduct damage mechanism reviews, apply rigorous safeguard protection analyses, integrate human factors and culture assessments into safety planning, involve front-line employees in decision-making, and perform comprehensive process hazard analyses.

Specifically, refinery employers are required to include an analysis of human factors, where relevant, in major changes, incident investigations, process hazard analyses, and management of organizational change (MOOC) assessments. Human factor analysis must evaluate the following: staffing levels; the complexity of tasks; the length of time needed to complete tasks; the level of training, experience and expertise of employees; the human-machine and human-system interface; the physical challenges of the work environment in which the task is performed; employee fatigue and other effects of shiftwork and overtime; communication systems; and the understandability and clarity of operating and maintenance procedures. Before an employer can reduce staffing levels or change shift duration, they must conduct a MOOC assessment. The MOOC assessment is required for changes with a duration exceeding 90 calendar days affecting operations, engineering, maintenance, health and safety, or emergency response. All MOOC assessments must include an analysis of human factors.

In 2024, the Legislature expanded the definition of "refinery" to include an establishment that produces gasoline, diesel fuel, aviation fuel, or biofuel through the processing of crude oil or alternative feedstock. The current PSM standard covers approximately 1,500 facilities

in the state that handle or process certain hazardous chemicals, including 11 refineries which produce approximately two million barrels of crude oil per day into gasoline, diesel fuel, jet fuel, and chemical feedstocks.[1]

Ongoing Changes to the PSM Standard

In 2019, Western States Petroleum Association (WSPA) filed two lawsuits regarding the 2017 PSM safety standard (CCR §5789.1).[2] In a complaint filed in Sacramento Superior Court, WSPA alleged that the standard 1) did not meet requirements under the California Administrative Procedure Act; 2) was invalid; 3) was unenforceable because it was inconsistent with governing statues; and 4) was neither reasonably necessary nor sufficiently clear.[3] Additionally, in a complaint filed in the Eastern District of California, WSPA alleged that the standard was preempted by the National Labor Relations Act.[4]

As part of a 2024 settlement to resolve these lawsuits, Cal/OSHA and the Standards board agreed to engage in rulemaking to amend the PSM safety standard to address WSPA's concerns. Specifically, Cal/OSHA agreed to propose and to support amendments to the PSM standard that would:

- Amend and clarify the definitions of highly hazardous material, major change, and employee representative;
- Amend and clarify the requirements pertaining to the Hierarchy of Hazard Control Analysis; and
- Amend and clarify, with respect to employee participation in PSM activities, how employers will allow for effective participation by employees engaged in such activities.

The revised standard must be adopted in accordance with the California Administrative Procedure Act. On November 28, 2025, the Standards Board published its notice of proposed rulemaking to amend the PSM standard. The first public hearing was held on January 15, 2026. The Standards Board is in the process of soliciting and responding to stakeholder feedback. It's unclear when the updated PSM standard will be adopted by the Standards Board and filed with the Secretary of State.

Enforcement Challenges

Despite having some of the nation's toughest refinery safety rules, California has struggled with enforcement. Cal/OSHA is the entity tasked with protecting and improving the health and safety of California workers by 1) setting and enforcing labor standards; 2) providing outreach, education, and assistance to employers and employees; and 3) issuing permits, licenses, certifications, registrations and approvals. As part of their enforcement responsibilities, Cal/OSHA investigates complaints of workplace hazards filed by employees, employee representatives, and others, as well as investigating reports of serious injury and illness or death.

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[1] OSHSB, Process Safety Management for Petroleum Refineries. "Initial Statement of Reasons" 2025.
[2] OSHSB, Process Safety Management for Petroleum Facilities. "Notice/Informative Digest" 2025.
[3] Western States Petroleum Association v. California Occupational Safety and Health Standards Board, California Division of Occupational Safety and Health, and California Environmental Protection Agency (Sacramento Super. Ct., Case No. 34-2019-00260210).
[4] Western States Petroleum Association v. California Occupational Safety and Health Standards Board, et al. (E.D. Cal., Case No. 2:19-cv-1270)

In July 2025, the California State Auditor released an audit report on Cal/OSHA finding, among other things, that process deficiencies and staffing shortages have limited its ability to protect workers.[5] Among the audits key findings were that:

- Cal/OSHA did not inspect some complaints and accidents, despite evidence that an inspection may have better protected workers.
  - During fiscal year 2023-24, Cal/OSHA classified 13 % of the complaints it received as invalid and investigated 82% of the valid complaints it received with a letter instead of an on-site inspection.
- When it does conduct on-site inspections, Cal/OSHA's process has critical weaknesses. The audit found:
  - Cal/OSHA took weeks or even months to initiate some complaint and accident inspections, which can hinder its ability to gather relevant evidence and identify violations that have put workers at risk.
  - Cal/OSHA did not always document rationales or evidence supporting its reduction of employer's fines.
- Cal/OSHA must address shortcomings in its staffing levels and oversight.
  - Staffing shortages and process deficiencies—such as out-of-date policies— are root causes for many of the concerns identified by the audit. Cal/OSHA had a 32 percent vacancy rate in fiscal year 2023–24, and its vacancy rate was higher for certain district offices and inspector positions.

In addition to Cal/OSHA's challenges, the Trump administration has weakened the U.S. Chemical Safety Board, which investigates refinery accidents.

When safety monitoring is inadequate, there are serious consequences. Refineries in Martinez and El Segundo both experienced explosions in 2025. These were only the latest in a string of nearly a dozen major refinery explosions and fires over the past decade.

Occupational Safety and Health Standards Board (Standards Board)
The Standards Board, within Cal/OSHA, is the only agency in the state authorized to adopt, amend, or repeal occupational safety and health standards or orders. Its mission is to promote, adopt, and maintain reasonable and enforceable standards that ensure a safe and healthful workplace. The Standards Board consists of seven members appointed by the Governor. Two members are selected from labor, two members from management, one member from occupational safety, one member from occupational health, and one member from the general public. Among other responsibilities, the Standards Board 1) adopts and maintains standards; 2) considers petitions for new or revised standards proposed by any interested person; and 3) grants permanent variances from standards. To carry out its duties, the Standards Board holds monthly meetings throughout California.

The Standards Board must adopt standards at least as effective as federal ones for all health and safety issues that have federal standards promulgated under the Occupational Safety and health Act of 1970. Additionally, the Standards Board maintains standards unique to the state, like those for amusement rides, aerial passenger tramways, and heat illness.

[5] *The Division of Occupational Safety and Health: Process Deficiencies and Staffing Shortages Limit Its Ability to Protect Workers*. California State Auditor.

The Administrative Procedure Act governs the public hearing and adoption process. After a rulemaking action is deemed necessary, proposed standard changes are developed by either the Standard Board's staff or Cal/OSHA's staff, generally with the assistance and recommendations of an advisory committee. Advisory committees consist of representatives from industry, labor, the public, and other interested groups. If the changes are related to federal standards, the proposal is reviewed by Federal OSHA staff. The proposal is then scheduled for hearing at one of the Board's monthly meetings, so that written and oral testimony can be solicited. Following the public hearing, all testimony is returned to the originating staff (either the Standards Board staff or Cal/OSHA) for review. When all comments and testimony have been addressed by either modifying the proposal or providing a satisfactory explanation for rejection of suggested changes, the Standards Board's staff schedules the proposed standard for consideration and adoption at its next meeting. Following adoption, a copy of the rulemaking file is sent to the Office of Administrative Law. After approval, the standards are published in Title 8 of the California Code of Regulations.

2. Committee Comments:

AB 605 would establish the Task Force and task it with developing a set of standards and best practices for retaining safe staffing levels at refineries, during, and especially in the time period preceding, an announced or anticipated refinery closure or long-term idling of a refinery. The Task Force would, no later than June 1, 2029, present to the Legislature, and make available online, its set of standards and a report documenting the facts upon which the standards are based. Additionally, the bill would direct CalEPA and Cal/OSHA, by January 1, 2028, to adopt regulations that require all refineries to develop safe staffing management plans. The regulations would be required to, at minimum, adhere to the standards and best practices established by the Task Force. Lastly, the bill would require each refinery's plan to be presented to CalEPA and Cal/OSHA for review and approval and be subject to a public comment period of at least 30 days.

Over the last several years, California has experienced a wave of petroleum refinery closures and conversions. In turn, the in-state refining sector has significantly consolidated, with in-state refining capacity declining since at least 1982.[6] California's remaining refineries are located primarily in populated urban areas, including four in Los Angeles County and three in the Bay Area. Several of these refineries were built over one hundred years ago.[7]

While the committee recognizes the importance of maintaining safe staffing levels at refineries, the author may wish to consider the following:

- The Task Force, which is composed of representatives of unions, refinery employers, nongovernmental organizations, and PSM experts, would be directed to develop a set of standards and best practices for retaining safe staffing levels based upon thorough research and investigation. The Standards Board, as described above, would consult the same people in the process of developing a safe staffing standard. *Would the Task Force needlessly duplicate the work the Standards Board is already required to do?*

[6] Hersbach, Thomas J.P. "The Writing on the Wall: Why California Refineries are Closing." Stanford Climate & Energy Policy Program. February 11, 2026.
[7] Ibid.

- The Standards Board would be required to incorporate the Task Force's standards and best practices into its safe staffing standard. The Task Force would have until June 1, 2029, to issue those standards and best practices, but the Standards Board would need to consider for adoption its safe staffing standard by January 1, 2028. It can take years for the Standards Board to adopt a new safety standard. *Would waiting for the Task Force delay the adoption of a safe staffing standard? Would this require the Standards Board to adjust its timeline?*

- The Task Force would also include in its report methods and strategies for ensuring maximum employee retention in the time period preceding refinery closure, including extended severance periods, paid job training, and priority transfer to other refineries. *Should the Task Force focus on strategies for employee retention and preparations for worker displacement rather than developing standards and best practices for safe staffing?*

- The bill would require each refinery to present its plan to Cal/OSHA for review and approval and for each plan to be subject to a public comment period of 30 days. This presentation requirement is unique to safe staffing plans. *Employers are not required to present and obtain approval of their injury and illness prevention plans or workplace violence prevention plans.*

- Cal/OSHA would be required to respond in writing to all public comments before approving a refinery's safe staffing plan. *Given Cal/OSHA's staffing difficulties, is this requirement feasible?*

3. Need for this bill?

According to the author:

"There are two related issues surrounding refinery closures that this bill seeks to remedy.

1) Requirements that a refinery announce closure a year in advance pursuant to Section 25354(p) of the Public Resources Code have resulted in staffing shortages. The shortages lead to remaining workers working extraordinarily long shifts, impacting their performance and the ability to retain what experienced staff remain. Without competent, healthy staff, the risk of accidents increases, which can injure workers and the surrounding community members. Staff retention policies such as extended job placement assistance, expanded severance packages, and paid job training could help address staff shortages, but refinery operators have not provided sufficient incentives.

2) The Department of Industrial Relations' Process Safety Management for Petroleum Refineries regulations and the CalEPA Accidental Release Prevention Program should encompass plans for refinery closures. However, those requirements have not been enforced in the context of closure. Additionally, the requirements do not directly address issues of worker safety and refinery safety surrounding refinery closure nor do they require participation or oversight by enforcement authorities."

4. Proponent Arguments:

The sponsor of the measure, United Steelworkers District 12, argues:

"Refineries handle volatile and highly hazardous substances every day, where even minor errors can have catastrophic consequences for workers, surrounding communities, and the environment. California's existing refinery safety framework-including Process Safety Management (PSM) requirements and the California Accidental Release Prevention (CalARP) Program- recognizes that organizational changes can affect safety. However, current regulations do not specifically address the unique risks created during refinery closures or long-term idling, nor do they require employers to proactively plan for the staffing challenges that accompany these transitions.

AB 605 fills this critical gap by requiring refinery employers to develop Safe Staffing Management Plans that identify and mitigate risks associated with understaffing during closure or idling. The bill appropriately emphasizes employee retention strategies, recognizing that experienced workers possess invaluable institutional knowledge that is essential to maintaining safe operations, preserving emergency preparedness, and responding effectively to incidents. By requiring these plans to be reviewed by regulators, updated as conditions change, and subject to public input, AB 605 establishes meaningful accountability and transparency.

Importantly, AB 605 also creates a Refinery Safe Staffing Task Force that brings together labor representatives, refinery employers, process safety experts, regulators, and community stakeholders to develop evidence-based standards and best practices. This collaborative approach will help ensure that future requirements are informed by those with direct experience operating refineries safely and by those most affected by refinery incidents."

5. Opponent Arguments:

None received.

6. Dual Referral:

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

7. Prior Legislation:

SB 966 (Gonzalez, 2026) would codify specified provisions of Cal/OSHA's PSM safety standard related to employee participation in PSM activities. Specifically, the bill would require an employer, in consultation with employees and employee representatives, to develop, implement, and maintain a written plan providing for employee participation in all PSM elements, as specified. *This bill is set for hearing in the Assembly Labor and Employment Committee.*

AB 2157 (Connolly, 2026) would remove the July 1, 2027, sunset date for the Displaced Oil and Gas Worker Pilot Program, making the program permanent. *This bill is pending in the Senate Appropriations Committee.*

AB 3258 (Bryan, Chapter 978, Statutes of 2024) expanded the scope of the California Refinery and Chemical Plant Worker Safety Act of 1990 by revising the definition of

"refinery" and directed the Standards Board to consider for adoption, regulations that implement process safety management standards for the revised definition of refinery, as specified.

AB 3138 (Muratsuchi, Chapter 308, Statutes of 2018) restructured civil and administrative penalties for CalARP violations.

SB 1300 (Hancock, Chapter 519, Statutes of 2014) required every petroleum refinery employer to, every September 15, submit to the Cal/OSHA a full schedule for the following calendar year of planned turnarounds, and to inspect, test, and replace process materials and equipment, as specified. The bill also required a petroleum refinery employer, upon the request of Cal/OSHA, to provide onsite access and specified documentation.

AB 3672 (Elder, Chapter 1632, Statutes of 1990) established the California Refinery and Chemical Plant Worker Safety Act of 1990, which includes PSM standards to prevent or minimize the consequences of catastrophic releases of toxic, flammable, or explosive chemicals.

SUPPORT

United Steelworkers District 12 (Sponsor)
California Labor for Climate Jobs
Climate Center, The
United Steelworkers Local 675

OPPOSITION

None received

-- END --

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

Bill No:	AB 1564	**Hearing Date:**	June 24, 2026
Author:	Ahrens		
Version:	May 18, 2026		
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 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:

"″Many employees reasonably believe that conversations with their union representatives about workplace issues are private and cannot be disclosed to their employer. However, current law does not expressly prohibit employers from compelling employees or their representatives to reveal those discussions. [This bill] aims to establish a clear standard of protecting confidential communications between employees and their union representatives. Doing so would create a safe and secure environment for employees to openly discuss their workplace rights, concerns, and representation without fear of employer interference. ″

[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.

2. Proponent Arguments:

According to the California Association of Highway Patrolmen:

"This bill would create a union-member privilege for communications associated with representation, including discipline, grievances, unfair labor practices, contract negotiations, etc. The privilege is limited to the employer, so it would not affect a criminal investigation from an outside entity; however, employers could not compel disclosure of communications or order disclosure to 3rd parties.

This amends The Meyers-Milias-Brown Act (MMBA) and similar statutes to add the protection to labor statutes prohibiting employers from engaging in enumerated unfair practices. In short, this would overturn case law finding no union privilege and benefit every California union and public employee.

Union representation is important and communications with our members should be protected."

According to a coalition of police and sheriff's associations, including the Riverside and Burbank Police Associations:

"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.

AB 1564 prohibits a local public agency employer, a state employer, a public school employer, a higher education employer, or the district from questioning any employee or employee representative 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. Maintaining confidentiality in such communications is essential to fostering trust and ensuring effective representation."

3. Opponent Arguments:

According to a coalition of local public employers, including the California Special Districts Association and the League of California Cities:

"AB 1564 states that its prohibition on employer questioning is intended to be consistent with, and not in conflict with, William S. Hart Union High School District (2018) PERB Dec. No. 2595. This is problematic for two reasons. First, the bill is not consistent with that PERB decision. That decision engaged in a circumstantial analysis to determine whether employer questioning related to a disciplinary investigation was prohibited or not, while weighing the employee's and the employer's interests. The bright line standard in the opinion was narrow in scope. AB 1564 goes beyond that, forgoing any circumstantial analysis or weighing of interests, and exceeding the scope of any standards articulated by the decision. Second, we are not aware of evidence that PERB is denying the interests of employees on this issue, raising the question of whether a legislative solution is warranted.

AB 1564 would create a de facto prohibition on employers requesting a court to compel disclosure of purportedly confidential communications, which is the same outcome as if the communication was privileged in those circumstances. This will have a significant impact on judicial and administrative proceedings."

According to the California Chamber of Commerce and California Hospital Association:

"AB 1564 is at odds with that balancing test. This bill effectively says that the employer's interest can never justify any questions whatsoever. This dramatically changes existing law and impedes 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. As Governor Brown stated, "I don't believe it is appropriate to put communications with a union agent on equal footing with communications with one's spouse, priest, physician or attorney. Moreover, this bill could compromise the ability of employers to conduct investigations into workplace safety, harassment and other allegations." (Veto AB 729 (Hernandez 2013)).

It is also arbitrary that, for example, in civil litigation a non-employer party (like an individual employee defendant) could ask questions about communications, but the employer party could not.

Existing PERB case law seems to achieve the goals stated by the proponents without compromising situations in which employer's interest in obtaining information is legitimate and necessary.

Finally, this year's version of the bill contains findings and declarations related to cost that we find troubling. We do not believe it is appropriate for findings and declarations to usurp what is the role of the Appropriations Committees – to determine whether a proposal will burden the state with additional cost."

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 340 (Ahrens, 2025) was identical to this bill. *The Senate Committee on Appropriations held the bill in committee on the suspense file.*

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

California Association of Highway Patrolmen (Co-Sponsor)
Peace Officers Research Association of California (Co-Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of Psychiatric Technicians
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Professional Firefighters
California Reserve Peace Officers Association
California State Council of Service Employees International Union
California Teachers Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Orange County Employees Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Teamsters California

OPPOSITION

Association of California Healthcare Districts
Association of California School Administrators
California Association of Joint Powers Authorities
California Association of Recreation & Park Districts

California Association of School Business Officials
California Chamber of Commerce
California County Superintendents
California School Boards Association
California Special Districts Association
California State Association of Counties
Chief Executive Officers of the California Community Colleges Board
City of Carpinteria
City of Los Alamitos
County of Kern
League of California Cities
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California
Small School Districts' Association
University of California
Urban Counties of California

-- END --

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

Bill No:	AB 1859	**Hearing Date:**	June 24, 2026
Author:	Ortega		
Version:	May 18, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: Public works

KEY ISSUE

This bill requires an awarding body or owner to allow representatives of a joint labor-management committee (JLMC) to have reasonable access to active public works job sites to monitor compliance with prevailing wage and apprenticeship requirements, 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)

Existing state law:

1) Establishes within the Department of Industrial Relations (DIR), various entities including the Division of Labor Standards Enforcement under the direction of the Labor Commissioner (LC) and empowers the LC to ensure a just day's pay in every workplace and to promote justice through 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) 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)

4) 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. These payroll records shall be certified (CPRs) and made available for inspection, as specified. (Labor Code §1776 (a))

5) Requires, for public works contracts in excess of $30,000, a contractor to employ apprentices, who are active participants in an approved apprenticeship program, at specified ratios. (Labor Code §1777.5)

6) Requires awarding bodies to take cognizance of violations of public works law committed in the course of the execution of the contract, and to promptly report any suspected violations to the LC. (Labor Code §1726)

7) Requires the LC to, with reasonable promptness, issue a civil wage and penalty assessment to the contractor or subcontractor, or both, if the LC or their designee determines after an investigation that there has been a violation of public works law. (Labor Code §1741(a))

8) Authorizes a JLMC to bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees or that fails to provide certified payroll records, as specified. (Labor Code §1771.2)

9) Requires a JLMC to commence an action, brought pursuant to 8), not later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 18 months after acceptance of the public work, whichever occurs last. (Labor Code §1771.2)

10) Requires the court, for an action brought pursuant to 8) to award restitution to an employee for unpaid wages, plus interest, from the date that the wages became due and payable, and liquidated damages equal to the amount of unpaid wages owed, and authorizes the court to impose civil penalties, only against an employer that failed to pay the prevailing wage to its employees, injunctive relief, or any other appropriate form of equitable relief. Requires the court to award a prevailing joint labor-management committee its reasonable attorney's fees and costs incurred in maintaining the action, including expert witness fees. (Labor Code §1771.2)

This bill:

1) Requires an awarding body or owner to, except as specified, allow representatives of a JLMC established pursuant to the federal Labor Management Cooperation Act of 1978 to have reasonable access to active public works job sites to monitor compliance with the prevailing wage and apprenticeship requirements.

2) Provides that an awarding body, owner, contractor, or subcontractor is not liable for any violations of safety standards caused by a representative of a JLMC.

3) Provides that if a representative of a JLMC is injured on a job site while performing duties pursuant to these provisions, the JLMC's workers' compensation or liability insurance policy, or both, shall be the exclusive remedy of the representative, and the awarding body, owner, contractor, or subcontractor, shall not have any liability.

4) Authorizes an awarding body, owner, contractor, or subcontractor to deny or revoke access to a representative of a JLMC that fails or refuses to comply with applicable job site safety requirements, including the use of required personal protective equipment.

5) Requires a JLMC to, upon request, provide proof of general liability insurance and workers' compensation coverage, if applicable, prior to being granted access to a job site.

6) Requires, as a condition of access to a job site pursuant to these provisions, a JLMC to indemnify and hold harmless the awarding body, owner, contractor, and subcontractors, from and against claims, damages, or liabilities to the extent caused by the negligent acts or omissions or willful misconduct of the JLMC or its representatives while on the job site.

7) Authorizes a JLMC to bring an action in any court of competent jurisdiction against an awarding body, contractor, or subcontractor that willfully denies the JLMC's representative reasonable access. The action shall be brought within six months after the denial of access.

8) Authorizes a court to award a prevailing JLMC a civil penalty not to exceed $1,000 for each occasion that reasonable access was willfully denied. A court shall award reasonable attorney's fees and costs, including expert witness fees, to the prevailing party in any action brought pursuant to this subdivision.

9) Exempts from these provisions public works job sites that are required to comply with specified provisions of the Education Code.

10) Defines "reasonable access" as access that is consistent with job site safety and security requirements, including the use of personal protective equipment, that does not disrupt performance of work. Reasonable access includes access to workers during nonwork time.

11) States that no reimbursement is required pursuant to Section 6 of Article XIIIB of the California Constitution.

COMMENTS

1. Background:

All contractors and subcontractors 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 paying prevailing wages, utilizing apprentices, and maintaining accurate payroll records and making them available for inspection or copy. When enforced consistently and accurately, California's public works law prevents worker exploitation and promotes the creation of a skilled workforce.

Joint Labor-Management Committees (JLMCs)

JLMCs, established pursuant to the federal Labor Management Cooperation Act of 1978, aim to improve communication and working relationships between labor and management, provide workers and employers with opportunities to explore joint approaches to problems, and develop ways to increase productivity and promote economic development. They are organized jointly by employers and labor organizations within a particular plant, area, or industry. Multiple unions can be affiliated with the same JLMC.

In California, JLMCs play a vital role in ensuring compliance with applicable state and federal public works law. Specifically, JLMCs are empowered to bring an action in any court of competent jurisdiction against an employer that fails to pay prevailing wages or that fails to provide payroll records, as specified. To assist with enforcement, payroll records made available to JLMCs are only marked or obliterated to prevent disclosure of an individual's social security number. This is different than payroll records provided to the public or public agencies[1], which must be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. In addition to bringing an action in court, JLMCs can refer cases to the LC.

According to data provided by the sponsors, between 2021-2025 DIR's Public Works Unit issued 2,509 civil wage and penalty assessments. Among those, 1,422 came from a JLMC-generated complaint, or 57% of all civil wage and penalty assessments. Furthermore, JLMC-generated complaints resulted in $61,577,417.76 in assessed wages and penalties.

JLMCs also act as a resource for awarding bodies, contractors, and workers who may have questions about changes to public works law and/or new regulations. Many JLMCs conduct seminars and maintain phone lines to prevent violations before they occur.

Currently, JLMCs do not have statutory authority to access job sites. However, job sites may be covered by a project labor agreement that grants them access to conduct enforcement activities.

Wage Theft

Although California leads the nation with some of the strongest workplace protections, wage theft remains rampant. Even public works projects with their extensive wage and reporting requirements are not immune. In the 2020-2021 fiscal year, the Public Works Unit within the LC's Office, tasked with investigating wage and apprenticeship violations, opened 1,964 cases and assessed over $12.6 million in penalties against employers.[2] However, recovering wages is not always easy. A 2024 audit conducted by the State Auditor found that due to an inefficient wage claim process, the LC often takes two years or longer to resolve the wage claims it receives.[3] Even when a decision is issued, it can take years for a worker to receive their owed wages. In the meantime, victims of wage theft must find ways to survive amidst rising costs for groceries and housing. Without robust implementation and enforcement, the State's workplace protections are hollow.

This bill

AB 1859 would require an awarding body or owner to allow representatives of a JLMC to have reasonable access to active public works job sites to monitor compliance with prevailing wage and apprenticeship requirements. Reasonable access would be defined as access that is consistent with job site safety and security requirements and that does not disrupt the performance of work. If a representative of a JLMC is injured on a job site, the JLMC's workers' compensation or liability insurance policy, or both, would be the exclusive

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[1] Public agencies aside from DIR.

[2] *The Bureau of Field Enforcement, Fiscal Year Report. 2020-2021*. California Labor Commissioner's Office. p.12. https://www.dir.ca.gov/dlse/BOFE_LegReport2021.pdf

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

remedy, and the awarding body, owner, contractor, or subcontractor, would not have any liability.

This bill would also authorize an awarding body, owner, contractor, or subcontractor to deny or revoke access to a representative of a JLMC that fails or refuses to comply with applicable job site safety requirements. As a condition of access to a job site, a JLMC would be required to indemnify and hold harmless the awarding body, owner, contractor, and subcontractors, from and against claims, damages, or liabilities to the extent caused by the negligent acts or omissions or willful misconduct of the JLMC or its representatives while on the job site.

Lastly, a JLMC would be authorized to bring an action in any court of competent jurisdiction against an awarding body, contractor, or subcontractor that willfully denies the JLMC's representative reasonable access. A court may award a prevailing JLMC a civil penalty not to exceed $1,000 for each occasion that reasonable access was willfully denied.

The previous iteration of this bill, AB 2182 (Haney, 2024, Vetoed) did not offer awarding bodies, owners, contractors, and subcontractors the same protections that AB 1859 would. For example, an awarding body would not have been entitled to deny access to a JLMC under any circumstance, nor could they request proof of a JLMC's general liability insurance and workers' compensation coverage. AB 2182 would have also mandated, rather than authorized, civil penalties. Opponents of AB 1859 maintain that, among other things, the bill creates an ambiguous access mandate and does not sufficiently limit litigation risk

2. Need for this bill?

According to the author:

"One of the main tools utilized by DLSE investigators to ensure compliance with public works laws is random on-site visits. These often include visual inspections of required job-site notices, records, and worksite activities, as well as interviews with workers and others involved in a project. Authorizing JLMC investigators similar access to public works job sites would significantly enhance our enforcement capabilities without straining DLSE resources.

AB 1859 authorizes JLMC representatives reasonable access to active public works jobsites to monitor compliance with prevailing wage and apprenticeship requirements. Crucially, this bill balances access with protections for contractors, ensuring that site visits do not disrupt work or create liability risks for the builder. This measure safeguards taxpayer dollars by ensuring they are used as intended and that contractors fulfill their contractual obligations. It protects law-abiding contractors from being undercut by those who violate the law, while helping ensure California's infrastructure is built safely and to the highest standards."

3. Proponent Arguments:

The sponsors of the measure, the California-Nevada Conference of Operating Engineers, the District Council of Ironworkers, and the State Building and Construction Trades, argue:

"Existing law requires that prevailing wage be paid to all workers employed on public works projects and requires the Labor Commissioner's Office (LCO), under the Department of Industrial Relations (DIR), to investigate allegations if a contractor violates public works

laws. More specifically, existing law authorizes the labor commissioner, as well as the Department of Industrial Relations Compliance Monitoring Unit (CMU), to have access to public works jobs sites in order to educate contractors on laws and monitor for wage and hour violations. **Further, every public works jobsite in the State is required by law to have a posted noticed on the job site that states the following: 'This public works project is subject to monitoring and investigative activities by the Compliance Monitoring Unit (CMU) of the Division of Labor Standards Enforcement, Department of Industrial Relations, State of California'**

Joint Labor-Management Committees (JLMCs) are federally approved, cooperative, formal bodies, consisting of equal representation from both labor unions and management. These groups are designed to improve workplace conditions, safety, and productivity. Simply put, JLMCs are the gold standard of labor and management collaboration. In the construction industry, JLMCs play a critical role in ensuring a level playing field for contractors and workers by promoting equitable contracting on public works projects and ensuring compliance with all applicable state and federal labor laws governing the construction industry.

The value that JLMCs provide in ensuring that tax payer dollars are properly utilized on public works projects is already well established in Statute. These groups are currently given specialized access to certified payroll records to monitor compliance with public works laws, and utilize this access to perform investigations into issues like wage theft, apprenticeship violations, safety violations, and violations of public contract code. JLMCs work hand in hand with the Division of Labor Standards Enforcement (DLSE) by turning over their finalized investigations to the labor commissioner, which can have the affect of significantly streamlining State investigations while not costing the State any additional resources…

AB 1859 (Ortega) seeks to provide additional resources for the Division of Labor Standards Enforcement by clarifying that Joint Labor Management Committees are authorized to have 'reasonable access' to public works jobsites in order to monitor for violations of public works laws. **This in return will assist in streamlining investigations for the Division of Labor Standards Enforcement while requiring no additional funding from the State.** Importantly, the bill provides critical protections for contractors by making clear that contractors shall not be liable for any violations of safety standards caused by a representative of a joint labor-management committee during a site visit."

4. Opponent Arguments:

The Associated General Contractors oppose the measure, arguing:

"AB 1859 creates significant new operational, legal, and financial risks for contractors working on public works projects. The bill expands enforcement authority beyond the Department of Industrial Relations (DIR) and the Labor Commissioner—California's established enforcement agencies—and instead grants private, union-affiliated entities the ability to enter job sites and initiate civil actions. This shift toward a hybrid public-private enforcement model is unprecedented in public works and raises serious concerns about fairness, consistency, and due process."

The League of California Cities, the California State Association of Counties, and the Rural County Representatives of California, among others, have an opposed unless amended position, arguing:

"Our opposition to AB 1859 is grounded in the bill's structure, which would grant any third-party JLMCs a statutory right of access to public works job sites, coupled with a private right of action, civil penalties, and attorney's fees against public agencies for alleged denial of access. This framework raises significant operational, legal, and fiscal concerns for public entities serving as awarding bodies.

First, AB 1859 creates a new and ambiguous access mandate that public entities would be responsible for administering and enforcing on active public works job sites. We appreciate that 'reasonable access' includes compliance with safety guidelines and personal protective equipment… This definition of 'reasonable access' does not contemplate public works projects that occur on private lands or are only accessible through private property, which our members have reported being problematic. They are especially concerned about granting access to lands they do not control and how this bill will impact fire mitigation and flood prevention work that is often done on private lands…

Another significant concern is that the bill requires granting 'reasonable access' to any JLMC to job sites, rather than those who have members on our sites. By allowing any JLMC access this puts public entities and contractors in the middle of multiple unions on our sites. This is a dispute we have no interest in, nor do we feel this is appropriate…

AB 1859 references joint labor-management committees authorized under federal law (LMRA §302(c)(9)), which are intended to promote labor-management cooperation and training. However, federal law does not grant these committees job site access rights, nor does it confer independent enforcement authority over prevailing wage compliance…

AB 1859 would effectively deputize external entities with statutory access rights and legal standing to monitor compliance, creating a duplicative and potentially conflicting oversight structure…

Beyond the immediate legal and operational concerns, AB 1859 risks increasing the overall cost and complexity of delivering public works projects. Public entities may need to revise contract documents, develop new compliance protocols, and dedicate additional staff time to manage access requests and potential disputes."

5. Dual Referral:

The Senate Rules Committee referred AB 1859 to the Senate Labor, Public Employment and Retirement Committee and the Senate Judiciary Committee.

6. Prior Legislation:

SB 909 (Smallwood-Cuevas, 2026) seeks to increase public works enforcement by 1) authorizing the Director to establish and adjust contractor registration and renewal fees of up to $1000, as specified; 2) increasing penalties for various public works violations, including prevailing wage violations; and 3) directing 50% of penalties recovered through a civil wage

and penalty assessment to the State Public Works Enforcement Fund. *This bill is pending in the Assembly Appropriations Committee.*

SB 1241 (Smallwood-Cuevas, 2026) would have, among other things, required the LC to accept complaints from a JLMC alleging that a contractor failed to use a skilled and trained workforce. *This bill was ordered to the inactive file on the Senate Floor.*

AB 2182 (Haney, 2024) would have, among other things, required a change in the prevailing rate of per diem wages, as determined by the Director, to apply to any public works contract for which notice to bidders is published after July 1, 2026, and provided representatives of a JLMC access to active public works job sites, as specified. *This bill was vetoed by Governor Newsom.*

AB 3231 (Gray, Chapter 682, Statutes of 2018) authorized a JLMC to seek a court order requiring a public works contractor or subcontractor to provide certified payroll records.

SB 588 (Burton, Chapter 804, Statutes of 2001) granted JLMCs access to certified payroll records and authorized JLMCS to bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees.

SUPPORT

California-Nevada Conference of Operating Engineers (Co- sponsor)
District Council of Ironworkers (Co-sponsor)
State Building and Construction Trades (Co-sponsor)
California Federation of Labor Unions
California State Association of Electrical Workers
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
Teamsters California
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION

Association of California Healthcare Districts
Associated General Contractors of California
California Association of Recreation and Park Districts
California Building Industry Association
California Special Districts Association
California State Association of Counties
California State Council of Laborers
City of Corona
City of Fairfield
Community College Facility Coalition
El Dorado Irrigation District
League of California Cities
Rural County Representatives of California
Western Electrical Contractors Association

-- END --

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

Bill No:	AB 2321	**Hearing Date:**	June 24, 2026
Author:	Ortega		
Version:	June 16, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Bureau of Investigations

KEY ISSUES

This bill 1) strengthens workplace safety protections by modifying case review procedures for the Division of Occupational Safety and Health (Cal/OSHA) and its Bureau of Investigations (BOI) to follow when investigating workplace injuries and 2) creates, upon Legislative appropriation, a five-year pilot program transferring investigative responsibilities from the BOI to the district attorneys in Alameda and Santa Clara counties for workplace health and safety violations that result in death in those counties.

ANALYSIS

Existing law:

1) Under the California Occupational Safety and Health Act, assures safe and healthful working conditions for all California workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. (Labor Code §6300)

2) Establishes the Division of Occupational Safety and Health (known as Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, propose, administer, and enforce occupational safety and health standards. (Labor Code §6300 et seq.)

3) Requires every employer to file a complete report with Cal/OSHA of every occupational injury or occupational illness to each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid. A report must be filed within five days after the employer obtains knowledge of the injury or illness. In addition to this report, in every case involving a serious injury or illness, or death, the employer is required to make an immediate report to Cal/OSHA by telephone or email. (Labor Code §6409.1)

4) Establishes the Bureau of Investigations (BOI) within Cal/OSHA and makes it responsible for directing accident investigations involving violations of laws, standards, and orders in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative; reviewing inspection reports involving a serious violation if there have been serious injuries to one to four employees or a serious exposure; and may investigate cases where the BOI may find criminal violations have occurred; and preparing cases for the purpose of prosecution, as specified. (Labor Code §6315)

5) Requires Cal/OSHA to provide the BOI with all initial accident reports, the Cal/OSHA's inspection report for any inspection involving a serious violation if there is a fatality, as specified, and any other documents in Cal/OSHA's possession that are helpful to the investigation. (Labor Code § 6315)

6) Requires the BOI to refer the results of investigations it is required to conduct, in which there is a serious injury or death, to the appropriate prosecuting authority having jurisdiction for appropriate action unless it determines that there is legally insufficient evidence of a violation of the law. (Labor Code §6315(g))

7) Authorizes DIR, upon the request of a county district attorney, to develop a protocol for the referral of cases that may involve criminal conduct to the appropriate prosecuting authority in lieu of or in cooperation with an investigation by the BOI, as specified. (Labor Code §6315(i))

8) Requires the BOI to submit an annual report to Cal/OSHA, for submission to the director of DIR, on its activities including, among other things, a summary of investigations completed, as specified. (Labor Code §6315.3)

9) Establishes the Occupational Safety and Health Fund as a special account within the State Treasury and authorizes moneys in the account to be expended by the DIR, in support of Cal/OSHA, the Occupational Safety and Health Standards Board, and the Occupational Safety and Health Appeals Board, and the activities these entities perform. (Labor Code §62.5(d))

This bill:

BOI Directives:

1) Requires the BOI to immediately, rather than in a timely manner after Cal/OSHA sends inspection reports, review inspection reports involving a serious violation and refer the results of an investigation to the appropriate prosecuting authority having jurisdiction for appropriate action, unless the BOI determines that there is legally insufficient evidence of a violation of the law.

    a) Requires the BOI, if it determines there is legally insufficient evidence of a violation of the law, to immediately notify the appropriate prosecuting authority without first being requested to do so by the prosecuting authority.

2) Requires the BOI to immediately notify the appropriate prosecuting authority upon learning of an incident in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative, and requires the BOI to cooperate with the prosecuting authority and Cal/OSHA on the investigation.

3) Requires the BOI to establish written policies and procedures for the process of reviewing cases and deciding whether to investigate or refer them for prosecution, including, but not limited to, a requirement that the BOI documents a rationale for why it has decided not to investigate or not to refer each case.

4) Requires Cal/OSHA to establish a routine or automated process for transmitting information to the BOI about incident cases with nonfatal injuries so that the BOI can review them.

5) Requires the BOI's annual report to Cal/OSHA to additionally be submitted to the Legislature and include the total number of BOI vacancies, each job classification in the prior fiscal year, and any additional positions needed to carry out its duties.

Pilot Program in Alameda and Santa Clara Counties:

6) Creates a five-year pilot program in Alameda and Santa Clara counties that, upon appropriation for the pilot by the Legislature, *and for any incident involving a workplace safety violations that* ***result in a death***, requires the Alameda County or Santa Clara County district attorney (DA), based on where the incident occurs, to investigate and prepare cases for the purpose of prosecution (rather than Cal/OSHA and the BOI investigating).

7) Requires Cal/OSHA to immediately notify the Alameda County DA or Santa Clara County DA of the incident and immediately provide them with all of the following:
   a) All initial incident reports.
   b) Any report for an inspection involving a serious violation where there is a death.
   c) Any other Cal/OSHA report necessary for the Alameda County or the Santa Clara County DA's investigation.
   d) Any other document in the possession of Cal/OSHA that is requested by the Alameda County or Santa Clara County DA for its review or investigation or that the division determines will be helpful to the DA in its investigation of the case.

8) Requires the Alameda County DA or the Santa Clara County DA, based on the county in which the incident occurs, to report to the incident scene within a reasonable time. Authorizes the BOI to report to the incident scene but, in any case fitting the criteria of the pilot, the Alameda County DA or the Santa Clara County DA shall be responsible for directing the incident investigation.

9) Authorizes moneys in the Occupational Safety and Health Fund or the Labor and Workforce Development Fund to be expended by the Alameda County DA and the Santa Clara County DA, upon appropriation by the Legislature, for the support of the activities these entities perform related to investigating and prosecuting such violations.

10) Provides that the pilot program provisions shall become operative upon appropriation by the Legislature and remain in effect only until January 1, 2032, and, as of that date, are inoperative.

11) Finds and declares that a special statute is necessary because of the unique circumstances facing the counties of Alameda and Santa Clara.

COMMENTS

1. Background:

Cal/OSHA Audit:

Cal/OSHA is tasked with protecting and improving the health and safety of California workers by 1) setting and enforcing labor standards; 2) providing outreach, education, and assistance to employers and employees; and 3) issuing permits, licenses, certifications, registrations and approvals. As part of their enforcement responsibilities, Cal/OSHA

investigates complaints of workplace hazards filed by employees, employee representatives, and others, as well as investigating reports of serious injury or illness violations or deaths. After receiving a complaint or learning of a worker fatality, injury or illness, Cal/OSHA personnel must decide whether to conduct an on-site inspection of a workplace and potentially issue citations and fines according to the results of the inspection.

In July 2025, the California State Auditor released an audit report on Cal/OSHA finding, among other things, that process deficiencies and staffing shortages have limit its ability to protect workers.[1] Among the audits key findings were that:

- Cal/OSHA did not inspect some complaints and accidents, despite evidence that an inspection may have better protected workers.
  - During fiscal year 2023-24, Cal/OSHA classified 13 % of the complaints it received as invalid and investigated 82% of the valid complaints it received with a letter instead of an on-site inspection.

- When it does conduct on-site inspections, Cal/OSHA's process has critical weaknesses. The audit found:
  - Cal/OSHA took weeks or even months to initiate some complaint and accident inspections, which can hinder its ability to gather relevant evidence and identify violations that have put workers at risk.
  - Cal/OSHA enforcement personnel did not consistently document effective reviews of employers' injury and illness prevention programs (IIPP)—which provide key safeguards against dangerous hazards—nor did they always include detailed and legible notes from interviews they conducted with workers.
  - Cal/OSHA did not always document rationales or evidence supporting its reduction of employer's fines.
    - In fiscal years 2019–20 through 2023–24, of the 23,195 inspections that included initial fines, 8,362, or 36 percent, had subsequent fine reductions.

- Cal/OSHA could better ensure that employers maintain safe workplaces.
  - When Cal/OSHA identified hazards and cited employers, it did not always document whether those employers had abated the hazards.
  - Key Cal/OSHA policy documents have not been revised in years and contain inconsistent directives, and the division relies on paper-based case files which has likely contributed to poor documentation and data entry errors.

- Cal/OSHA must address shortcomings in its staffing levels and oversight.
  - Staffing shortages and process deficiencies—such as out-of-date policies— are root causes for many of the concerns identified by the audit. Cal/OSHA had a 32 percent vacancy rate in fiscal year 2023–24, and its vacancy rate was higher for certain district offices and inspector positions.

BOI Audit Findings:

As noted under existing law, the Bureau of Investigations is a unit within Cal/OSHA responsible for preparing accident cases for potential criminal prosecution where such conduct is found, and its work is separate from the inspections that the Cal/OSHA

[1] *The Division of Occupational Safety and Health: Process Deficiencies and Staffing Shortages Limit Its Ability to Protect Workers.* California State Auditor. https://www.auditor.ca.gov/wp-content/uploads/2025/07/2024-115-Report.pdf

enforcement branch conducts. The BOI is responsible for directing investigations for every case in which there is a fatality or a serious injury to five or more employees, or a request for prosecution from a Cal/OSHA representative. Public prosecutors ultimately decide whether to take cases to court and handle the prosecution. The BOI must also review Cal/OSHA inspection reports for cases in which there is a serious injury to one to four employees or a serious exposure and is authorized to investigate and refer such cases in which it finds there may have been criminal conduct.

With regards to the BOI, the Cal/OSHA audit found that it lacked the policies and staffing necessary to ensure that it consistently refers cases for potential criminal prosecution. According to the audit, the BOI's most recent publicly available report showed that it referred 31 cases for prosecution during the four-year period from 2019 to 2022, and it closed 1,800 cases without referral during the same period. The auditor further reported that, due to understaffing, the BOI is essentially only investigating fatalities, leaving other cases of serious workplace injuries and safety issues unaddressed.

Furthermore, the audit found that the BOI lacks written policies and procedures for reviewing cases and deciding whether to investigate or refer them for prosecution. The auditor provided numerous examples of cases it reviewed in which BOI investigators did not adequately document their rationale for referring, or not referring, a case to prosecutors. Lastly, the BOI does not routinely receive necessary information from Cal/OSHA inspectors about cases that the bureau is required to review for possible criminal conduct.

As noted above, understaffing has been a key limitation on Cal/OSHA and the BOI's work. State law, for example, requires the BOI to be staffed by as many attorneys and investigators as are necessary to carry out the purposes of the statutes (Labor Code Section 6315). However, the bureau had a total of three field investigators for the entire State from 2020 through 2022, despite processing hundreds of cases each year.

State Auditor Recommendations Specific to the BOI:
The State Auditor included various recommendations for improving Cal/OSHA, but specific to the BOI, the auditor recommended the following to ensure that the bureau refers cases for potential criminal prosecution when warranted:

- Establish written policies or procedures for how the bureau reviews cases, decides whether to investigate them, and decides whether to refer them for prosecution. This should include requiring the bureau to document a rationale for why it has decided not to investigate or not to refer each case.
- Establish a routine or automated process for the bureau to receive information about accident cases with non-fatal injuries so that it can review them in accordance with requirements in state law.

This bill:
This bill implements some of the recommendations identified by the State Auditor with regards to the policies and procedures that Cal/OSHA and the BOI must follow when deciding to investigate or refer cases for prosecution. The bill additionally requires the BOI to immediately investigate violations as opposed to waiting until Cal/OSHA finishes its initial inspection, thereby enabling the BOI to simultaneously gather evidence and relevant information necessary for potential prosecution. To address the issues of understaffing

leading to a lack of investigations and enforcement activities by Cal/OSHA and the BOI, the bill proposes, through a five-year pilot program, that the Alameda and Santa Clara County DA's investigate workplace health and safety violations that result in a death in those counties instead of Cal/OSHA and the BOI.

In terms of public prosecutor enforcement of labor law violations, what this bill proposes is consistent with recent Legislative actions that have leaned on public prosecutors to augment the work of the Department of Industrial Relations. In 2023, AB 594 (Maienschein, Chapter 659, Statutes of 2023) strengthened labor law enforcement by authorizing, until January 1, 2029, public prosecutors (such as the Attorney General, district attorneys, or city attorneys) to independently prosecute civil or criminal violations of the Labor Code.

Also in 2023, through AB 102 (Ting, Chapter 38, Statutes of 2023), the State allocated $18 million to DIR for the creation of the Workers' Rights Enforcement Grant Program administered by the Labor Commissioner's Office. These grant funds enable local public prosecutors to defray costs expended on state labor law enforcement and serve the public purpose of assisting workers in combatting wage theft, prevent unfair competition, and protect state revenue. Activities may include evidence gathering, investigations, coordination with community organizations and law enforcement entities, criminal and/or civil prosecutions, resolutions, appeals, and settlements. As noted by the San Mateo County DA, a recipient of one of the grants, with the help of these grants they have "uncovered hundreds of thousands of dollars in stolen wages, filed criminal charges, launched several investigations, and built a strong network of community partners who ensure every victim's story reaches our team."[2]

2. Suggested Amendment:

The provisions of the bill that would authorize the Alameda County and Santa Clara County DA's to investigate workplace health and safety violations that result in a death in those counties specify that they are operative upon appropriation by the Legislature and are only in effect until January 1, 2032. If the pilot program is successful, at the end of the five years the Legislature could either extend it, expand it or let it sunset. *For the Legislature to evaluate the pilot program's success at the end of the five years, the author may wish to add a reporting requirement with information that could be helpful in measuring its success.*

3. Need for this bill?

According to the author:

"California continues to have a higher-than-average rate of workplace injuries and Cal/OSHA is ill-equipped to keep up the pace. AB 2321 will make important reforms to the BOI's processes, as well as deputize the district attorneys in Alameda and Santa Clara counties to alleviate some of the BOI's workload to ensure criminally-liable employers are held accountable and future criminal conduct is deterred.

This measure is intended to help the BOI by exploring a pilot program to alleviate some of its workload. Having public prosecutors in Alameda and Santa Clara counties investigate cases involving a fatality will ensure that the most egregious workplace tragedies in these counties

[2] https://www.dir.ca.gov/DIRNews/2025/2025-73.html

get the attention they deserve and that employers are held accountable. It also frees up BOI staff to focus on the thousands of cases that are currently going uninvestigated – helping to catch safety issues earlier and prevent more serious workplace injuries. AB 2321 would also implement some of the auditor's recommendations related to internal process improvements within Cal/OSHA and its BOI."

4. Proponent Arguments:

The California Federation of Labor Unions is in support and writes:

"This [measure] ensures that the most egregious workplace tragedies get the attention they deserve and that employers are held accountable. It also frees up BOI staff to focus on the thousands of cases that are currently going uninvestigated – helping to catch safety issues earlier and prevent more serious workplace injuries.

AB 2321 also makes important process reforms within the BOI. The Bureau currently lacks written policies and procedures for reviewing cases and deciding whether to investigate or refer them for prosecution. Indeed, in many of the cases it reviewed, the auditor found that BOI investigators did not adequately document their rationale for referring a case or not. Furthermore, the BOI does not routinely receive information from Cal/OSHA inspectors about cases it is required to review. AB 2321 will require the BOI and Cal/OSHA to implement processes to ensure that investigators are receiving such cases, as well as to have clear instructions for performing their jobs.

California's 19 million workers deserve safe and healthy workplaces, and for their government to enforce the law when employers are uncompliant. AB 2321 is a commonsense measure that will support and enhance the work of Cal/OSHA and its BOI."

5. Opponent Arguments:

The California Chamber of Commerce is opposed to the measure arguing that it will waste state resources by compelling prosecutors (who are not workplace safety experts) to handle workplace safety cases where no crime has been committed. Among other things, they write:

"Under present law, if a workplace injury occurs and it appears the conduct rises to the level of criminality, Cal/OSHA can already refer cases of workplace violations to prosecutors, and such prosectors can already prosecute an employer under present law. In fact, Cal/OSHA has worked in recent years to staff up all of its enforcement staff, including adding staff to the unit tasked with referring criminal cases to prosecutors (the Bureau of Investigations unit)…

We do not believe that the mandatory involvement of prosecutors will improve accident analysis and believe it will increase costs and workload for all parties involved.

First and foremost: prosecutors are not workplace safety experts, so forcing them into the driver's seat for investigations of all total disability or fatality cases will not improve the quality of that investigation or case preparation. These cases are best handled by the Division's inspectors – who are more knowledgeable about workplace safety law – and employers' representatives – who are also knowledgeable about workplace safety."

6. Prior Legislation:

AB 594 (Maienschein, Chapter 659, Statutes of 2023) authorized public prosecutors to enforce labor code violations within their jurisdiction, including minimum wage, overtime, and meal/rest break violations.

AB 102 (Ting, Chapter 38, Statutes of 2023) appropriated $18 million to create the Workers' Rights Enforcement Grant Program, administered by the Labor Commissioner, to provide grant funding to local public prosecutors to enforce existing laws related to wage theft.

AB 2738 (L. Rivas, Chapter 969, Statutes of 2024), among other things, authorized public prosecutor enforcement for violations of existing workplace safety laws for entertainment events venues.

SB 988 (Wiener, Chapter 870, Statutes of 2024) established the Freelance Worker Protection Act to impose minimum requirements relating to contracts between a hiring party and a freelance worker. Among other things, the measure authorized an aggrieved freelance worker or a public prosecutor to bring a civil action to enforce these provisions.

SUPPORT

Alameda Labor Council
California Federation of Labor Unions, AFL-CIO
California State Association of Electrical Workers
California State Pipe Trades Council
National Union of Healthcare Workers
Teamsters California
United Farm Workers
United Food and Commercial Workers, Western States Council
United Steelworkers District 12
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION

California Chamber of Commerce

-- END --

Amended Mock-up for 2025-2026 AB-2321 (Ortega (A))

Mock-up based on Version Number 96 - Amended Senate 6/16/26
Submitted by: Senate Labor, Public Employment and Retirement Committee

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 62.5 of the Labor Code is amended to read:

62.5. (a) (1) The Workers' Compensation Administration Revolving Fund is hereby created as a special account in the State Treasury. Money in the fund may be expended by the department, upon appropriation by the Legislature, for all of the following purposes, and may not be used or borrowed for any other purpose:

(A) For the administration of the workers' compensation program set forth in this division and Division 4 (commencing with Section 3200), other than the activities financed pursuant to paragraph (2) of subdivision (a) of Section 3702.5.

(B) For the Return-to-Work Program set forth in Section 139.48.

(C) For the enforcement of the insurance coverage program established and maintained by the Labor Commissioner pursuant to Section 90.3.

(2) The fund shall consist of surcharges made pursuant to subparagraph (A) of paragraph (1) of subdivision (f).

(b) (1) The Uninsured Employers Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in subparagraph (A) of paragraph (1) of subdivision (f). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the payment of nonadministrative expenses of the workers' compensation program for workers injured while employed by uninsured employers in accordance with Article 2 (commencing with Section 3710) of Chapter 4 of Part 1 of Division 4, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers injured while employed by uninsured employers. Nonadministrative expenses include audits and reports of services prepared pursuant to subdivision (b) of Section 3716.1. The surcharge amount for this fund shall be stated separately.

(2) Notwithstanding any other provision of law, all references to the Uninsured Employers Fund shall mean the Uninsured Employers Benefits Trust Fund.

(3) Notwithstanding paragraph (1), in the event that budgetary restrictions or impasse prevent the timely payment of administrative expenses from the Workers' Compensation Administration Revolving Fund, those expenses shall be advanced from the Uninsured Employers Benefits Trust

Fund. Expense advances made pursuant to this paragraph shall be reimbursed in full to the Uninsured Employers Benefits Trust Fund upon enactment of the annual Budget Act.

(4) Any moneys from penalties collected pursuant to Section 3722 as a result of the insurance coverage program established under Section 90.3 shall be deposited in the State Treasury to the credit of the Workers' Compensation Administration Revolving Fund created under this section, to cover expenses incurred by the director under the insurance coverage program. The amount of any penalties in excess of payment of administrative expenses incurred by the director for the insurance coverage program established under Section 90.3 shall be deposited in the State Treasury to the credit of the Uninsured Employers Benefits Trust Fund for nonadministrative expenses, as prescribed in paragraph (1), and notwithstanding paragraph (1), shall only be available upon appropriation by the Legislature.

(c) (1) The Subsequent Injuries Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in subparagraph (A) of paragraph (1) of subdivision (f). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the nonadministrative expenses of the workers' compensation program for workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments, in accordance with Article 5 (commencing with Section 4751) of Chapter 2 of Part 2 of Division 4, and Section 4 of Article XIV of the California Constitution, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments. Nonadministrative expenses include audits and reports of services pursuant to subdivision (c) of Section 4755. The surcharge amount for this fund shall be stated separately.

(2) Notwithstanding any other law, all references to the Subsequent Injuries Fund shall mean the Subsequent Injuries Benefits Trust Fund.

(3) Notwithstanding paragraph (1), in the event that budgetary restrictions or impasse prevent the timely payment of administrative expenses from the Workers' Compensation Administration Revolving Fund, those expenses shall be advanced from the Subsequent Injuries Benefits Trust Fund. Expense advances made pursuant to this paragraph shall be reimbursed in full to the Subsequent Injuries Benefits Trust Fund upon enactment of the annual Budget Act.

(d) (1) The Occupational Safety and Health Fund is hereby created as a special account in the State Treasury. Moneys in the account may be expended by the department, upon appropriation by the Legislature, for support of the Division of Occupational Safety and Health, the Occupational Safety and Health Standards Board, and the Occupational Safety and Health Appeals Board, and the activities these entities perform as set forth in this division, and Division 5 (commencing with Section 6300). Moneys in the account or in the Labor and Workforce Development Fund may also be expended by the Alameda County District Attorney and the Santa Clara County District Attorney, upon appropriation by the Legislature, for support of the activities the Alameda County District Attorney and the Santa Clara County District Attorney perform as set forth in Section 6315.

(2) On and after the effective date of the act amending this section to add this paragraph in the 2013–14 Regular Session of the Legislature, any moneys in the Cal-OSHA Targeted Inspection and Consultation Fund and any assets, liabilities, revenues, expenditures, and encumbrances of that fund, less five million dollars ($5,000,000), shall be transferred to the Occupational Safety and Health Fund. On June 30, 2014, the remaining five million dollars ($5,000,000) in the Cal-OSHA Targeted Inspection and Consultation Fund, or any remaining balance in that fund, shall be transferred to, and become part of, the Occupational Safety and Health Fund.

(e) The Labor Enforcement and Compliance Fund is hereby created as a special account in the State Treasury. Moneys in the fund may be expended by the department, upon appropriation by the Legislature, for the support of the activities that the Division of Labor Standards Enforcement performs pursuant to this division and Division 2 (commencing with Section 200), Division 3 (commencing with Section 2700), and Division 4 (commencing with Section 3200).

(f) (1) (A) Separate surcharges shall be levied by the director upon all employers, as defined in Section 3300, for purposes of deposit in the Workers' Compensation Administration Revolving Fund, the Uninsured Employers Benefits Trust Fund, the Subsequent Injuries Benefits Trust Fund, and the Occupational Safety and Health Fund. The total amount of the surcharges shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall adopt reasonable regulations governing the manner of collection of the surcharges. The regulations shall require the surcharges to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the surcharges to be paid by insured employers to be expressed as a percentage of premium. In no event shall the surcharges paid by insured employers be considered a premium for computation of a gross premium tax or agents' commission. In no event shall the total amount of the surcharges paid by insured and self-insured employers exceed the amounts reasonably necessary to carry out the purposes of this section.

(B) Assessments shall be levied by the director upon all employers, as defined in Section 3300, as necessary, to collect the aggregate amount determined by the Fraud Assessment Commission pursuant to Section 1872.83 of the Insurance Code. Revenues derived from the assessments shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund and shall only be expended, upon appropriation by the Legislature, for the investigation and prosecution of workers' compensation fraud and the willful failure to secure payment of workers' compensation, as prescribed by Section 1872.83 of the Insurance Code. The total amount of the assessment shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall promulgate reasonable rules and regulations governing the manner of collection of the assessment. The rules and regulations shall require the assessment to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the assessment to be paid by insured employers to be expressed as a percentage of premium. In no event shall the assessment paid by insured employers be considered a premium for computation of a gross premium tax or agents' commission.

(2) The surcharge levied by the director for the Occupational Safety and Health Fund, pursuant to subparagraph (A) of paragraph (1), shall not generate revenues in excess of fifty-seven million dollars ($57,000,000) on and after the 2013–14 fiscal year, adjusted for each fiscal year as appropriate to fund any increases in the appropriation as approved by the Legislature, and to reconcile any over/under assessments from previous fiscal years pursuant to Sections 15606 and 15609 of Title 8 of the California Code of Regulations. For the 2013–14 fiscal year only, the revenue cap established in this paragraph shall be reduced by an amount equivalent to the balance transferred from the Cal-OSHA Targeted Inspection and Consultation Fund established in Section 62.7, less any amount of that balance loaned to the State Public Works Enforcement Fund, to the Occupational Safety and Health Fund pursuant to subdivision (d).

(3) A separate surcharge shall be levied by the director upon all employers, as defined in Section 3300, for purposes of deposit in the Labor Enforcement and Compliance Fund. The total amount of the surcharges shall be allocated between employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall adopt reasonable regulations governing the manner of collection of the surcharges. In no event shall the total amount of the surcharges paid by employers exceed the amounts reasonably necessary to carry out the purposes of this section.

(4) The surcharge levied by the director for the Labor Enforcement and Compliance Fund shall not exceed forty-six million dollars ($46,000,000) in the 2013–14 fiscal year, adjusted as appropriate to fund any increases in the appropriation as approved by the Legislature, and to reconcile any over/under assessments from previous fiscal years pursuant to Sections 15606 and 15609 of Title 8 of the California Code of Regulations.

(5) The regulations adopted pursuant to paragraph (1) to (4), inclusive, shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 2. Section 6315 of the Labor Code is amended to read:

6315. (a) There is within the division a Bureau of Investigations. Except as provided in subdivision (j), the bureau shall immediately investigate violations of standards, orders, special orders, or Section 25910 of the Health and Safety Code, in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative. The bureau shall immediately review inspection reports involving a serious violation if there have been serious injuries to one to four employees or a serious exposure, and shall investigate those cases in which the bureau finds criminal violations may have occurred. The bureau shall prepare cases for the purpose of prosecution, including evidence and findings.

(b) The division shall provide the bureau with all of the following:

(1) All initial incident reports.

(2) The division's inspection reports necessary for the bureau's review or investigation required pursuant to subdivision (a).

(3) Any other documents in the possession of the division requested by the bureau for its review or investigation of any case or that the division determines will be helpful to the bureau in its investigation of the case.

(c) The supervisor of the bureau is the administrative chief of the bureau, and shall be an attorney.

(d) The bureau shall be staffed by as many attorneys and investigators as are necessary to carry out the purposes of this chapter. To the extent possible, the attorneys and investigators shall be experienced in criminal law.

(e) The supervisor of the bureau and bureau representatives designated by the supervisor have a right of access to all places of employment necessary to the investigation, may collect any evidence or samples they deem necessary to an investigation, and have all of the powers enumerated in Section 6314.

(f) The supervisor of the bureau and bureau representatives designated by the supervisor may serve all processes and notices throughout the state.

(g) In any case in which the bureau is required to conduct an investigation, and in which there is a serious injury or death, the results of the investigation shall be immediately referred by the bureau to the appropriate prosecuting authority having jurisdiction for appropriate action, unless the bureau determines that there is legally insufficient evidence of a violation of the law. If the bureau determines that there is legally insufficient evidence of a violation of the law, the bureau shall immediately notify the appropriate prosecuting authority.

(h) The bureau may communicate with the appropriate prosecuting authority at any time the bureau deems appropriate.

(i) The bureau shall immediately notify the appropriate prosecuting authority upon learning of an incident in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative. Upon the request of an appropriate prosecuting authority, the department may refer cases that may involve criminal conduct to the appropriate prosecuting authority in lieu of or in cooperation with an investigation by the bureau. In cases accepted for investigation by the prosecuting authority, the bureau shall cooperate with the prosecuting authority and the division. If a referral is declined by the prosecuting authority, the bureau shall comply with subdivisions (a) to (h), inclusive.

(j) (1) For any incident in the County of Alameda or the County of Santa Clara involving a violation of standards, orders, special orders, or Section 25910 of the Health and Safety Code that results in a death, the Alameda County District Attorney or the Santa Clara County District Attorney, based on the county in which the incident occurred, shall investigate and prepare cases for the purpose of prosecution. The division shall immediately notify the Alameda County District

Attorney or the Santa Clara County District Attorney of that incident and shall immediately provide the Alameda County District Attorney or the Santa Clara County District Attorney with all of the following:

(A) All initial incident reports.

(B) Any inspection report for an inspection involving a serious violation where there is a death.

(C) Any other division report necessary for the Alameda County District Attorney's or the Santa Clara County District Attorney's investigation.

(D) Any other document in the possession of the division that is requested by the Alameda County District Attorney or the Santa Clara County District Attorney for its review or investigation or that the division determines will be helpful to the Alameda County District Attorney or the Santa Clara County District Attorney in its investigation of the case.

(2) The Alameda County District Attorney or the Santa Clara County District Attorney, based on the county in which the incident occurred, shall report to the incident scene within a reasonable time. The bureau is authorized to report to the incident scene but, in any case fitting the criteria of paragraph (1), the Alameda County District Attorney or the Santa Clara County District Attorney shall be responsible for directing the incident investigation.

(3) ***The Alameda County District Attorney and the Santa Clara County District Attorney shall, by January 1, 2031, submit to the Legislature a report that includes, at a minimum, a summary of each of the investigations conducted pursuant to the district attorneys' authority in this subdivision, as well as information about case outcomes, including whether or not those cases were ultimately prosecuted.***

(~~3~~4) This subdivision shall become operative upon appropriation by the Legislature of sufficient funding for this purpose.

(45) This subdivision shall remain in effect only until January 1, 2032, and, as of that date, is inoperative.

(k) The bureau shall establish written policies and procedures for the process of reviewing cases and deciding whether to investigate or refer them for prosecution, including, but not limited to, a requirement that the bureau documents a rationale for why it has decided not to investigate or not to refer each case.

(l) The division shall establish a routine or automated process for transmitting information to the bureau about incident cases with nonfatal injuries so that the bureau can review them pursuant to this section.

SEC. 3. Section 6315.3 of the Labor Code is amended to read:

6315.3. The bureau shall, not later than February 15, annually submit to the division for submission to the director, and to the Legislature pursuant to Section 9795 of the Government Code, a report on the activities of the bureau, including, but not limited to, the following:

(a) Totals of each type of report provided the bureau under each category in subdivision (b) of Section 6315.

(b) Totals of each type of case reflecting the number of investigations and court cases in progress at the start of the calendar year being reported, investigations completed in the calendar year, cases referred to appropriate prosecuting authorities in the calendar year, and investigations and court cases in progress at the end of the calendar year. The types of cases shall include the following:

(1) Those that the bureau is required to investigate, divided into fatalities, serious injuries to five or more employees, and requests for prosecution from a division representative.

(2) Those that were initiated by the bureau following the review required in subdivision (a) of Section 6315, divided into serious injuries to fewer than five employees and serious exposures.

(c) A summary of the dispositions in the calendar year of cases referred by the bureau to appropriate prosecuting authorities. The summary shall be divided into the types of cases, as described in subdivision (b), and shall show at least the violation, the statute for which the case was referred for prosecution, and the dates of referral to the bureau for investigation, referral from the bureau for prosecution, and the final court action if the case was prosecuted.

(d) A summary of investigations completed in the calendar year that did not result in a referral for prosecution, divided into the types of cases as described in subdivision (b), showing the violation and the reasons for nonreferral.

(e) A summary of the use of the bureau's resources in accomplishing the bureau's mission.

(f) The total number of vacancies for bureau positions, each job classification in the prior fiscal year, and any additional positions needed to carry out the bureau's duties.

SEC. 4. The Legislature finds and declares, with respect to Sections 1 and 2 of this act, that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing the County of Alameda and the County of Santa Clara.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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

Bill No:	AB 2575	**Hearing Date:**	June 24, 2026
Author:	Ortega		
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SUBJECT: Health care services: artificial intelligence

KEY ISSUES

This bill 1) requires a health facility and other specified health providers that use or deploy a *clinical decision support system* for patient care to make available, upon the request of specified entities, an inventory of all clinical decision support systems in use or deployed for patient care; 2) requires the inventory of clinical decision support systems in use by these facilities to include specified information including details on the intended use and role in supporting clinical decisionmaking; 3) requires the facilities and specified providers to notify a licensed health care professional, or other person whose duties include using a clinical decision support system, upon hire and annually, of their right to request the inventory of systems used; 4) prohibits an employer from retaliating or discriminating against a worker based solely on the worker's override of, or reliance on, the output of a clinical decision support system; 5) grants a worker who is subject to retaliation or discrimination in violation of these provisions, the right to file a complaint with the Labor Commissioner; and 6) prohibits the failure of a health care worker to override an output of a clinical decision support system from being asserted as a superseding cause severing the defendant's liability for the alleged harm in a civil action against a defendant who developed or deployed a clinical decision support system that is alleged to have caused harm.

ANALYSIS

Existing law:

1) Establishes the California Department of Public Health (CDPH) which licenses and regulates health facilities and clinics. (Health & Safety Code §1200 et seq. and §1250, et seq.]

2) Defines "clinic" as an organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. (Health & Safety Code §1200)

3) Defines "health facility" to mean a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, including, but not limited to, hospitals, nursing facilities, and hospice facilities. (Health & Safety Code §1250)

4) Requires a health facility, clinic, physician's office, or office of a group practice that uses generative artificial intelligence (GenAI) to generate written or verbal patient communications pertaining to patient clinical information to ensure that those communications include a disclaimer, as specified, that indicates to the patient that the communication was generated by GenAI, and clear instructions describing how a patient may contact a human health care provider, employee, or other appropriate person. Exempts communications generated by GenAI from this requirement if it is read and reviewed by a human licensed or certified health care provider. (Health & Safety Code §1339.75)

5) Defines the following terms for purposes of 4) above:
   a) "Artificial intelligence" means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments; and,
   b) "Generative artificial intelligence" means AI that can generate derived synthetic content, including images, videos, audio, text, and other digital content.
   (Health & Safety Code §1339.75)

6) Defines "automated decision system" to mean a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. "Automated decision system" does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data. (Government Code §11546.45.5)

7) Establishes the California Privacy Protection Agency (CPPA) to implement and enforce the California Privacy Rights Act of 2020, and provides the CPPA with the full administrative power, authority and jurisdiction to implement and enforce the California Consumer Privacy Act of 2018, including responsibilities to update existing regulations and adopt new regulations. (Civil Code §1798.100, et seq.)

8) Requires the Department of Technology to conduct, in coordination with other interagency bodies as it deems appropriate, a comprehensive inventory of all high-risk automated decision systems that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, and state agency. Defines "high-risk automated decision system" as an automated decision system that is used to assist or replace human discretionary decisions that have a legal or similarly significant effect, including decisions that materially impact access to, or approval for, housing or accommodations, education, employment, credit, health care, and criminal justice. (Government Code §11546.45.5)

9) Authorizes the CDPH to provide consulting services to any health facility to assist in the identification or correction of deficiencies or the upgrading of the quality of care provided by the health facility. If deficiencies are found, requires the health facility to agree with the CDPH on a correction plan and authorizes administrative penalties against a health facility for violations, as specified. (Health & Safety Code §1280 and §1280.3)

10) Prohibits an employer from discharging, demoting, or suspending, or threatening to discharge, demote, or suspend, or in any manner discriminating against any employee who takes any of the following actions:

a) Makes any good faith oral or written complaint about the violation of any licensing or other laws by the employer to the State Department of Social Services or other agency having statutory responsibility for enforcement of the law or to the employer or representative of the employer;
b) Institutes, or causes to be instituted, any proceeding against the employer relating to the violation of any licensing or other laws;
c) Appears as a witness or testifies in a proceeding relating to the violation of any licensing or other laws; or
d) Refuses to perform work in violation of a licensing law or regulation after notifying the employer of the violation.
(Health & Safety Code §1596.881)

11) Specifies that a claim alleging a violation pursuant to (10) above must be presented to the employer within 45 days of the alleged violation and presented to the Division of Labor Standards Enforcement (DLSE) within 90 days of the alleged violation. Upon receipt of the complaint, requires the DLSE to investigate, as it deems appropriate, and if violation(s) are found, requires the DLSE to bring an action in any appropriate court against the employer. (Health & Safety Code §1596.882)

12) Establishes within the Department of Industrial Relations (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)

This bill:

1) Defines, among others, the following terms:

   a. "Artificial intelligence" and "generative artificial intelligence" as having the same meaning as currently defined in existing Health & Safety Code Section 1339.75.
   b. "Automated decision system" as having the same meaning as currently defined in existing Government Code Section 11546.45.5.
   c. "Clinical decision support system" to mean an automated decision system or generative artificial intelligence system whose outputs produce a prediction, classification, recommendation, evaluation, or analysis that is used to inform clinical decisionmaking with respect to the provision, timing, or course of patient care.

2) On or before July 1, 2027, requires a health facility, clinic, physician's office, or office of a group practice that uses or deploys a *clinical decision support system* for patient care to make available, upon request from a licensed health care professional or other person using a clinical decision support system or viewing outputs from a clinical decision support system, an inventory of all clinical decision support systems currently in use or deployed for patient care and requires the list to be updated at least annually.

3) Requires the health facilities specified above that use or deploy a clinical decision support system for patient care to make available, similarly upon request, information about the clinical support system including all of the following:

a. A summary of the clinical decision support system, including developer and description of the output produced by the system.
b. Intended use of the clinical decision support system, including intended patient population, intended users, and intended role in supporting clinical decisionmaking.
c. Cautioned out-of-scope use of the clinical decision support system, including known risks and limitations.
d. Summary of how the clinical decision support system generates outputs.
e. Summary of the training set or clinical research underlying recommendations, including demographic representativeness and known biases based on protected characteristics.
f. Summary of the validation process.
g. Summary of qualitative measures of performance.
h. A link to the Certified Health IT Product List produced by the Office of the National Coordinator for Health Information Technology at the United States Department of Health and Human Services.

4) Requires the specified health facilities that use or deploy a clinical decision support system for patient care to notify a licensed health care professional or other person whose duties include using or viewing outputs from a clinical decision support system, upon hire and annually, of their right to request the inventory of all clinical decision support systems currently in use or deployed for patient care.

5) Exempts from these notification requirements the use of a clinical decision support system for documentation, communication, or other administrative tasks that do not involve the application of professional judgment by a licensed health care professional, including, but not limited to, automated messages to inform patients of their health records.

6) Specifies that a violation of these provisions by a licensed health facility or licensed clinic are subject to the enforcement mechanisms of existing law, as specified.

7) Specifies that a violation of these provisions by a physician is subject to the jurisdiction of the Medical Board of California or the Osteopathic Medical Board of California, as appropriate.

Health Information Technology Worker Rights:

8) Provides that it is the public policy of the State of California that a worker providing direct patient care be free to use their professional judgment to make assessments and decisions within their scope of practice as appropriate for their patients.

9) Prohibits an employer from retaliating or discriminating against a worker providing direct patient care using their professional judgment to make an assessment or decision within their appropriate scope of practice based solely on the worker's override of, or reliance on, the output of a clinical decision support system.

a. Specifies that this provision does not affect a worker's duty to meet the applicable standard of care, act within their scope of practice, as specified, or exercise independent professional judgment in providing direct patient care.

10) Grants a worker who is subject to retaliation or discrimination in violation of these provisions the right to file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the worker.

11) Prohibits using as a defense, in an action against a defendant who developed, modified, selected, or deployed a clinical decision support system that is alleged to have caused harm to the plaintiff, and prohibits a defendant from asserting, that the failure of a licensed health care professional or other health care worker to override an output of a clinical decision support system is a superseding cause severing the defendant's liability for the alleged harm. Specifies that this provision does not limit or preclude a defendant from presenting any other affirmative defense, including evidence relevant to causation or foreseeability, or presenting other evidence relevant to the comparative fault of any other person or entity.

COMMENTS

1. Background:

Artificial Intelligence and Generative Artificial Intelligence

Until recently, advancements in technology often automated physical tasks, such as those performed on factory floors or self-checkouts, but AI functions more like human brainpower. AI can use algorithms to accomplish tasks faster and sometimes at a lower cost than human workers can. Generative AI is a subfield of AI that creates content in response to inputs or prompts learned from underlying patterns and structures of data. Outputs of GenAI can include content like text, images, audio, software code, or even predictions, recommendations, or decisions.

As this technology develops, so do fears of worker displacement in more areas and industries. According to a recent CNBC article, "recent estimates from Goldman Sachs suggest that 6% to 7% of U.S. workers could lose their jobs because of AI adoption. The Stanford Digital Economy Lab, using ADP employment data, found that entry-level hiring in "AI exposed jobs" has dropped 13% since large language models started proliferating. The report said software development, customer service and clerical work are the types of jobs most vulnerable to AI today."[1]

Beyond the fears of worker displacement, GenAI tools like ChatGPT, Gemini or Claude are being used to complement the duties of employees in astonishing numbers. A 2025 report assessed the scale of global daily active usage for GenAI tools and found that daily active user base for these tools likely falls within the range of 115 million to 180 million individuals.[2] The wide use of these systems also means that they are training on extremely large datasets using nearly all information available on the internet. You can find GenAI tools used in a multitude of industries including software development, marketing and media, finance, cybersecurity, and healthcare and pharmaceuticals, among many others.

GenAI Tools Used in Healthcare:

As noted by the Senate Health Committee analysis of this bill:

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[1] Samantha Subin, "*AI is already taking white-collar jobs. Economists warn there's 'much more in the tank,*'" October 23, 2025, CNBC. https://www.cnbc.com/2025/10/22/ai-taking-white-collar-jobs-economists-warn-much-more-in-the-tank.html

[2] Andres, Guadamuz, *"How many people are using generative AI on a daily basis? A Gemini report,"* (Apr 14, 2025), https://www.technollama.co.uk/a-gemini-report-how-many-people-are-using-generative-ai-on-a-daily-basis-a-gemini-report.

"According to a July 25, 2023 viewpoint article in the *Journal of the American Medical Association*, "Generative AI in Health Care and Liability Risks for Physicians and Safety Concerns for Patients," generative AI is being heralded in the medical field for its potential to ease the long-lamented burden of medical documentation by generating visit notes, treatment codes, and medical summaries. This article stated that to date, no court in the U.S. has considered the question of liability for medical injuries caused by relying on AI-generated information. The article warned that to minimize risks, even medical professionals must exercise caution when relying on AI-generated information, due to the "black-box" nature of how these systems generate output, because it may be impossible for the physician to independently evaluate the accuracy of the AI's output. An article in *Implement Science*, published in March 2024, stated that the utility and impact of generative AI in healthcare remain poorly understood, with concerns about ethical and legal implications, integration into healthcare service delivery, and workforce utilization.

The American Medical Association (AMA) published "Principles for Augmented Intelligence Development, Deployment, and Use," which was approved by the AMA Board of Trustees on November 14, 2023. According to this AMA document, as the number of AI-enabled health care tools and systems continue to grow, these technologies must be designed, developed, and deployed in a manner that is ethical, equitable, responsible, and transparent. The AMA notes that while the U.S. Food and Drug Administration (FDA) regulates AI-enabled medical devices, many types of AI-enabled technologies fall outside the scope of FDA oversight, including AI that may have clinical applications, such as some clinical decision support functions. The AMA report specifically looked at transparency in use of AI-enabled systems, and stated that it is essential that use of AI in health care be transparent to both physicians and patients, and disclosure should contribute to physician and patient knowledge and not create unnecessary administrative burden. The AMA report states that when AI is utilized in health care decision-making, that use should be disclosed and documented in order to limit risks to, and mitigate inequities for, both physicians and patients. The AMA noted that while transparency does not necessarily ensure AI-enabled tools are accurate, secure, or fair, it is difficult to establish trust if certain characteristics are hidden. According to the AMA, when AI is used in a manner which directly impacts patient care, access to care, or medical decision-making, that use of AI should be disclosed and documented to both physicians and patients. The opportunity for a patient to request additional review from a licensed clinician should be made available upon request. The AMA policy also states that AI tools or systems cannot augment, create, or otherwise generate records, communications, or other content on behalf of a physician without that physician's consent and final review."

Governor Newsom Executive Orders (EOs) on AI and Generative AI (GenAI)

In September 2023, Governor Newsom issued Executive Order N-12-23 to deploy GenAI ethically and responsibly throughout state government, protect and prepare for potential harms, and remain the world's AI leader.[3] Among other things, the EO directed state agencies and departments to develop a report examining the most significant and beneficial uses of AI in the state, including the potential harms and risks for communities, government, and workers.

[3] Governor Gavin Newson, Executive Order N-12-23, https://www.gov.ca.gov/2023/09/06/governor-newsom-signs-executive-order-to-prepare-california-for-the-progress-of-artificial-intelligence/.

On March 30, 2026, Governor Newsom issued Executive Order N-5-26 directing, among other things, the Department of General Services and the Department of Technology to submit recommendations to the Governor for new AI vendor certification standards requiring companies interested in doing business with California to certify that their AI systems include necessary safeguards against illegal content, harmful bias, and violations of civil rights and liberties.[4]

Most recently, on May 21, 2026, Governor Newsom issued Executive Order N-6-26 directing state agencies to build a framework for responding to potential workforce disruption and ensuring workers are not left behind as AI adoption accelerates.[5] Among other things, this EO directs various state agencies to:

- *Track and understand the impact of AI on the workforce, filling the gaps of knowledge and providing clear and concrete data with*: 1) a new report on recommendations, best practices, and early economic warning signals of potential labor disruptions, drafted in consultation with labor, industry, and academic experts; 2) a new dashboard showing the impact of AI across sectors; 3) recommendations on revisions and updates to the California Worker Adjustment and Retraining Notification (WARN) Act, to ensure it can be used to provide early warning data and is responsive to emerging industry trends; and 4) business feedback on the role of technology in workforce decisions incorporated into the state's monthly jobs report.

Certified Health IT Product List – U.S. Department of Health and Human Services:
The Certified Health IT Product List (CHPL) is a comprehensive and authoritative listing of all certified health information technology that have been successfully tested and certified to meet criteria adopted by the Secretary of the Department of Health and Human Services (HHS). Managed by the Office of the National Coordinator for Health Information Technology (ONC)**,** this directory exists to ensure that electronic health record systems and related modules are secure, interoperable, and capable of protecting patient data. All products listed on the CHPL have been tested by an ONC-Authorized Testing Laboratory and certified by an ONC-Authorized Certification Body. The registry doesn't just list compliant products; it also tracks usability testing results, banned developers, and any corrective actions against non-compliant or buggy software.

This bill:
This bill attempts to provide transparency on the use of GenAI tools used by health facilities and specified health providers to provide clinical decision support in the delivery of care. The bill does this by allowing licensed health care professionals or other persons using a clinical decision support system or viewing outputs from a clinical decision support system for patient care to request an inventory of these GenAI tools.

Specific to the jurisdiction of this Committee, and consistent anti-discrimination and anti-retaliation protections for the exercise of a workers labor rights in existing law, the bill prohibits an employer from retaliating or discriminating against a worker for using their professional judgment to make an assessment or decision within their appropriate scope of

[4] Governor Gavin Newson, Executive Order N-5-26, https://www.gov.ca.gov/wp-content/uploads/2026/03/3.30-FINAL-Trusted-AI-Procurement-EO-N-5-26.pdf.
[5] Governor Gavin Newson, Executive Order N-6-26, https://www.gov.ca.gov/wp-content/uploads/2026/05/5.21.26-AI-Workforce-EO-FINAL-SIGNED.pdf.

practice based solely on the worker's override of, or reliance on, the output of a clinical decision support system. Also consistent with other existing law protections against discrimination and retaliation, a worker subject to such actions would have the right to file a complaint with the Labor Commissioner.

Lastly, the bill would prohibit the failure of a health care worker to override an output of a clinical decision support system from being asserted as a superseding cause severing the defendant's liability for the alleged harm in a civil action against a defendant who developed or deployed a clinical decision support system that is alleged to have caused harm. Regarding this provision, the author states that, a "superseding cause" is a specific type of legal argument in which a defendant is not held liable for any harm to a plaintiff by proving that the action of an intervening 3rd party action was highly unusual/extraordinary and that the defendant could not have reasonably foreseen this [CACI No. 432]. In this context, developers and employers may argue that they could not have foreseen a healthcare worker overriding the output of an AI and that it was highly extraordinary/unusual. Not only is this false, but successfully using this bad-faith argument will also relieve a developer of the responsibility of implementing safeguards or relieve an employer from the responsibility of vetting the procurement of an AI tool."

2. Need for this bill?

According to the author:

"While some AI models show promise for the future of healthcare, their errors still run rampant. At best, these errors can create a distracting barrage of false alarms and even flag basic bodily functions as emergencies, leading to unnecessary testing and treatments. At worst, failure can lead to fatal consequences for patients. We are already seeing AI errors playing out in healthcare. In one instance, a nurse was forced to take a blood sample after receiving an erroneous alert for sepsis, adding to a patient's bill. In another instance, a nurse on a call-in advice line followed a protocol suggested by an algorithm and diagnosed the patient with a benign diagnosis, when the patient actually had pneumonia, acute respiratory failure, and renal failure and died several days later[6]. Generative AI is also prone to errors such as "hallucinations" or even deceptive behavior[7]

If data used to train AI is biased, the tool's outputs will be similarly biased. One algorithm assigned Black patients a lower likelihood of adverse health outcomes than equally at-risk white patients because the tool used "healthcare costs" as a proxy for "health needs." Because the system historically spent less money on treating Black patients, the AI model codified this discrimination.[8] Given these flaws, AI should only support care—not substitute for clinical judgment or narrow a clinician's ability to act. Healthcare workers face a double bind when in an AI-integrated environment. A healthcare worker may bear liability or face retaliation from patients even though they had limited control over the erroneous output of an automated system. Simultaneously, employers may be pressuring or forcing their workers to follow the output of these systems. Healthcare workers should be encouraged to use their

[6] https://www.wsj.com/health/healthcare/ai-medical-diagnosis-nurses-f881b0fe?gaa_at=eafs&gaa_n=AWEtsqcKOLP3NZ-RzgoKpm1_gs49wWKDDWeKXCanO_8SaLYweq0wyP0oNYLeKesi738%3D&gaa_ts=69a87c13&gaa_sig=MeVvYeqSbA3AjLrhQMzYXC80XBQM_0OfwIXjqWBXxiX1c0n4nCllNNk0gYKKMpYbWBG7jVbyRhGbMxcKdUaMXQ%3D%3D

[7] https://www.ibm.com/think/topics/ai-hallucinations; https://www.businessinsider.com/gpt4-openai-chatgpt-taskrabbit-tricked-solve-captcha-test-2023-3

[8] https://www.science.org/doi/10.1126/science.aax2342

professional judgement not only to make clinical decisions but also to determine whether to consult or use AI…AB 2575 would prohibit AI tools from replacing or limiting a healthcare worker's use of clinical judgment."

3. Proponent Arguments:

One of the sponsors of the measure, the California Federation of Labor Unions writes:

"Currently, an estimated 65% of U.S. hospitals are already using AI tools, most commonly to predict inpatient health trajectories. In addition, hospitals and clinics use AI for electronic health records, staffing systems, clinical decision supports systems, remote monitoring platforms, and administrative decision-making. These tools can influence patient acuity scores, treatment recommendations, insurance determinations, discharge planning, and nurse workloads.

Despite their widespread use, health care workers often receive little information about when these tools are used, how they function, what data they rely on, or what risks and limitations they carry. This lack of transparency, combined with the expanding role of AI in clinical and workplace decisions, has significant implications for patient safety, professional practice, and accountability in health care. For example, algorithmic systems may generate patient acuity scores, treatment prompts, or discharge recommendations without disclosing how those outputs were produced, what data they relied on, or their known limitations. Without this information, clinicians cannot fully evaluate the reliability of these tools, and patients have no visibility into technologies affecting their care…

As these tools increasingly shape clinical decisions and working conditions, the absence of transparency, override protection, and clear accountability creates real risks for patients and undermines professional standards in care. AB 2575 creates the conditions and guardrails to ensure that human health care workers are in command of AI tools used in direct patient care, and not commanded by them, protecting patients and workers…"

A second sponsor, the California Nurses Association/National Nurses United writes:

"AB 2575 establishes clear guardrails to address the risks presented by AI in health care by:

- **Requiring transparency regarding when health care entities use AI in patient care.** The bill improves transparency by requiring health care entities that use AI in patient care to disclose key information about these systems to clinicians…These disclosures allow clinicians to evaluate AI-generated recommendations and support informed decision-making in patient care.

- **Protecting clinicians' professional judgement and ability to override AI-driven decisions**…AB 2575 affirms that clinicians may override unsafe or inappropriate AI outputs when necessary to protect patients and prohibits employers from retaliating against workers who exercise their professional judgment.

- **Ensures accountability for developers and deployers when AI systems cause harm.** AB 2575 prevents developers and deployers of AI systems from using a "human in the loop" as a superseding cause to avoid liability, claiming that a physician or a nurse

should have caught or overridden an unsafe recommendation. The presence of a clinician in the workflow does not eliminate the risks posed by opaque or error-prone AI systems, and a human in the loop is not a substitute for safe system design. When health care entities deploy technology that influences clinical decision-making, the entities that design and implement those systems must remain responsible for their safety and reliability."

4. Opponent Arguments:

A coalition representing physicians, hospitals and health systems, health plans, life sciences, and other health care stakeholders, including the California Chamber of Commerce, the California Hospital Association and the California Medical Association, are opposed to the measure. They argue that despite existing safeguards, AB 2575 would impose additional requirements that increase health care costs without any correlating benefit to the patients or workers who provide the care. They argue that at every stage of clinical care, California's invaluable health care professionals retain full oversight and responsibility, and that no AI or related technology is deployed to make care decisions; instead, they are used to assist with and free up resources for patient care, reduce clinician burnout, and expand early warning systems. They write:

"AB 2575 would undermine patient-centric policies and procedures and conflict with medical staff rules and regulations by protecting any worker who provides direct patient care from reprimand or discipline. Section 2821 would essentially create a new protected class of workers, allowing them to make independent, subjective decisions about patient care without oversight or accountability, so long as those decisions fall within their scope of practice.

This would effectively give any worker who provides care unfettered authority — even when the subjective judgment causes patient harm, so long as the worker was acting within their scope. If a patient were to suffer harm — or even if harm is averted after a clinician "overrides" a tool's output, the health facility would be unable to take corrective action, as doing so would be considered retaliation under the Labor Code."

Additionally, they argue:

"Health care providers would also be forced to pull back AI tools that patients and clinicians currently rely on. Rather than helping providers manage patient care, AB 2575 would disrupt and delay the use of technologies that are already delivering measurable improvements in patient outcomes and reducing provider burnout…When doctors and radiologists use AI to help review medical scans like X-rays and MRIs, they can read results significantly faster and catch cancers that might otherwise be missed, with detection rates improving by 20%. Hospital staff who use AI spend less time on repetitive, time-intensive tasks, freeing up clinicians to focus on patients rather than paperwork and other non-clinical tasks."

Lastly, the coalition argues that "California's health care system is facing the most severe financial crisis in a generation. The One Big Beautiful Bill Act will strip billions of dollars from the state's health care system, driving up the number of uninsured patients, raising uncompensated care costs, and pushing safety-net providers closer to layoffs, service cutbacks, or even outright closure. AB 2575 would compound these pressures. AI is not an aspiration in health care. Rather, it is a reality that is currently saving lives throughout California."

5. Committee Comments:

The Retaliation Complaint Investigations Unit (RCI) within the Labor Commissioner's Office is tasked with investigating complaints alleging unlawful retaliation in the workplace to achieve remedies for the victims and to penalize those who retaliate. Existing law contains provisions protecting workers from discrimination and retaliation in their employment for various reasons. For example, exiting Labor Code section 98.6 protects an employee (or applicant for employment) from retaliation for filing a bona fide complaint relating to their rights under the jurisdiction of the Labor Commissioner, including for owed unpaid wages, among others. These provisions provide a rebuttable presumption of unlawful retaliation if an employer engages in any prohibited action within 90 days of the specified protected activity. Additionally, the law imposes a penalty of up to $10,000 per employee for each violation to be awarded to each employee who suffered the violation.

Section 2820 of this bill prohibits an employer from retaliating or discriminating against a worker for using their professional judgment to make an assessment or decision within their appropriate scope of practice based solely on the worker's override of, or reliance on, the output of a clinical decision support system. The bill would authorize a worker who is subject to retaliation or discrimination in violation of these provisions to file a complaint with the Labor Commissioner against an employer. The bill, however, does not give the LC direction as to what the remedies or penalties for violations are. *The author may wish to amend the bill to provide the Labor Commissioner with more direction on what the remedies and penalties for violations should be if the LC finds violations pursuant to the bill's prohibitions.*

6. Triple Referral:

This bill has been triple referred and was previously heard by Senate Health Committee. Should it pass out of this Committee, it will be referred to the Senate Committee on Privacy, Digital Technologies, and Consumer Protection.

7. Prior/Related Legislation:

AB 1883 (Bryan, 2026) would prohibit an employer from using certain types of workplace surveillance tools or using workplace surveillance tools to violate or prevent compliance with laws, or infer information about a worker's legally-protected status or activities. Provides for a civil penalty, enforcement by the LC or a public prosecutor, and a private right of action. *AB 1883 is pending referral in the Senate.*

AB 1898 (Schultz, 2026) would, among other things, require employers to give workers at least 90 days' advance written notice to an employee before deploying any workplace AI tool, as defined, used to assist the employer in making employment-related decisions or to surveil workers in the workplace. The bill allows enforcement by the Labor Commissioner, public prosecutors, and workers themselves, with civil penalties of up to $500 per violation. *AB 1898 was held under submission in the Assembly Appropriations Committee.*

AB 1979 (Bonta, 2026) subjects businesses offering "healthcare chatbots" to the California Medical Information Act (CMIA) and imposes guardrails around the use of automated decision systems (ADS) and other generative AI (GenAI) models in clinical decisionmaking.

AB 1979 is pending before the Senate Privacy, Digital Technologies & Consumer Protection Committee.

AB 2027 (Ward, 2026) would, among other things, prohibit an employer from using a worker's personal information, as defined, to train an AI system to replicate, automate, ore place a worker's job, as specified. *AB 2027 was held under submission in the Assembly Appropriations Committee.*

AB 2653 (Lee, 2026) would require the Department of Industrial Relations (DIR) to convene a working group to study the labor practices underlying the development of modern foundation models and associated AI systems. *AB 2653 as held under submission in the Assembly Appropriations Committee.*

AB 2545 (Schiavo, 2026) would create the CA AI Worker Impact Data Assessment Project within the Employment Development Department to, among other things, establish an advisory panel consisting of labor, technology experts and employers to study and report to the Legislature on the existing data collection systems and gaps in data collection related to the use and impact of AI on the labor force, as specified. *AB 2545 is pending before the Senate Privacy, Digital Technologies & Consumer Protection Committee.*

AB 2656 (Petrie-Norris, 2026) would requires certain public employers to provide a recognized employee organization with no less than 45 days' written notice before developing, purchasing, implementing, or utilizing any GenAI to perform a service that is within the scope of work of the job classification represented by the recognized employee organization. *AB 2656 is pending before this Committee.*

SB 813 (McNerney, 2026) would require the Government Operations Agency to establish the CA AI Standards and Safety Commission to designate "independent verification organizations," which would ensure compliance with best practices for the prevention of personal injury and property damage and certify qualified AI models or AI applications. *SB 813 is pending in the Assembly Privacy and Consumer Protection Committee.*

SB 903 (Padilla, 2026) would prohibit individuals or corporations from using, advertising, or offering psychotherapy services, including through AI, unless conducted by a licensed health care professional, as defined. Would authorize licensed health care professionals to use AI for limited administrative or supplementary support, as indicated. SB 903 would provide state licensing boards and enforcement agencies the authority to pursue legal recourse for any violations. *SB 903 is pending in the Assembly Business and Professions Committee.*

SB 947 (McNerney, 2026) would, among other things, prohibit an employer from using an automated decision system (ADS) that does certain functions and would limit the purposes and manner in which an ADS may be used to make disciplinary, termination, or deactivation decisions. The bill includes worker anti-retaliation provisions for exercising these rights and specifies enforcement provisions including specified penalties and relief for violations. *SB 947 is pending in the Assembly Privacy & Consumer Protection Committee.*

SB 951 (Reyes, 2026) would, among other things, establish the California Worker Technological Displacement Act requiring a covered employer to provide at least a 60-day advanced written notice before any technological displacement or termination of contract

affecting 25 or more workers during any 30-day period. less. *SB 947 is pending in the Assembly Privacy & Consumer Protection Committee.*

SB 1248 (Cabaldon, 2026) would, among other things, impose certain restrictions on the use of an ADS by a state agency to confer services including the issuance of professional licenses and provision of public benefits. *SB 1248 was held under submission in the Senate Appropriations Committee.*

SB 503 (Pierson, 2025) would impose requirements on developers and deployers of AI systems used to support clinical decision-making or health care resource allocation, including that they make reasonable efforts to mitigate the risk of biased impacts in the system's outputs resulting from the use of the systems in health programs or activities. *SB 503 is pending on the Assembly Floor.*

AB 489 (Bonta, Chapter 615, Statutes of 2025) prohibits AI and GenAI systems from misrepresenting themselves as licensed or certified healthcare professionals and provides state licensing boards or enforcement agencies the authority to pursue legal recourse against developers or deployers of AI or GenAI systems.

Several bills in 2025 addressed related AI issues including: SB 7 (McNerney, Vetoed), 238 (Smallwood-Cuevas), AB 1018 (Bauer-Kahan), AB 1221 (Bryan), AB 1331 (Elhawary)

AB 2200 (Kalra, 2024), the California Guaranteed Health Care for All Act, would have provided comprehensive universal single-payer health care coverage. Among other provisions, the bill would have allowed specified healthcare workers to override a health IT system or clinical practice guidelines so long as it is appropriate according to their professional judgment, as specified.

SUPPORT

California Federation of Labor Unions (Co-Sponsor)
California Nurses Association/National Nurses United (Co-Sponsor)
Alameda County Democratic Party
American Federation of State, County and Municipal Employees
California Alliance for Retired Americans
California Democratic Party Rural Caucus
California Faculty Association
California Pan - Ethnic Health Network
California School Employees Association
CFT – a Union of Educators & Classified Professionals
Consumer Watchdog
Engineers and Scientists of California, IFPTE Local 20
Health Access California
National Union of Healthcare Workers
Oakland Privacy
Osteopathic Medical Board of California
TechEquity Action
Western Center on Law & Poverty, INC.

OPPOSITION

Advanced Medical Technology Association
Adventist Health
America's Physician Groups
Association of California Life & Health Insurance Companies
Association of Dental Support Organizations
ATA Action
Biocom
California Association of Health Facilities
California Association of Health Plans
California Chamber of Commerce
California Dental Association
California Hospital Association
California Life Sciences
California Medical Association
California Podiatric Medical Association
California Radiological Society
California Society of Pathologists
Central City Association of Los Angeles
Civil Justice Association of California
Connected Health Initiative
CPCA Advocates
Glendale Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Kaiser Permanente
LAX Coastal Chamber of Commerce
Los Angeles Area Chamber of Commerce
Oceanside Chamber of Commerce
Ochin, INC.
Orange County Business Council
Planned Parenthood Affiliates of California
San Diego Regional Chamber of Commerce
San Gabriel Valley Economic Partnership
Santa Monica Chamber of Commerce
Scripps Health
Southwest California Legislative Council
Stanford Health Care
Sutter Health
TechNet
Tri County Chamber Alliance
University of California

-- END --

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

Bill No:	AB 1904	**Hearing Date:**	June 24, 2026
Author:	Gipson		
Version:	March 9, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Teachers: credentialed educator apprenticeship programs

KEY ISSUE

This bill establishes the Credentialed Educator Apprenticeships Act, which requires the Commission on Teacher Credentialing (CTC) and the Division of Apprenticeship Standards (DAS) to disseminate, approve, and monitor credentialed educator apprenticeship programs in California.

ANALYSIS

Existing law:

1) Establishes the Division of Apprenticeship Standards (DAS) within the Department of Industrial Relations (DIR) to oversee apprenticeship programs and requires the Chief of the Division (Chief) to perform various functions to promote the welfare of apprentices. (Labor Code §3070 et seq.)

2) Creates, within DAS, the Interagency Advisory Committee on Apprenticeship (IACA), which provides advice and guidance to the Administrator of Apprenticeship and Chief on the development and administration of standards governing preapprenticeship, certification, and on-the-job training and retraining programs outside the building and construction trades and firefighters. (Labor Code §3071.5)

3) Requires DAS to evaluate apprenticeship programs to ensure compliance with specified standards, including that all on-the-job training is properly supervised, that classroom instruction is provided, and that funds were properly obtained and expended. (Labor Code §3073.1)

4) Authorizes a joint apprenticeship committee, unilateral management or labor apprenticeship committee, or an individual employer to administer an apprenticeship program. The Chief may approve programs in any trade in the state or in a city or trade area, whenever the apprentice training needs justify the establishment. Where a collective bargaining agreement exists, a program shall be jointly sponsored unless either party to the agreement waives its right to representation in writing. (Labor Code §3075(a))

5) Defines "apprentice" to mean a person at least 16 years of age who has entered into a written agreement, or apprentice agreement, with an employer or program sponsor. The Chief shall approve the term of apprenticeship for each apprenticeable occupation, as specified. (Labor Code §3077)

6) Provides that the term of apprenticeship may be measured either through the completion of the industry standard for hours of on-the-job learning and related and supplemental instruction, attainment of competency, or a hybrid blend of the time-based and competency-based approaches, as specified, but that programs in the building and construction trades and for firefighters shall use the time-based approach. (Labor Code §3078.5)

7) Requires the local joint apprenticeship committee or the parties to a collective bargaining agreement, or the administrator where there is no collective bargaining agreement or joint committee to approve apprentice agreements. Every apprentice agreement shall be signed by the employer, or his or her agent, or by a program sponsor, as specified, and by the apprentice. (Labor Code §3079)

8) Provides that neither existing law nor approved apprentice agreements can operate to invalidate any apprenticeship provision in any collective bargaining agreement between employers and employees setting up higher apprenticeship standards. (Labor Code §3086)

9) Provides that acceptance of an application for entrance into an apprenticeship program shall not be predicated on the payment of any fee, but that reasonable costs for expense incurred may be charged after an applicant has been accepted into the program. (Labor Code §3091)

10) Specifies that it is the public policy of this state to encourage the utilization of apprenticeship as a form of on-the-job training, when such training is cost-effective in developing skills needed to perform public services. State and local public agencies shall make a diligent effort to establish apprenticeship programs for apprenticeable occupations in their respective work forces. In furtherance of this policy, public agencies shall take into consideration (a) the extent to which a continuous supply of trained personnel is readily available to public agencies to meet their skill requirements in the various occupations which are determined to be apprenticeable, and (b) the application of established programs in the private sector, where appropriate. Public sector apprenticeship programs should be fully compatible with affirmative action goals for the participation of minorities and women in apprenticeship programs. (Labor Code §3075.1)

11) Establishes the Teacher Residency Grant Program to support teacher candidates through one-year residencies in high-need areas, including special education, bilingual education, and Science, Technology, Engineering, and Mathematics (STEM). (Education Code §44415)

This bill:

1) Establishes the Credentialed Educator Apprenticeships Act in the Education Code.

2) Defines the following:

   a) "Division" means DAS.

   b) "Educator of record" means an individual with a credential issued by the CTC demonstrating at least current enrollment in, and partial completion of, a professional preparation program and who is responsible for the delivery of instruction or services authorized by that credential to a class or caseload of pupils.

c) "Regionally accredited institution of higher education" means any institution of higher education accredited by any of the following accrediting bodies or their successor organizations:

i) The Higher Learning Commission.
ii) The Middle States Association of Colleges and Schools.
iii) The Middle States Commission on Higher Education.
iv) The New England Commission of Higher Education.
v) The Northwest Commission on Colleges and Universities.
vi) The Southern Association of Colleges and Schools Commission on Colleges.
vii) The Western Association of Schools and Colleges-Accrediting Commission for Community and Junior Colleges.
viii) The Western Association of Schools and Colleges-Accrediting Commission for Senior Colleges and Universities.

3) Requires CTC to partner with DAS in the dissemination, approval, and monitoring of credentialed educator apprenticeship programs in California, as specified.

a) Requires CTC to partner with DAS to communicate apprenticeship requirements to professional preparation programs, local educational agencies, and other potential sponsors of credentialed educator apprenticeship programs.

b) Requires CTC to confirm all the following when they receive a credentialed educator apprenticeship program application from DAS:

i) The applicant is, or is partnering with, a professional preparation program and, if applicable, an induction program, accredited by CTC to offer the program or programs with no major or probationary stipulations that it is proposing to offer for credentialed educator apprenticeships.
ii) The credentialed educator apprenticeship program includes at least 300 hours of paid on-the-job training that complies with the standards set by CTC before an educator apprentice may serve as an educator of record.
iii) The credentialed educator apprenticeship program requires an educator apprentice to earn their baccalaureate degree from a regionally accredited institution of higher education before serving as an educator of record.
iv) The credentialed educator apprenticeship program includes at least 200 hours of support, mentoring, and supervision per school year that complies with standards set by CTC.

c) Requires CTC to immediately notify DAS if an educator preparation program or an induction program associated with a commission-approved credentialed educator apprenticeship program fails to maintain accreditation from CTC.

d) Requires CTC to include data on CTC-approved credentialed educator apprenticeship programs on its internet website and in its relevant annual reports to the Legislature on teacher preparation and accreditation pursuant to this chapter.

e) Authorizes CTC to enter into a memorandum of understanding (MOU) with DAS to establish processes and procedures for information sharing, application review, and data collection and reporting.

f) Specifies that this section does not apply to existing or future apprenticeship programs in the education field that do not result in a credential issued by the commission, including, but not limited to, permits issued pursuant to Section 8301.

4) Authorizes CTC, notwithstanding any other law, to issue apprenticeship certificates or permits to educator candidates without a credential who are employed by local educational agencies and participating in CTC-approved credentialed educator apprenticeship programs, and who have successfully completed a criminal background check conducted, as specified, for credentialing purposes.

   a) Authorizes CTC to adopt regulations to implement this section.

5) Requires an applicant for a new credentialed educator apprenticeship program or for the expansion of an existing credentialed educator apprenticeship program into a new geographic or credential area to submit documentation showing all of the following to the Chief of DAS:

   a) The applicant is, or is partnering with, an educator professional preparation program and, if applicable, an induction program, accredited by CTC to offer the program or programs with no major or probationary stipulations that it is proposing to offer educator apprentices.

   b) The proposed credentialed educator apprenticeship program includes at least 300 hours of paid on-the-job training before the educator apprentices may serve as educators of record, in compliance with standards set by CTC and as specified.

   c) The proposed credentialed educator apprenticeship program requires educator apprentices to earn their baccalaureate degree from a regionally accredited institution of higher education before serving as educators of record.

   d) The proposed credentialed educator apprenticeship program provides mentorship to apprentices throughout their apprenticeship, as specified.

6) Requires DAS, before approving an application for a credentialed educator apprenticeship program, to present the apprenticeship program application to CTC for its review, as specified.

   a) If CTC confirms that the requirements of Section 44377 of the Education Code have been met, it shall provide written notice of that fact to the Chief.

   b) If CTC does not provide written notice, as specified, the Chief shall not approve the credentialed educator apprenticeship program.

7) Provides that a credentialed educator apprenticeship program will be administered by a joint apprenticeship committee, or unilateral management or labor apprenticeship committee, as specified. Where a collective bargaining agreement exists, a program shall be jointly sponsored. Joint apprenticeship committees shall be composed of an equal number of employer and employee representatives.

8) Specifies that an apprentice pursuant to this section may be employed as a classified employee while also separately employed as a classified employee in another position, but the apprentice shall not perform the duties of their other classified position during their apprenticeship hours.

   a) Defines the following:

      i) "Commission" means the Commission on Teacher Credentialing.

      ii) "Educator of record" means an individual with a credential issued by the commission demonstrating at least current enrollment in, and partial completion of, a professional preparation program and who is responsible for the delivery of instruction or services authorized by that credential to a class or caseload of pupils.

      iii) "Regionally accredited institution of higher education" means any institution of higher education accredited by any of the following accrediting bodies or their successor organizations:

         (1) The Higher Learning Commission.
         (2) The Middle States Association of Colleges and Schools.
         (3) The Middle States Commission on Higher Education.
         (4) The New England Commission of Higher Education.
         (5) The Northwest Commission on Colleges and Universities.
         (6) The Southern Association of Colleges and Schools Commission on Colleges.
         (7) The Western Association of Schools and Colleges-Accrediting Commission for Community and Junior Colleges.
         (8) The Western Association of Schools and Colleges-Accrediting Commission for Senior Colleges and Universities.

   b) Specifies the requirements are in addition to other requirements that may be imposed by statute or by regulation.

   c) Specifies this section does not apply to existing or future apprenticeship programs in the education field that do not result in a credential issued by the commission, as specified.

9) Authorizes DAS to initiate deregistration proceedings to withdraw state approval of a credentialed educator apprenticeship program if its associated educator preparation program or induction program fails to maintain accreditation from CTC.

10) Requires DAS to partner with CTC in the dissemination, approval, and monitoring of credentialed educator apprenticeship programs in California, as specified.

11) Authorizes DAS to enter into a memorandum of understanding with CTC to establish processes and procedures for information sharing, application review, and data collection and reporting.

12) Authorizes the Chief, in consultation with CTC, to issue rules and regulations that govern credentialed educator apprenticeship programs, including the approval and denial of

programs, registration of agreements, program administration and procedures, evaluations, working conditions, and minimum standards.

13) Specifies that all rules and regulations, as specified, must be consistent with Section 44377 of the Education Code and the rules and regulations adopted by CTC.

COMMENTS

1. Background:

Apprenticeships

DAS administers the state's apprenticeship laws and enforces apprenticeship standards for wages, hours, working conditions and the specific skills required for state certification as a journey person in an apprenticeable occupation. In general, apprenticeship programs provide instruction that combines a formal course of in-class instruction with practical "on-the-job" training.

Under DAS, the California Apprenticeship Council (CAC) establishes standards for minimum wages, maximum hours, and working conditions for apprenticeship agreements in the building and construction trades and for firefighter occupations. The Interagency Advisory Committee on Apprenticeship (IACA) establishes similar standards apprentice agreements in all industries *other* than the building and construction trades and firefighter occupations, such as in healthcare, technology, advanced manufacturing, education, etc.

Employers that participate in apprenticeship programs have the ability to develop the curriculum and tailor it to their needs. As a result, apprenticeships create a diverse, flexible pool of employees with coveted skills. Decreased workforce turnover and increased employee morale are also associated with apprenticeship programs.

In 2018, then gubernatorial candidate, Gavin Newsom pledged to serve 500,000 apprentices by 2029. In the years since, the number of apprentices has increased dramatically. Initiatives to expand apprentices include the Apprenticeship Innovation Funding to scale and expand apprenticeship programs in nontraditional industries, the California Opportunity Youth Apprenticeship grant program to increase opportunities for at-risk youth in the state, and the Equal Representation in Construction Apprenticeships grant program to help women and other underserved populations enter the building and construction trades. Currently, DAS supports over 99,173 active registered apprentices.[1]

Educator Apprenticeships

In February 2023, the Labor Workforce and Development Agency commenced a multi-stakeholder initiative that convened leaders in the education, labor and policy spaces to design, launch, and scale Registered Apprenticeship Programs (RAPs) to train educators across California. The working group was tasked with developing a roadmap for implementing RAPs that builds upon existing educator preparation pathways and investments.

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[1] DAS Registration Dashboard: https://public.tableau.com/app/profile/california.apprenticeship/viz/RegistrationDashboard_16301055851260/RegistrationDashboard

California has invested in several initiatives to recruit, prepare, and retain diverse teachers. The $500 million Golden State Teacher Grant Program provides grants of up to $20,000 to cover the cost of attendance for students enrolled in professional preparation programs including teaching, counseling, social work and psychology. Furthermore, the $550 million Teacher Residency Grant Program aims to launch new and expand existing teacher residency programs that integrate coursework and a yearlong placement in a classroom under the guidance of a mentor teacher.

While in office, the Biden Administration took several steps to expand apprenticeships for educators and invest in teacher preparation programs. In August 2022, the Administration's Departments of Labor and Education issued a Dear Colleague Letter calling on states to establish high quality paid registered apprenticeship programs for teaching, to increase collaboration across workforce and education systems, and to ensure teachers receive a livable and competitive wage. The two departments further collaborated to fund an Educator Registered Apprenticeship Intermediary to provide no-cost technical assistance and support to state education agencies, districts, education preparation programs, teacher unions, and other partners to develop educator apprenticeship programs. Additionally, the federal government awarded over $200 million to 46 states and territories to develop and scale educator apprenticeship programs. Unfortunately, the Trump Administration defunded the Educator Registered Apprenticeship Intermediary on May 2, 2025, ending the program in the middle of its second year.

[NOTE: See the Senate Education Committee analysis for detailed background on CTC and educator preparation programs.]

2. Need for this bill?

According to the author, "AB 1904 aims to address the ongoing teacher shortage by establishing the California Teacher Residency Apprenticeship Program, a pathway that helps schools recruit and train teachers from the communities they serve. This approach can be especially impactful in high-need schools serving low-income families, many of which are located in Assembly District 65.

One of the primary barriers preventing aspiring teachers from entering the profession is the high cost of obtaining a teaching credential. AB 1904 would help alleviate these financial barriers by allowing prospective teachers to earn while they learn through paid, on-the-job training and mentorship from experienced educator.

Additionally, the bill would align California's existing teacher residency programs with a federal and state apprenticeship framework, enabling participating programs to leverage both federal and state funding. This approach would expand resources available to train and support future educators while strengthening long-term teacher pipelines for California's schools."

3. Proponent Arguments:

According to the sponsors, Children Now:

"By creating a paid, work-based entry point into teaching with compensation, mentorship, and coursework aligned from day one, AB 1904 addresses the financial barriers that

California's current system places in the way of talented individuals who want to teach. This bill represents a critical step toward the stable, diverse educator workforce California's children deserve.

[AB 1904 would respond to workforce challenges] by creating conditions for a credentialed educator apprenticeship program built on high-quality and accountability. Specifically, it would:

- Empower LEAs, alongside labor and community partners, to leverage state and federal funding to recruit and retain teacher candidates – compensating them for on-the-job preparations and providing mentorship throughout the program.
- Enable LEAs, institutions of higher education, and their consortiums to target key shortage and growth areas, including special education, early childhood education, bilingual education, and school counseling.
- Require [CTC and DAS] to partner in the approval and monitoring of apprenticeship program, with strong accountability, reporting requirements, and supportive working conditions for every apprentice.

This approach offers California a compensation and recruitment strategy that can build a stronger, more diverse pipeline into the profession – supporting candidates to enter, persist, and thrive in this worthy and important profession."

4. Opponent Arguments:

None received.

5. Prior Legislation:

AB 291 (Gipson, 2025) would have required CTC and DAS to jointly disseminate, approve, and monitor credentialed educator apprenticeship programs in California, as specified. *This bill was held in the Senate Appropriations Committee.*

AB 694 (Gipson, 2024) would have authorized the establishment of a Teacher Residency Apprenticeship Program to address shortages in the educator workforce, expand the pipeline into the teaching profession, and grow a diverse, local pathway into teaching. *This bill was held in the Senate Appropriations Committee.*

SUPPORT

Children Now (Sponsor)
Alliance for Children's Rights
Association of California School Administrators
California Association for Bilingual Education (CABE)
California Charter Schools Association
California Teachers Association
Californians Together
CFT – a Union of Educators & Classified Professionals
Edtrust-west
Edvoice

Greater Sacramento Urban League
Hispanas Organized for Political Equality
Legislative Action Committee - San Mateo County School Boards Association
Los Angeles County Office of Education
Partnership for Children & Youth
Public Advocates
San Mateo County Office of Education (UNREG)
San Mateo County School Boards Association
Santa Clara County Office of Education
Small School Districts Association
United Administrators of Southern California (UASC)
Western Governors University

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 2129	**Hearing Date:**	June 24, 2026
Author:	Flora		
Version:	February 18, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: State employees: compensation: firefighters

KEY ISSUE

This bill 1) requires the state to bargain in good faith with Department of Forestry and Fire Protection (CALFIRE) Bargaining Unit 8 (BU-8) firefighters to reach a competitive range within 15 percent of the average salary for corresponding ranks in specified local fire departments; and 2) requires CalHR, on or before March 31, 2027, to conduct a survey on the salaries and benefits of specified fire chiefs, among others.

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 CalHR to post, in a clear and conspicuous manner on its internet website, each MOU that has been submitted to the Legislature for determination, as provided, and that has

been ratified by the affected union membership, among other provisions. (Government Code §19829.6)

6) 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)

7) 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) Requires the state to bargain in good faith with rank-and-file BU-8 firefighters to reach a competitive range within 15 percent of the average of the salary for corresponding ranks in the following 20 California fire departments, as agreed to by BU-8 and CalHR in 2024:

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

2) Requires the state and BU-8's exclusive bargaining representative to jointly survey and calculate the estimated average salaries of the departments in 1) based on the projected average total salary for those departments as of July 1 of the year in which the survey is conducted.

3) Requires CalHR, on or before March 31, 2027, for purposes of the bargaining unit contract renewal to be conducted July 1, 2027, to conduct and report to CALFIRE a cursory survey on all of the following:

    a) The salaries and benefits for the prior year of each of the fire chiefs for the following five California fire departments:
        i. The City of Fresno
        ii. The County of Los Angeles
        iii. The County of San Bernadino
        iv. The City of San Diego
        v. The City and County of San Francisco

    b) The salaries and benefits for the prior year of other city and county fire departments similar to those described in a).
    c) The salaries and benefits for the prior year of other heads of state departments.

4) Provides 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 listed in 1), as well as other factors, including internal comparisons.

5) 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).

6) 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.

7) Makes various findings and declarations.

COMMENTS

1. Background:

Bargaining Unit 8 (BU-8)

BU-8 represents state-employed firefighters, almost all of whom work for CALFIRE. As of March 2025, the rank-and-file, managerial, and supervisorial employees associated with BU-8 include 9,220 full-time equivalent employees.[1] The estimated salary and salary-driven costs for these employees in 2024-25 totaled $1.1 billion with about two-thirds of these costs being paid from the General Fund.[2] BU-8's current MOU went into effect on July 1, 2024, and expires on June 30, 2027. Initially, the MOU was set to expire June 30, 2026, but a side letter between CalHR and BU-8 extended the agreement by one year.

As wildfire seasons become longer and increasingly destructive, the State has taken steps to shift some seasonal firefighter positions to permanent ones and to increase firefighter retention. The MOU discussed above (pre side letter) includes several provisions intended to increase retention. Specifically, it began implementing a shift from a 72-hour workweek to a 66-hour workweek, modified staffing schedules, increased general base pay by about 2.5 percent, and specified special salary adjustments. For the most part, the side letter maintains provisions of the ratified MOU. However, the letter also includes a general salary increase of 2.5 percent, a commitment that the 2027 successor MOU negotiations will include the 56-hour industry standard work week, and a guarantee that CALFIRE Local 2881 will meet with CalHR to present a deferred retirement option program (DROP program) on or before February 1, 2026.[3]

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

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[1] Schroeder, Nick. "MOU Fiscal Analysis: Bargaining Unit 8 (Firefighters)." LAO. August 19, 2025.
[2] Ibid.
[3] Ibid.

classification.[4] Additionally, the survey found that state firefighters work more days of the year than local department firefighters.

Bargaining Unit 5 (BU-5) Highway Patrol (CHP)
AB 2129'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. The five jurisdictions used in the formula were the five largest police jurisdictions in 1974. At the time, they were possibly a representative sample of the cost of living where CHP officers worked, however these five jurisdictions today represent the most expensive regions of the state and are not where many CHP officers work.[5] Sworn members of the CHP are the *only* state employees who automatically receive adjustments to their salary ranges each year. Due to this compensation formula, BU-5's base pay has continued to grow faster than inflation.[6]

The Legislative Analyst's Office has long argued that, although BU-5's formula has precedent, it should be improved or repealed. The formula makes it difficult to forecast future salary increases, which can vary significantly from year to year. Furthermore, the formula limits legislative oversight of state employee compensation and hinders the Legislature's ability to respond to fiscal crises. If the formula's survey methodology was updated to use a more representative sample of employers, it could better reflect the cost of living for the average CHP officer.

2. Committee Comments:

AB 2129 would require the state to *bargain in good faith* with BU-8 firefighters to reach a competitive range within 15 percent of the average salary for corresponding ranks in specified local fire districts. Additionally, the bill would require CalHR to, on or before March 31, 2027, conduct a survey on the salaries and benefits of specified fire chiefs, of other city and county fire departments, and of other heads of state departments.

The author's previous versions of this bill (AB 1254, 2023 and AB 1309, 2025) would have instead required the state *to pay* BU-8 firefighters within 15 percent of the average salary for corresponding ranks in specified local fire districts. AB 1254 was ordered to the inactive file on the Senate Floor and AB 1309 was ultimately vetoed by the Governor.[7] The concerns raised in the Governor's veto message, as well as the LAO's concerns with automatic salary increases, discussed above, remain relevant. Given the LAO's concerns with BU-5's compensation formula, should the Legislature extend a similar formula to BU-8?

3. Need for this bill?

According to the author:

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[4] "2023 California Firefighter Total Compensation Survey," CalHR, May 2024, 2023-California-Firefighter-Total-Compensation-Survey.pdf
[5] Schroeder, Nick. "MOU Analysis: Bargaining Unit 5 (Highway Patrol)." LAO. August 23, 2024.
[6] Ibid.
[7] See prior legislation for the veto message.

"CAL FIRE rank-and-file firefighters are overworked and significantly underpaid compared to their counterparts in local fire departments. CAL FIRE firefighters work 72-hour workweeks, compared to a typical 54-hour workweek for local fire departments. For many years, wages for CAL FIRE's all risk firefighters have lagged behind municipal and county departments, devaluing the critical work they perform and making it increasingly difficult to recruit and retain firefighters where they are most urgently needed. Short staffing exacerbates the inherent dangers of firefighting by increasing exhaustion and stress, while also contributing to long-term health impacts from prolonged exposure to toxic smoke, limited respiratory protection, chronic sleep deprivation, and extended periods away from family. As climate change drives longer and more destructive fire seasons, ensuring competitive compensation is essential to maintaining a skilled, healthy, and stable firefighting workforce capable of protecting public safety statewide."

4. Proponent Arguments:

The sponsor of the measure, CAL FIRE Local 2881, argues:

"On behalf of the 10,000 CAL FIRE firefighters who confront California's disasters on the front line, CAL FIRE Local 2881 are proud to sponsor Assembly Bill 2129 which requires the state to bargain in good faith to achieve firefighter salaries within 15% of the average pay for comparable ranks across 20 California local fire departments.

AB 2129 is similar to AB 1309 which was vetoed by Governor Newsom last year. The Governor cited his concerns with circumventing the established collective bargaining process as well as other budget concerns. AB 2129 places a clearer emphasis on "good faith bargaining" language, reinforcing that implementation still occurs through MOUs, and establishes the bill as a benchmarking tool rather than a mandate.

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.

AB 2129 creates a structured framework to ensure CAL FIRE firefighter pay is more competitive in California's labor market amid the department's recruitment/retention crisis."

5. Opponent Arguments:

None received.

6. Prior Legislation:

AB 1381 (McKinnor, 2026) would require, among other things, public employers to raise their firefighter and peace officer safety pension formulas effective January 1, 2027, to give at age 55 what their specific PEPRA formula gives at age 57 unless the parties bargain for a higher or lower formula, as specified. *This bill is pending in the Senate Labor, Public Employment and Retirement Committee.*

AB 1309 (Flora, 2025) would have 1) required the state to pay CALFIRE BU-8 firefighters within 15 percent of the average salary for corresponding ranks in specified local fire departments; and 2) required 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. AB 2129 is nearly identical to AB 1309. *This bill was vetoed by Governor Newsom, who stated*:

> *"This bill would require the Department of Forestry and Fire Protection to pay firefighters within 15 percent of the average salary for corresponding ranks in certain local fire departments. This measure would also require an annual survey of the salaries and benefits for fire chiefs in five specified fire departments.*
>
> *While I appreciate the author's intent, this bill would create significant cost pressures for the state and circumvent the collective bargaining process. State employee salaries, along with other components of compensation such as health and pension benefits, should be determined through collective bargaining. Establishing a statutory salary floor for employees of a single department undermines this process, to the detriment of both the state and other bargaining units."*

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 2872 (Calderon, 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. This bill was vetoed by Governor Newsom.

AB 1254 (Flora, 2023) was nearly identical to AB 1309 and AB 2129 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 2227	**Hearing Date:**	June 24, 2026
Author:	Connolly		
Version:	June 15, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Farm labor contractors: surety bonds.

KEY ISSUE

This bill requires a farm labor contractor (FLC) to deposit a surety bond based on the size of the person's annual *gross receipts*, instead of the annual *payroll*, for all employees in order to obtain a license from the Labor Commissioner and increases the bond amount, as specified. This bill also requires the Labor Commissioner to include the bond information on the public FLC license database, as specified, and disclose information about the availability of the bond and the process to access the bond to any worker that has filed a claim against an FLC.

ANALYSIS

Existing federal law:

1) Establishes, under the federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA), employment standards for migrant and seasonal farmworkers related to wages, housing, transportation, disclosures and recordkeeping. The MSPA also requires farm labor contractors to register with the U.S. Department of Labor. (29 U.S.C. Sections 1801, et seq.; 29 C.F.R. Part 500.)

Existing state law:

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

2) Requires the Labor Commissioner to issue a license to any person acting as a *farm labor contractor (FLC)*, as specified, and establishes civil penalties for any person who violates these provisions. (Labor Code §1683)

    a) Prohibits the Labor Commissioner from issuing a license to a person to act as an FLC, or renewing that license, until specified conditions are met, including a written application, a surety bond, and a license fee, as specified. (Labor Code §1683-1699)

    b) Specifies that the FLC must deposit a surety bond with the Labor Commissioner in an amount based on the size of the person's annual payroll for all employees, as follows: (Labor Code §1684)

i) For payrolls up to five hundred thousand dollars ($500,000), a twenty-five-thousand-dollar ($25,000) bond.
ii) For payrolls of five hundred thousand dollars ($500,000) to two million dollars ($2,000,000), a fifty-thousand-dollar ($50,000) bond.
iii) For payrolls greater than two million dollars ($2,000,000), a seventy-five-thousand-dollar ($75,000) bond.

(1) Provides that for purposes of this paragraph, the Labor Commissioner must require documentation of the size of the person's annual payroll, which may include, but is not limited to, information provided by the person to the Employment Development Department, the Franchise Tax Board, the Division of Workers' Compensation, the insurer providing the licensee's workers' compensation insurance, or the Internal Revenue Service.
(2) Specifies that if the contractor has been the subject of a final judgment in a year in an amount equal to or greater than the amount of the bond required, they are required to deposit an additional bond within 60 days.
(3) Specifies that all bonds, as required, must be payable to the people of the State of California and are conditioned upon the farm labor contractor's compliance, as specified. The bond is also payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker as a result of a violation, as specified.

2) Defines a "farm labor contractor" as any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs or measures their work; or disburses wage payments to these persons. (Labor Code §1682)

a) Specifies that "farm labor contractor" includes any "day hauler." "Day hauler" means any person who is employed by a farm labor contractor to transport, or who for a fee transports, by motor vehicle, workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person.
b) Specifies that "farm labor contractor" does not include a commercial packing house engaged in both the harvesting and the packing of citrus fruit or soft fruit for a client or customer.

3) Requires, on and after July 1, 2016, a person acting as a *foreign labor contractor* to register with the Labor Commissioner, as specified. (Business and Professions Code §9998.1.5)

a) Prohibits the Labor Commissioner from registering a person to act as a foreign labor contractor, or renewing a registration, until specified conditions are met, including a written application, a surety bond, and a registration fee. (Business and Professions Code §9998.1.5)

b) Specifies that a foreign labor contractor must deposit with the Labor Commissioner a surety bond in an amount based on the size of the person's annual gross receipts from operations as a foreign labor contractor, as follows:

i) For gross receipts up to five hundred thousand dollars ($500,000), a fifty-thousand-dollar ($50,000) bond.
ii) For gross receipts of five hundred thousand dollars ($500,000) to two million dollars ($2,000,000), a one-hundred-thousand-dollar ($100,000) bond.
iii) For gross receipts greater than two million dollars ($2,000,000), a one-hundred-fifty-thousand-dollar ($150,000) bond.

(1) Specifies that if the foreign labor contractor has been the subject of a final judgment in a year in an amount equal to that of the bond required, that contractor is required to deposit an additional bond within 60 days. The bond must be payable to the people of the State of California and must be conditioned on the foreign labor contractor compliance, as specified. The bond must also be payable for interest on wages and for any damages arising from violation of applicable orders of the Industrial Welfare Commission, and for any other monetary relief awarded to a foreign worker as a result of a violation of law by the foreign labor contractor.

This bill:

1) Makes the following changes to the surety bond requirement for a person to obtain from the Labor Commissioner a license to act as an FLC:

a) The bond is in an amount based on the size of the person's *annual gross receipts*, instead of the *annual payroll*, for all employees, as follows:
i) For gross receipts up to five hundred thousand dollars ($500,000), a fifty-thousand-dollar ($50,000) bond.
ii) For gross receipts of five hundred thousand dollars ($500,000) to two million dollars ($2,000,000), a one-hundred-thousand-dollar ($100,000) bond.
iii) For gross receipts greater than two million dollars ($2,000,000), a one-hundred-fifty-thousand-dollar ($150,000) bond.

2) Requires the Labor Commissioner to include bond information on the public FLC license database, including the bond number, effective and expiration dates, bond size, and contact information for the surety company for all active bonds for the previous five years.

3) Requires the Labor Commissioner to disclose information about the availability of the surety bond and the process to access the surety bond to any worker that has filed a claim against an FLC.

COMMENTS

1. Background:

Farmworkers and Wage Theft

California produces over 400 commodities including nearly half of the nation's vegetables and over three-quarters of the nation's fruits and nuts.[1] California is home to an estimated 400,000 farm workers that are the backbone to this country's agricultural system. Although California (and the rest of the nation) relies on the important work of farm workers, they tend to earn some of the lowest wages in the labor market and they also experience wage theft and other workplace abuses all too often.

A report by the Economic Policy Institute in 2020 found that employers violate federal wage and hour laws designed to protect farm workers and investigations have found millions in wage theft every year.[2] In fact, the U.S. Department of Labor's Wage and Hour Division conducted more than 31,000 investigations of U.S. employers in agriculture between 2000 and 2019, an average of 1,500 per year. As a result of these investigations, employers were ordered to pay $76 million in back wages to 154,000 farm workers and to pay $63 million in civil money penalties for violations. The report also found that over the past 15 years, agriculture accounted for 7% of all federal wage and hour investigations and 3% of the violations found.

According to the report, "farm labor contractors—nonfarm employers acting as staffing firms for farm employers—were the most egregious violators between 2005 to 2019. These employers represent 14% of agricultural employment nationwide but accounted for 24% of all agricultural violations from 2005 to 2019. Farm labor contractors also represented a higher share of agricultural violations than their share of employment in the two major farm labor states, California and Florida—where they accounted for approximately half of all violations over the 2005–2019 period. Farmworkers who are employed by farm labor contractors are more likely to suffer wage and hour violations than those who are hired directly by farms."

Farm labor contractors

A farm labor contractor (FLC) is a person who, for a fee, employs people to perform work connected to the production of farm products under the direction of a third person. An FLC is also any person who recruits, supplies, or hires workers on behalf of someone engaged in the production of farm products and, for a fee, provides board, lodging, or transportation for those workers, or supervises, times, checks, counts, weighs, or otherwise directs or measures their work, or disburses wage payments to these persons. According to the California Farm Labor Contractor Association, FLCs account for over 40% of California's agricultural labor force, representing the employment of over 360,000 California farm workers.

In California, FLCs must meet the following conditions in order to obtain or renew a license from the Labor Commissioner's Office:

- submit a written application,
- deposit a surety bond based on the size of the person's annual payroll for all employees,
- pay a $600 license fee,

[1] California Agricultural Production Statistics, https://www.cdfa.ca.gov/statistics/

[2] Costa, Daniel, Phillip Martin, and Zachariah Rutledge. "Federal labor standards enforcement in agriculture." Economic Policy Institute, Dec. 15, 2020. https://www.epi.org/publication/federal-labor-standards-enforcement-in-agriculture-data-reveal-the-biggest-violators-and-raise-new-questions-about-how-to-improve-and-target-efforts-to-protect-farmworkers/

- take a written exam demonstrating an essential degree of knowledge of the current laws and regulations around FLCs for the safety and protection of farmers, farmworkers, and the public, including the identification and prevention of sexual harassment in the workplace,
- register as an FLC and their employees must register as an FLC employee, pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act[3] when registration is required by federal law,
- provide a written statement, attesting that the person's supervisorial employees has been trained on the prevention of sexual harassment in the workplace, and that all new nonsupervisorial employees, including agricultural employees, have been trained at the time of hire, and that all nonsupervisorial employees, including agricultural employees, have been trained at least once every two years in identifying, preventing, and reporting sexual harassment in the workplace.

FLC surety bonds

A surety bond is a written agreement, often required by law, to guarantee performance or payment of another company's obligation under a separate contract or compliance with a law or regulation.[4]

As mentioned above, an FLC must currently deposit with the Labor Commissioner a surety bond in an amount based on the size of the person's annual payroll for all employees, as follows:

- For payrolls up to $500,000, a $25,000 bond.
- For payrolls of $500,000 to $2,000,000, a $50,000 bond.
- For payrolls greater than $2,000,000, a $75,000 bond.

The condition of the bond states that the FLC will comply with all terms and provisions of the Labor Code governing FLCs and will pay for all damages and any other monetary relief awarded because of a violation of this code. The bond is also payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker because of a violation of the Labor Code.

This bill, AB 2227, would instead require farm labor contractors to deposit a surety bond in the amount based on the size of the person's annual ***gross receipts*** for all employees, instead of the size of the person's annual ***payroll*** for employees. This bill specifies that the person's gross receipts or annual payroll may include, but is not limited to, information provided by the person to the Employment Development Department, the Franchise Tax Board, the Division of Workers' Compensation, the insurer providing the licensee's workers' compensation insurance, or the Internal Revenue Service.

This bill would also increase the bond amount that a farm labor contractor must deposit with the Labor Commissioner's office, as follows:

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[3] 29 U.S.C. Sec. 1801 et seq

[4] "What is a Surety Bond? The Surety & Fidelity Association of America, https://surety.org/surety-fidelity/what-is-surety/

Existing law:	Proposed AB 2227:
For **payrolls** up to $500,000 = a $25,000 bond.	For **gross receipts** up to $500,000 = a **$50,000** bond.
For **payrolls** of $500,000 to $2,000,000 = a $50,000 bond.	For **gross receipts** of $500,000 to $2,000,000 = a **$100,000** bond.
For **payrolls** greater than $2,000,000 = a $75,000 bond.	For **gross receipts** greater than $2,000,000 = a $**150,000** bond.

2. Need for this bill?

According to the author's office, "Workers often report high levels of abuse and labor violations, especially wage theft, however the scope of the problem is undercounted amongst particularly vulnerable workers who fear speaking up. According to an investigation by the US Department of Labor, California accounted for 14% of the agricultural employment law violations. From 2005 to 2019, Farm Labor Contractors (FLCs) accounted for 48% of the total violations in California. Because of the prevalence of labor violations, the state requires FLCs to purchase a surety bond in order to be licensed by the California Labor Commissioner. This bond functions as an added protection from exploitation and harmful working conditions, allowing workers to access bond funds to compensate for stolen wages or fines.

The current bond, which is dependent on an employer's size, is between $25,000-75,000, and like an insurance policy, FLCs pay a small fraction of that amount in premiums each year, between 1-10% of the bond total, or $250 for the typical bond.

Unfortunately, these bonds don't reach workers whose wages have been stolen and desperately need compensation."

3. Proponent Arguments:

According to the co-sponsors of this bill, the California Rural Legal Assistance Foundation and the California Farmworker Coalition:

"California's farmworkers pick nearly half of the country's vegetables and three quarters of its fruit and nut supply. Despite this essential role in our food system, they endure poverty wages and wage theft, dangerous working conditions, and limited access to basic safety-net protections. While underreporting of labor violations amongst farmworkers is common, empirical research indicates that nearly one in five California farmworkers experience wage theft at some frequency.

Farm labor contractors (FLC), who recruit, hire, and employ farmworkers on behalf of growers and farm owners, are the fastest-growing segment of farm employment in California.

FLCs are responsible for paying wages and ensuring workers' labor rights—yet they are also the worst violators of those rights, accounting for one-half of all federal wage and hour violations detected in California agriculture. By inserting a middleman between growers and workers, the FLC model distances growers from employer responsibility while leaving workers deeply vulnerable to abuse. Because of the prevalence of labor violations, the state requires FLCs to purchase a surety bond as a condition of licensure. This bond is meant to function as a financial backstop—allowing workers to access funds to compensate for stolen wages or fines.

However, the current system fails workers in multiple critical ways:

- Workers cannot access the bond in a timely manner–or at all. Bond companies typically require a court judgment or Labor Commissioner decision before releasing funds. These processes can take two or more years–or may never come to completion–when employers refuse to cooperate, fail to appear at hearings, or drag out proceedings until responsible parties disappear.
- Workers don't know the bond exists. Even when workers successfully navigate these long processes, they are rarely informed of the bond's existence, and detailed information about which surety company holds an FLC's bond requires a Public Records Act Request and further waiting.
- Bond amounts are far too small. The current bond ranges from $25,000–$75,000—wholly inadequate when multiple workers' wages are stolen by the same employer.

AB 1362 (Kalra) from 2025 created a bond for contractors recruiting H-2A agricultural guest workers abroad that is twice as high as the bond required for FLCs hiring California workers. Beginning in July 2027, foreign labor recruiters who are also FLCs will maintain two separate bonds—one small bond for domestically-hired workers, and one larger bond covering only H-2A workers. This disparity leaves California farmworkers with significantly less protection than guest workers recruited from abroad.

AB 2227 will take meaningful steps to reform the surety bond system for farm labor contractors to ensure stronger recovery rights for farmworkers."

4. Opponent Arguments:

A coalition of agricultural employer associations, including the California Farm Labor Contractor Association, write in an oppose unless amended position:

"It is also entirely unclear how an FLC would demonstrate the amount of gross receipts. Currently FLCs must provide copies of the Quarterly Contribution Return and Report of Wages (DE 9) from the Employment Development Department as legal documentation to verify the payroll amount which then determines the bond level.

However, there is not one simple method to verify gross receipts. Currently when the state requests information on gross receipts they rely solely upon the employer's self-reporting. Absent procedures to verify gross receipts, would they attempt to request income statements, tax returns, bank statements, or some other means or a combination of all the above? How would the scope be appropriately restricted to FLC activities in cases where individuals also engage in unrelated business ventures?

FLC bonds are tied to the wages those bonds are designed to protect, and we suggest this remain in place. The bill's proposed change from payroll to gross receipts is a departure from the original intent without foundation and lacks a method to provide documentation. We ask that it be stricken and established legal verification procedures be maintained.

Additionally, the bill proposes to require that the Labor Commissioner put every FLC's bond information on the public FLC license database. While this may not seem inherently problematic, it raises questions as to the purpose of the California Department of Industrial Relations incurring additional costs, time, and resources to update the system.

If the intent is for employees to file claims directly with the bond company instead of first going through the process of filing a claim with the Labor Commissioner, this is extremely problematic. If employees first go directly to the bond company, this will result in a lot of confusion for employees as the bond company would need to redirect that employee back to the Labor Commissioner to investigate and engage in enforcement as required under existing law.

If the intent is for the bond company to serve as the trier of fact, this is even worse. Bond companies are not equipped for this and are the wrong entity to determine whether there is a valid wage claim; this is and should be the purview of the Labor Commissioner.

We agree the Labor Commissioner should share information regarding the FLC bond with relevant parties if an employer fails to make whole an employee after the claim has been adjudicated and all due process regarding notification, appeals, etc. has been respected. Furthermore we would encourage the Labor Commissioner to use efficient and direct methods to communicate the information (avoiding an expensive system overhaul of the FLC licensing database)."

5. Double Referral:

This bill has been double referred, and should it pass this Committee, will be sent to Senate Judiciary Committee for a hearing.

6. Prior Legislation:

AB 1362 (Kalra, Chapter 190, Statutes of 2025) beginning on July 1, 2027, extends the foreign labor contractor registration requirements and oversight under the Labor Commissioner to all agricultural workers under the H-2A visa program, as specified, and requires Department of Industrial Relations (DIR) to conduct a study on how to expand the existing law to other temporary work visas.

AB 364 (Rodriguez, 2022, Vetoed) was identical to this AB 1362, but did not include findings and declarations. *This bill was vetoed by Governor Newsom*.

AB 1913 (Kalra, 2018) was identical to AB 364. *This bill failed passage on the Assembly floor.*

SB 477 (Steinberg, Chapter 711, Statutes of 2014) established a registration and oversight process for foreign labor contractors with the Labor Commissioner, including enumerated protections for temporary foreign workers who are recruited to work in California.

SB 516 (Steinberg, 2013, Vetoed) was nearly identical to SB 477, but it specified a contractor registration fee of $500. *This bill was vetoed by Governor Brown*.

SUPPORT

California Farmworker Coalition (Co-sponsor)
California Rural Legal Assistance Foundation (Co-sponsor)
Acevedo Media LLC
Asian Pacific Islander Forward Movement
California Domestic Workers Coalition
California Environmental Justice Alliance (CEJA) Action
California Federation of Labor Unions
California Food and Farming Network
Center for Farmworker Families
Central California Environmental Justic Network (CCEJN)
Central Coast Alliance United for a Sustainable Economy
Central Valley Immigrant Integration Collaborative
Centro Binacional Para El Desarrollo Indigena Oaxaqueño (CBDIO)
Centro Legal De LA Raza
Community Alliance With Family Farmers
Community Legal Services in East Palo Alto
Equal Rights Advocates
Farm2people
Health in Partnership
Leadership Counsel for Justice and Accountability
Legal Aid At Work
Lideres Campesinas
Los Angeles Food Policy Council
Mixteco/Indigena Community Organizing Project (MICOP)
Pesticide Action & Agroecology Network
San Diego Food System Alliance
Santa Clara County Wage Theft Coalition
Second Harvest of Silicon Valley
Todec Legal Center
Valley Improvement Project
Worksafe

OPPOSITION

California Association of Winegrape Growers
California Avocado Commission
California Citrus Mutual
California Farm Bureau
California Farm Bureau Federation
California Farm Labor Contractor Association
California Strawberry Commission
California Tomato Growers Association
California Walnut Commission

Grower-shipper Association of Central California
Nisei Farmers League
Nisei Farmers League INC.
UnitedAg
Ventura County Agricultural Association
Western Growers Association

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

Bill No:	AB 2495	**Hearing Date:**	June 24, 2026
Author:	Kalra		
Version:	June 16, 2026		
Urgency:	No	**Fiscal:**	No
Consultant:	Alma Perez-Schwab		

SUBJECT: Unlawful immigration-related practices

KEY ISSUES

This bill expands the prohibition on an employer retaliating against an employee by engaging in, or directing another to engage in, an unfair immigration-related practice by 1) additionally prohibiting an employer from preventing a person from exercising any right protected under existing laws; 2) prohibiting an employer from dissuading an employee from engaging in conduct that the employee has a legal right to engage in or abstain from, as specified; and 3) makes an employer or other person who violates these provisions liable for a civil penalty of up to $10,000 per employee or person for each violation.

ANALYSIS

Existing federal law:

1) Requires an employer to verify, through examination of specified documents, whether or not an individual is authorized to work in the United States and attest thereto under penalty of perjury by completing *Form I-9 Employment Eligibility Verification*; specifies that if the document is presented and reasonably appears on its face to be genuine, then the employer has complied with this requirement and is not required to solicit or demand any other document. The worker must also attest, under penalty of perjury, that they are legally authorized to work in the United States. (8 U.S.C. §1324a(b))

2) Makes it an unfair immigration-related employment practice for any person or entity to do any of the following: 1) Discriminate against any individual, except as provided, with respect to the hiring, recruitment, or referral of the individual for employment or the discharging of the individual from employment because of the individual's origin or citizenship; or 2) Request, with the intent of discriminating against an individual, more or different documents than are required under law or refuse to honor documents tendered which, on their face, reasonably appear to be genuine. (8 U.S.C. §1324b(a)(1)-(6))

Existing state law:

1) Establishes within the Department of Industrial Relations (DIR) and under the direction of the Labor Commissioner (LC), the Division of Labor Standards Enforcement (DLSE) tasked with administering and enforcing labor code provisions concerning wages, hours and working conditions. (Labor Code §79 et seq.)

2) Prohibits an employer or any other person or entity from engaging in, or directing another person or entity to engage in, an *unfair immigration-related practice*, as defined, against any person for the purpose of retaliating against that person for exercising his or her rights under state or local labor law. (Labor Code §1019)

3) Defines "unfair immigration-related practice," for purposes of state law, to mean any of the following practices when undertaken for retaliatory purposes, and not at the direction or request of the federal government:
   a. Requesting more or different documents than are required by federal law or refusing to honor required documents that on their face appear to be genuine.
   b. Using the federal E-Verify system to check the employment authorization status of a person at a time or in a manner not required or authorized by federal law.
   c. Threatening to file or filing of a false police report, or threatening to file or filing a false report or complaint with any state or federal agency.
   d. Threatening to contact or contacting immigration authorities.
   (Labor Code §1019)

4) Authorizes an employee or any other person who is subject to an unfair immigration-related practice, where the unfair practice is retaliatory in nature, to bring a civil action for equitable relief and any applicable damages or penalties, and specifies that an employee or other person who prevails shall recover his or her reasonable attorney's fees. (Labor Code §1019)

5) Prohibits an employer, in the course of satisfying federal immigration law, from requesting more or different documents than are required under federal immigration law; refusing to honor valid documents, as specified; or attempting to reinvestigate or reverify an incumbent employee's authorization to work using an unfair immigration-related practice. Provides for a penalty imposed by the LC and liability for equitable relief. (Labor Code §1019.1 & §1019.2)

6) Provides that all protections, rights, and remedies available under state law, except any reinstatement remedy prohibited by federal law, are available to all individuals regardless of immigration status who have applied for employment, or who are or who have been employed, in this state. For purposes of enforcing state labor and employment laws, existing law provides that a person's immigration status is irrelevant to the issue of liability, and in proceedings or discovery undertaken to enforce those state laws, no inquiry shall be permitted into a person's immigration status except where the person seeking to make this inquiry has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law. (Labor Code §1171.5; Civil Code §3339; Government Code §7285; Health & Safety Code §24000)

This bill:

1) Finds and declares, among other things, the following:

   a. Immigrant workers are uniquely vulnerable to exploitation and intimidation in the workplace. Employers exploit distinct vulnerabilities, including fear of immigration enforcement, to deter immigrant workers from reporting workplace violations.
   b. Unscrupulous employers utilize unfair immigration-related practices to preemptively silence immigrant workers and compel them to accept substandard working conditions, thereby undercutting law-abiding employers and eroding workplace standards.

c. Therefore, it is the intent of the Legislature to:
   i. 1) ensure that immigrant workers can safely report violations and participate in the enforcement of their workplace protections by providing that employer behavior that has the effect of deterring the assertion of protected workplace rights is unlawful under the existing legal framework when done to deter workers from exercising protected rights; and
   ii. 2) reinforce California's longstanding public policy that workers must be able to assert workplace rights free from employer intimidation, threats, or retaliation, including the fear of reporting to immigration authorities or other unfair immigration-related employment practices as defined herein.

2) Expands the prohibition on an employer or any other person engaging in, or directing another person to engage in, an *unfair immigration-related practice* against a person for the purpose of, or with the intent of, retaliating against any person for exercising a right protected under state and local laws, as specified, to additionally prohibit doing so:

   a. For the purpose of, or intent of, preventing a person from *attempting to exercise* any right protected under any local, state, or federal statute or regulation applicable to employees.

3) Makes it unlawful for an employer or any other person to engage in any other conduct, related to any person's perceived immigration status, that would reasonably tend to dissuade an employee from engaging in conduct that the employee has a legal right to engage in, or a legal right to abstain from, under any local, state, or federal statute or regulation applicable to employees.

4) Provides that, consistent with existing Labor Code Section 1171.5, actual immigration status is irrelevant to the determination of liability under these provisions.

5) Provides that, in addition to other remedies available, an employer or other person who violates the unfair immigration-related practices provisions is liable for a civil penalty not exceeding $10,000 per employee or person for each violation, to be awarded to the employee or person who suffered the violation.

COMMENTS

1. Background:

California's Immigrant Workforce and Unfair Immigration-Related Practices:
According to the Public Policy Institute of California, California is home to 10.9 million immigrants, more than any other state.[1] In 2024, the most current year of data, 28% of California's population was foreign-born. Immigrants have played a pivotal role in shaping California's economy and although flows of immigrants to California have slowed in recent decades, immigrants remain a key source of economic growth.

Existing labor laws protect all workers regardless of immigration status. Further, California's labor laws provide anti-retaliation protection for employees who make claims against their

[1] Cuellar Mejia, Marisol and Johnson, Hans. "Immigrants in California Fact Sheet," January 2026, Public Policy Institute of California. https://www.ppic.org/wp-content/uploads/jtf-immigrants-in-california.pdf

employers for violations of labor laws. Specific to a workers immigration status, existing law makes it illegal for an employer to take adverse actions against a worker by making immigration-related threats in retaliation for a worker exercising their rights or by engaging in unfair immigration related practices. Unfair immigration-related practices can include:

- Refusing to honor identity and employment documents that appear genuine.
- Misuse E-Verify in a way not required by law.
- Threatening to call/calling immigration authorities to report a worker or their family's suspected immigration status.

Even though these protections exist in law, research shows that immigrant workers are significantly less likely than other workers to report workplace hazards and injuries due to fears of deportation and retaliation, language barriers, and lack of awareness regarding their rights. This in turn can lead to potential abuse from unscrupulous employers and the loss of essential rights to which they are entitled to. Given the current federal administrations' views on and actions towards immigrants, this legislation is both timely and necessary.

As noted by the Assembly Judiciary Analysis of this bill:

"Protection of immigrant workers is more vital now than it was in 2013 when the Legislature first prohibited unfair immigration-related practices, and also more vital than it was when the Legislature enacted AB 450, which imposed penalties on employers who required re-verification of current employees. AB 450 was enacted in large part in response to the 2016 election of Donald Trump, to his first term as President. Since the start of President Trump's second term in 2025, the position of immigrant workers has become even more vulnerable and precarious. According to the Baker Institute of Public Policy at Rice University, in the first six months of Trump's second term, 1.2 million immigrants left the U.S. workforce. This not only disrupted the lives of immigrant families, the Baker Institute found that Trump's harsh rhetoric and policies also negatively affected the U.S. labor market, creating labor shortages in key sectors of the economy. (*See* "The Long-Term Impact of Trump's Immigration Policies," available at https://www.bakerinstitute.org.) In addition, the Trump administration has drastically cut federal funds for immigrant legal services, which makes employer threats to report an employee to immigration authorities all the more intimidating and impactful. As such, this will likely make many workers – even if they are documented, or even if they are citizens with the wrong last name – more likely to endure rather than report dangerous or exploitive working conditions, thus posing a threat to all workers, regardless of their immigration status."

This bill:
This bill strengthens worker protections by expanding existing prohibitions on retaliating against any person for exercising any rights under existing laws by 1) prohibiting an employer from preventing a worker from exercising such rights or engaging in conduct, related to any person's perceived immigration status, that would dissuade an employee from engaging in conduct that the employee has a legal right to engage in; and 2) imposing civil penalties for violations of these provisions. This bill would ensure that unfair immigration-related practices are not used to dissuade or prevent a worker from exercising their labor rights in the first place, thereby protecting them before or after any unfair immigration-related practice.

2. Need for this bill?

According to the author:

"Anti-immigrant national rhetoric has emboldened bad-faith employers to increasingly deter immigrant workers from complaining about violations of their workplace rights by making veiled threats, chilling statements, or implicit warnings about immigration consequences. When such employer deterrence succeeds, unlawful conduct goes unreported, workplace standards erode, and law-abiding employers are undercut.

Current law offers protections against immigration-related threats after a worker engages in protected activities but does not explicitly prohibit employers from using threats to deter workers from exercising their rights in the first place. Additionally, there are no worker protections comparable to Penal Code § 519, which criminalizes extortion based on coercive threats, such as threats to deport or "call ICE". Assembly Bill 2495 expands the scope of prohibited unfair immigration-related practices that employers use to intimidate and dissuade workers from asserting their workplace rights."

3. Proponent Arguments:

The sponsors of the measure, the California Employment Lawyers Association, Legal Aid at Work, Coalition for Humane Immigrant Rights (CHIRLA), AAPIs for Civic Empowerment, and Equal Rights Advocates write:

"Current law prohibits employers from retaliating against workers who have asserted their workplace rights. However, the existing definition of "unfair immigration related practices" does not fully capture the range of employer conduct that interferes with workers' ability to assert their workplace rights or that undermines effective enforcement of labor standards. Notably, current law does not adequately address employer conduct that exploits workers' precarious immigration status to dissuade them from making complaints about their employment conditions in the first place. Any employer actions that chill or deter the future exercise of workplace rights weaken enforcement of those rights and should fall squarely within the scope of "unfair immigration related practices."

AB 2495 will address employer actions that chill workers' exercise of their rights by ensuring that such conduct falls within legal protections against unfair immigration related practices. The bill does so by expressly including within the definition of "unfair immigration related practices" conduct that would dissuade a reasonable worker from exercising workplace rights, or induce that worker to engage in conduct the worker has a legal right to decline. In this way, AB 2495 makes clear that creating a coercive work environment based on a worker's immigration status—designed to silence or intimidate workers—is prohibited under California law.

California must make it clear: employers cannot create a climate of fear with immigration-related coercion to prevent workers from reporting violations of workplace rights. Existing laws requiring minimum wage, overtime pay, rest breaks, worksite safety, and workplaces free from harassment and discrimination are meaningless if employers can use coercion to ensure workers never come forward."

4. Opponent Arguments:

None received.

5. Double Referral:

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

6. Prior/Related Legislation:

SB 294 (Reyes, Chapter 667, Statutes of 2025), (1) requires employers to provide a stand-alone written notice annually to each employee informing them of their rights under state and federal law, as specified; (2) directs the LC to develop a template notice, as well as videos for employers and employees informing them of their responsibilities and rights, as specified; (3) requires employers, if authorized by an employee, to contact an employee's designated emergency contact if the employee is arrested or detained, as specified; and (4) authorizes various penalties for noncompliant employers.

AB 1136 (Ortega, 2025) would have provided, until July 1, 2029, job protections to workers who are detained or need to take time off from work to resolve immigration-related matters including requiring employers to reinstate the employee to their former job classification without loss of seniority upon their return, as specified. *AB 1136 was vetoed by the Governor.*

SB 54 (De Leon, Chapter 495, Statutes of 2017) limited the involvement of state and local law enforcement agencies in federal immigration enforcement.

AB 450 (Chiu, Chapter 492, Statutes of 2017) prohibited an employer from providing access to a federal government immigration enforcement agent to any non-public areas of a place of labor if the agent does not have a warrant.

SUPPORT

AAPIs for Civic Empowerment (Co-Sponsor)
California Employment Lawyers Association (Co-Sponsor)
Coalition for Humane Immigrant Rights (Co-Sponsor)
Equal Rights Advocates (Co-Sponsor)
Legal Aid at Work (Co-Sponsor)
Asian Law Caucus
California Coalition for Worker Power
California Community Foundation
California Domestic Workers Coalition
California Federation of Labor Unions
California Food and Farming Network
California for Safety and Justice
California Immigrant Policy Center
California Latinas for Reproductive Justice
California National Organization for Women

California Partnership to End Domestic Violence
California Primary Care Association
California Rural Legal Assistance Foundation
California Teachers Association
California Work & Family Coalition
California Working Families Party
Californians for Safety and Justice
CFT - A Union of Educators & Classified Professionals
Child Care Law Center
Chinese for Affirmative Action
Church State Council
City of Soledad
Community Legal Services in East Palo Alto
Consumer Attorneys of California
County of Santa Clara
Courage California
End Child Poverty CA
Friends Committee on Legislation of California
Immigrants Rising
Legal Aid Association of California
Loyola Law School, Sunita Jain Anti-Trafficking Initiative
Mujeres Unidas Y Activas
National Council of Jewish Women CA
Parent Voices California
Pilipino Workers Center of Southern California
Santa Clara County Wage Theft Coalition
Street Level Health Project
Sunita Jain Anti-trafficking Initiative
The Wage Justice Center
Wage Justice Center
Western Center on Law & Poverty
Women's Foundation California

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 2646	**Hearing Date:**	June 24, 2026
Author:	Krell		
Version:	May 18, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jazmin Marroquin		

SUBJECT: Employment: minimum wages: agricultural workers

KEY ISSUE

This bill establishes the minimum hourly wage for an approved agricultural employee and corresponding employee, as defined, to be $19.75 per hour. This bill also requires, beginning on January 1, 2027, and each January 1 thereafter, the minimum wage to be adjusted by an amount equal to the cost-of-living adjustment (COLA) for social security benefits for that year as published by the Social Security Administration based on changed in the United States Consumer Price Index (CPI), as specified.

ANALYSIS

Existing federal law:

1) Sets the federal minimum wage at $7.25 an hour. (Fair Labor Standards Act of 1938, 29 U.S.C. Chapter 8)

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) Empowers the Labor Commissioner's office, within DIR, with ensuring a just day's pay in every workplace in the State and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)

3) Sets California's minimum wage at $16.90 an hour[1] for all employers and specifies that after January 1, 2023, the minimum wage rate will be adjusted annually for inflation based on the national consumer price index for urban wage earners and clerical workers (CPI-W). However, the minimum wage cannot be lowered, even if there is a negative CPI, and the highest raise allowed in any one year is 3.5 percent. Each minimum wage increase must be rounded to the nearest ten cents ($0.10) and calculated (by the Director of Finance) on August 1st to take effect on January 1st of the following year. (Labor Code §1182.12)

[1] The minimum wage in California, effective January 1, 2026, is $16.90/hour for all employers. Starting April 1, 2024, all "fast food restaurant employees" who are covered by the law must be paid at least $20.00 per hour. Starting October 16, 2024, certain health care workers must be paid a higher minimum wage. https://www.dir.ca.gov/dlse/minimum_wage.htm

4) Defines, under the Agricultural Labor Relations Act (ALRA), "agriculture" to mean farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, as defined, the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market. (Labor Code §1140.4(a))

5) Defines, under the ALRA, the term "agricultural employer" to be liberally construed to include any person acting directly or indirectly in the interest of an employer in relation to an agricultural employee, any individual grower, corporate grower, cooperative grower, harvesting association, hiring association, land management group, any association of persons or cooperatives engaged in agriculture, and includes any person who owns or leases or manages land used for agricultural purposes, but excludes any person supplying agricultural workers to an employer, any farm labor contractor, as defined, and any person functioning in the capacity of a labor contractor. (Labor Code §1140.4(c))

This bill:

1) Establishes the minimum hourly wage for an approved agricultural employee and corresponding employee to be $19.75 per hour.

2) Requires, beginning on January 1, 2027, and each January 1 thereafter, the minimum wage specified under 1) to be adjusted by an amount equal to the cost-of-living adjustment for social security benefits for that year as published by the Social Security Administration based on changed in the United States Consumer Price Index, and be applied to the previous year's amount in the same manner as social security adjustments are applied.

3) Defines the following:

    a) "Agricultural employer" has the same meaning as defined in subdivision (c) of Section 1140.4.

    b) "Agriculture" has the same meaning as defined in subdivision (a) of Section 1140.4.

    c) "Approved agricultural employee" means an employee engaged in agriculture who is a resident outside of the state and is permitted to work in the state on a temporary or seasonal basis through an application process where the Labor and Workforce Development Agency or the Employment Development Department has approved, in part or in whole, an application or job order to hire agricultural workers from outside of the state on a temporary or seasonal basis.

    d) "Corresponding employee" means an employee engaged in agriculture who is a resident of the state and who performs the same, or substantially similar, work during the same time period as an approved agricultural employee employed by the same employer in the same county.

e) "Temporary or seasonal basis" means employment of a temporary nature where the employer's need to fill the position with a temporary worker shall, except in extraordinary circumstances, last no longer than one year.

COMMENTS

1. Background:

Farm workers

California produces over 400 commodities including nearly half of the nation's vegetables and over three-quarters of the nation's fruits and nuts.[2] California is home to an estimated 400,000 farm workers that are the backbone to this country's agricultural system.

Although California (and the rest of the nation) relies on the important work of farm workers, they tend to earn some of the lowest wages in the labor market. According to the author, "farm workers in California have historically earned wages that place many near or below the poverty line. This is due to the fact that farm work is often seasonal which makes actual earnings frequently lower. Lower earnings and reduced income make farm workers more vulnerable to the adverse effects of even minor economic fluctuations." According to the National Agricultural Workers Survey (NAWS) published by the Department of Labor, which looked at the demographics and employment profile of California's farmworkers from 2015 to 2019, California farmworkers' mean and median personal income in the previous year was in the range of $20,000 to $24,999. Nine percent of workers said their total personal income was less than $10,000, 24 percent said they had personal incomes of $10,000 to $19,999, 37 percent had personal incomes of $20,000 to $29,999, and 21 percent reported that their total personal income was $30,000 or more. Five percent of workers reported that they did not work at all during the prior calendar year.[3]

Federal minimum wage

In 1938, the Fair Labor Standards Act (FLSA) was enacted and created the framework governing workplaces today including restriction on child labor, establishing a standardized workday, and providing for overtime pay. The FLSA also established a national minimum wage for workers in the U.S., creating a guaranteed wage floor but not precluding states from enacting their own stronger minimum wage laws.

The minimum wage in the U.S. is currently $7.25. According to the National Conference of State Legislature (NCSL), as of January 5, 2026, 34 states and the D.C. have minimum wages above the federal minimum wage of $7.25 per hour.[4]

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[2] California Agricultural Production Statistics, https://www.cdfa.ca.gov/statistics/

[3] "California Findings from the National Agricultural Workers Survey (NAWS) 2015-2019: A Demographic and Employment Profile of California Farmworkers." January 2022. https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWS%20Research%20Report%2015.pdf

[4] According to the NCSL, five states have not adopted a state minimum wage: Alabama, Louisiana, Mississippi, South Carolina and Tennessee. Three states, Georgia, Oklahoma and Wyoming, have a minimum wage below $7.25 per hour. In all eight of these states, the federal minimum wage of $7.25 per hour generally applies. https://www.ncsl.org/labor-and-employment/state-minimum-wages

Minimum wage laws in California
California first established a statewide minimum wage in 1916 and has increased the minimum wage several times over the years.

As of January 1, 2026, the minimum wage in California for all employers is $16.90 per hour. SB 3 (Leno, Chapter 4, Statutes of 2016) increased the minimum wage in California from $10 an hour to the current $16.90 in a phased in approach (increasing the wage by $0.50 when first enacted and then by $1 each year until reaching $15). SB 3 also included a slower timeline for the incremental increases for employers of 25 or fewer employees. Additionally, after January 1, 2023, the minimum wage now increases annually from the seasonally adjusted U.S. CPI, but no more than 3.5% in a year, with the resulting amount rounded to the nearest $0.10. The increase is calculated on August 1st and takes effect on January 1st of the following year.

Some cities in California have established minimum wages that are higher than the current statewide minimum wage. For example, the following cities all have minimum wages higher than $17 per hour: Alameda, Belmont, Berkeley, Burlingame, Cupertino, Daly City, East Palo Alto, El Cerrito, Emeryville, Foster City, Fremont, Half Moon Bay, Hayward, Los Altos, Los Angeles, Malibu, Menlo Park, Milpitas, Mountain View, Novato, Oakland, Palo Alto, Pasadena, Petaluma, Redwood City, Richmond, San Carlos, San Diego, San Francisco, San Jose, San Mateo, Santa Clara, Santa Monica, Sonoma, South San Francisco, Sunnyvale, and West Hollywood. San Francisco is at $19.61 and Los Angeles $18.42. The city of Emeryville has the highest minimum wage at $20.34 per hour.

In 2023, the Governor signed AB 1228 (Holden) which established a $20 dollar per hour minimum wage for half a million fast food restaurant employees, effective April 1, 2024. That same year, SB 525 (Durazo) also became law, establishing a phased-in minimum wage for about 400,000 health care workers to reach $25 per hour beginning in October 16, 2024 depending on the type of health care facility.

Social security benefits cost-of-living adjustments (COLA)
As a response to the challenges of the Great Depression, social security insurance was created in order to address the permanent problem of economic security for the elderly by creating a work-related, contributory system in which workers would provide for their own future economic security through taxes paid while employed.

To offset the effects of inflation on fixed income, Social Security benefits have annual increases. These increases are now known as Cost of Living Allowances or Cost-of-Living Adjustments (COLAs). It was not until 1950 that Congress passed amendments to the SSA and first legislated an increase in benefits. Later, in 1972, the law was changed again to provide, beginning in 1975, automatic annual COLAs based on the annual increase in consumer prices. With this change, beneficiaries do not have to wait for congressional action to increase their benefits and inflation does not drain value from Social Security benefits. The Act specifies a formula for determining each COLA. According to the formula, COLAs are based on increases in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). CPI-Ws are calculated on a monthly basis by the Bureau of Labor Statistics.

The Social Security Administration (SSA) announced a 2.8 percent increase in Social Security and Supplemental Security Income (SSI) benefits for more than 75 million

Americans for 2026.[5] There has been a COLA for social security benefits during the last ten years:[6]

Year	COLA
2016	0.3%
2017	2.0%
2018	2.8%
2019	1.6%
2020	1.3%
2021	5.9%
2022	8.7%
2023	3.2%
2024	2.5%
2025	2.8%

This bill, AB 2646, proposes to establish the minimum wage for specified agricultural employees to be $19.75 and requires the minimum wage to be adjusted by an amount equal to the COLA for social security benefits for that year, as published by the SSA, based on changes in the United States CPI beginning on January 1, 2027. This bill would require the increase to be applied to the previous year's amount in the same manner as social security adjustments are applied. For context, if this bill becomes law, the proposed minimum wage would increase the following year (January 1, 2027) by the same amounts equal to the COLA for social security benefits (i.e. 2.8% in 2026).

2. Need for this bill?

According to the author, "California's farm workers deserve a livable wage. Every day these workers face immigration threats, experience wage theft, unsafe working conditions including exposures to excessive heat or dangerous pesticides, workplace sexual harassment, and lack of access to basic health care. California's farm workers have historically earned wages that place many near or below the poverty line. Often, farm work can be seasonal, which makes earnings even lower. AB 2646 safeguards farmworker wages by establishing a wage floor of $19.75."

3. Proponent Arguments:

According to the sponsors, United Farm Workers:

"By establishing a state $19.75 wage floor with annual cost-of-living adjustments tied to the Social Security Administration's Consumer Price Index, the bill safeguards vulnerable California farm workers against deepening wage depression in the middle of escalating prices for food and basic necessities. Under Governor Newsom's administration, California has established a precedent of industry-specific wage standards that address the unique vulnerabilities of specific and marginalized workforces, including in fast-food and healthcare. California's agricultural sector is a cornerstone of the state's economy, yet the workers who labor in our fields often face significant economic hardship. […]

[5]Social Security Administration, "Cost-of-Living Adjustment (COLA) Information for 2026," https://www.ssa.gov/cola/

[6] Social Security Administration, "Cost-of-Living Adjustment," https://www.ssa.gov/OACT/COLA/colaseries.html

By setting a minimum hourly rate of $19.75 for state "approved agricultural employees" and "corresponding employees" beginning January 1, 2027, with annual cost-of-living adjustments, AB 2646 takes a step toward fair compensation for workers that feed us all. The inclusion of "corresponding employees" performing the same or substantially similar work and employed for the same employer in the same county, protects farm workers from unequal treatment for the same work."

4. Opponent Arguments:

a coalition of agricultural associations and employers, including the Western Growers Association, is opposed and argues:

"The proposed wage floor of $19.75 beginning January 1, 2027, followed by automatic annual cost of living adjustments, would impose significant new costs on California farms that already operate on extremely thin margins. Nearly 98 percent of California farms are family-owned operations, many of which have been struggling to absorb rising labor, regulatory, water, and energy costs. Imposing an additional sector-specific wage mandate will make it even harder for these businesses to remain competitive with producers in other states and countries, maintain production, and preserve jobs in rural communities.

The domestic agricultural workforce has steadily declined, and growers increasingly rely on the H-2A program to maintain stable food production. The H-2A program is not designed or intended to replace the domestic workforce, it offers temporary assistance in filling labor gaps that exist at varying levels each year. Today, more than 350,000 H-2A workers are employed nationwide each year, reflecting the growing gap between available domestic labor and the workforce needed to harvest crops. Policies that make it more difficult or costly to use that program risk accelerating the loss of agricultural production in California."

5. Prior Legislation:

SB 525 (Durazo, Chapter 890, Statutes of 2023) enacted a phased in multi-tiered statewide minimum wage schedule for health care workers employed by covered healthcare facilities, as defined; (2) required, following the phased-in wage increases, the minimum wage for health care workers employed by covered healthcare facilities to be adjusted, as specified; (3) provided a temporary waiver of wage increases under specified circumstances; (4) and established a 10-year moratorium on wage ordinances, regulations, or administrative actions for covered health care facility employees, as specified.

AB 1228 (Holden, Chapter 262, Statutes of 2023) among other things, required the hourly minimum wage for fast food restaurant employees to be $20 per hour, effective April 1, 2024.

SB 639 (Durazo, Chapter 339, Statutes of 2021) required the development of a plan to phase out the use of the subminimum wage certificate program, which authorizes employers to pay less than minimum wage for employees with physical or mental disabilities, as defined, by January 1, 2025.

SB 3 (Leno, Chapter 4, Statutes of 2016), among other things, increased the state minimum wage to $15 per hour, in an incremental timeline from $10 to $15, and indexed the minimum wage to inflation thereafter, as specified.

AB 1066 (Gonzalez, Chapter 313, Statutes of 2016), enacted the Phase-In Overtime for Agricultural Workers Act of 2016, which removed the exemption for agricultural employees regarding hours, meal breaks, and other working conditions, including specified wage requirements, and created a schedule that would phase in overtime requirements for agricultural workers, as defined, over the course of 4 years, from 2019 to 2022, inclusive. Beginning January 1, 2022, the bill required any work performed by a person employed in an agricultural occupation in excess of 12 hours in one day to be compensated at the rate of no less than twice the employee's regular rate of pay. The bill provided employers who employ 25 or fewer employees an additional 3 years to comply with the phasing in of these overtime requirements. The bill required DIR to update a specified wage order for consistency with these provisions, as specified.

SUPPORT

United Farm Workers (Sponsor)
California Department of Justice
California Federation of Labor Unions
California Professional Firefighters
California Rural Legal Assistance Foundation
Teamsters California

OPPOSITION

Agricultural Council of California
American Pistachio Growers
Association of California Egg Farmers
California Apple Commission
California Association of Nurseries
California Association of Nurseries and Garden Centers
California Association of Winegrape Growers
California Blueberry Association
California Blueberry Commission
California Cattlemen's Association
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners and Growers Association
California Date Commission
California Farm Bureau
California Farm Labor Contractor Association
California Food Producers
California Fresh Fruit Association
California Grain and Feed Association
California Pear Growers Association
California Seed Association
California State Beekeepers Association
California Strawberry Commission

California Thoroughbred Breeders Association
California Walnut Commission
Grower-shipper Association of Central California
Olive Growers Council of California
Olive Oil Commission of California
Pacific Egg and Poultry Association
United Ag
Ventura County Agricultural Association
Western Growers Association
Western Tree Nut Association

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