SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 962	**Hearing Date:**	April 17, 2024
Author:	Padilla		
Version:	January 23, 2024		
Urgency:	Yes	**Fiscal:**	No
Consultant:	Glenn Miles		

SUBJECT: San Diego Unified Port District: public employee pension benefits

KEY ISSUE

This bill would provide Legislative approval, as required by the Public Employees' Pension Reform Act (PEPRA), to allow the San Diego Unified Port District (SDUPD) to revise its pre-PEPRA hybrid retirement plan in accordance with recently negotiated memoranda of understanding (MOUs).

ANALYSIS

Existing law:

1) Requires on and after January 1, 2013, each public retirement system to modify its plan or plans to comply with the requirements of PEPRA. (Government Code (GC) § 7522.10)

2) Prohibits public employers from offering "classic" public pension formulas to new employees after December 31, 2012, and instead provides pension formulas as defined in PEPRA. However, existing members of CalPERS who move to a new CalPERS employer as specified remain eligible for the "classic" pension formula that was offered by the new employer on December 31, 2012. (GC § 7522 et seq.)

3) Requires each public employer and each public retirement system that offers a defined benefit plan to offer new members only the defined benefit formulas established pursuant to PEPRA. (GC § 7522.18)

4) Establishes, under PEPRA, the retirement benefit plans that public employers may offer new public employees, by:

    a) Requiring uniform retirement formulas, including a 2% at age 62 formula for non-safety workers, which caps out at 2.5% at age 67;

    b) Requiring a three-year final compensation period for determining a pension;

    c) Requiring employee member contributions equal to 50% of the normal cost of the employee's benefit plan;

d) Capping the amount of compensation that can count toward a pension; and

e) Restricting the pay items that may be included in pensionable compensation. (GC §§ 7522 et seq.)

5) Authorizes a public employer to continue to offer a defined benefit plan with a lower benefit factor at normal retirement age and a lower normal cost than the defined benefit formula required by PEPRA instead of the PEPRA plan, as specified. (GC § 7522.02 (d))

6) Provides that if an employer who continues a non-PEPRA plan adopts a new defined benefit formula on or after January 1, 2013, that formula must conform to PEPRA or the retirement system's chief actuary and retirement board must determine and certify that it has no greater risk and no greater cost to the employer than the PEPRA formula and the formula must be approved by the Legislature. (GC § 7522.02 (d))

7) Permits new members of the defined benefit plan to participate only in the lower cost defined benefit formula that was in place before January 1, 2013, or a defined benefit formula that conforms to PEPRA or is approved by the Legislature as, specified. (GC § 7522.02 (d))

This bill:

1. Makes the following legislative findings and declarations that:

   a. PEPRA created specified defined benefit formulas that are the only defined benefit formulas that a public retirement system is permitted to offer to new members, as that term is defined in Section 7522.04 of the Government Code, unless the Legislature grants its approval for a different defined benefit formula and other requirements are met.

   b. SDUPD and the Teamsters negotiated MOUs to provide a defined benefit.

   c. SDUPD will prospectively institute for existing and new Teamsters-represented employees, and all unrepresented employees, a retirement plan that consists of a defined benefit plan component, which provides a lesser defined benefit than that prescribed by PEPRA.

   d. The San Diego City Employees' Retirement System's chief actuary and retirement board have determined and certified that the new plan represents no greater risk and no greater cost to SDUPD than the relevant defined benefit formula provided by PEPRA and is thus consistent with the PEPRA principle of reducing the burden of public employee retirement benefits on public agencies.

2. States that the Legislature hereby approves of the defined benefit formula described in this act pursuant to the authority granted to the Legislature by subdivision (d) of Section 7522.02 of the Government Code.

3. Provides that this act is an urgency statute necessary because SDUPD and the Teamsters have negotiated MOUs, which will provide SDUPD employees a defined benefit, and in order to provide those benefits as soon as possible, it is necessary for this act to take effect immediately.

COMMENTS

1. Need for this bill?

According to the author:

"SB 962 allows the Port of San Diego to eliminate the five-year waiting period on the existing plan on a prospective basis and provide existing and new employees (with pre-2013 reciprocity) the opportunity to accrue service credit upon implementation of this measure, while still maintaining employer costs below that of the standard PEPRA plan. By enacting this change, the Port's retirement benefits will be competitive with other public agencies in the San Diego region and enhance recruitment and retention of public employees."

Background

SDUPD currently has a hybrid retirement plan that existed prior to the implementation of PEPRA. PEPRA permitted public employers to continue such plans if they result in no greater cost nor greater risk to the employer than the corresponding PEPRA plan. However, PEPRA also provided that if the employer revised the plan or implemented a new defined benefit plan, the chief actuary and retirement board of the retirement system to which the employer belonged must first determine and certify that the plan results in no greater cost nor greater risk to the employer than the corresponding PEPRA plan. The employer must also obtain the Legislature's approval to implement the plan. The committee notes that PEPRA authorized such plans as a narrow exception to PEPRA's requirement that employers modify their existing plans to offer only PEPRA plans to new employees, as specified.

SDUPD's existing hybrid plan provides a 401K defined contribution benefit (with an employer contribution) and a defined benefit component. Although employees begin receiving a 401K employer contribution upon starting employment at the Port, they must work five years with SDUPD before they begin earning service credit in the defined benefit plan.

SDUPD and the Teamsters have negotiated MOUs to prospectively adopt a revised hybrid plan for current employees (and new hires that have the right to membership in the SDUPD classic plan based on their classic membership in another public pension plan) that would eliminate the five year waiting period before an employee begins to earn service credit. The agreements also will implement a PEPRA defined benefit plan for all new employees who have no carryover classic membership rights from another public pension system.

Committee Concerns

- The committee has requested but has not yet received the required certification from the system chief actuary and retirement board. The sponsor has assured committee staff that the certification is forthcoming.

- The revised plan may cause unexpected increases in pension obligations to other, reciprocal public plans since members in a reciprocal plan may have a greater incentive to transfer to SDUPD to try to boost their final compensation.
- The bill's current language does not appear to contain the correct name of the union and its bargaining units that are the subject of the MOUs.

Recommended Amendments

- The committee recommends some technical cleanup language to reflect the accurate name of the union and/or its bargaining units.

2. Proponent Arguments

According to the San Diego Unified Port District:

"In 2008, the District collaborated with Teamsters to create a progressive "hybrid" retirement plan, blending defined contribution plans (457 and 401(a)) with a smaller defined benefit (DB) plan. This design aimed to distribute costs and risks between employees and the employer, offering both portability and long-term benefits based on employees' tenure. However, implementation of the Public Employees' Pension Reform Act (PEPRA) in 2013 resulted in increased employee contributions, causing frustration and diminishing morale due to the extended vestment period. This change made the plan less competitive compared to standard PEPRA plans adopted by other public employers and poses challenges in recruiting efforts. As an example, potential candidates from existing systems may be deterred by the prolonged waiting period before accruing service credit, impacting the District's ability to attract skilled individuals, and hindering its ongoing commitment to maintaining a highly qualified and dedicated workforce."

"SB 962 presents an opportunity for the District to eliminate the five-year waiting period prospectively, allowing existing and new employees to accrue service credit immediately. This change ensures that its retirement benefits remain competitive with other public agencies in the San Diego region, fostering improved recruitment and retention of public employees."

"By supporting SB 962, the District aims to enhance workforce stability, protect the security and sustainability of its pensions, and maintain employer costs below the standard PEPRA plan. The District believes this change will strengthen its ability to attract and retain top talent, ultimately benefiting both its employees and the communities it serves."

According to the California Teamsters Public Affairs Council:

"Unfortunately, the Port is hamstrung in offering competitive compensation packages to both retain and recruit employees because they have a long waiting period before workers can participate in the pension plan. By enacting the change sought in SB 962, the Port's retirement benefits will be competitive with other public agencies in the San Diego region."

3. Opponent Arguments:

None received.

4. Prior Legislation:

AB 284 (Brough, Chapter 66, Statutes of 2015) approved a defined benefit formula (Plan W) for the employees of the City of San Juan Capistrano in lieu of the formula required to be provided for new employees under the Public Employees' Pension Reform Act of 2013 (PEPRA).

SUPPORT

California Teamsters Public Affairs Council (co-sponsor)
San Diego Unified Port District (co-sponsor)
California Labor Federation

OPPOSITION

None received.

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SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1058	**Hearing Date:**	April 17, 2024
Author:	Ashby		
Version:	February 8, 2024		
Urgency:	No	**Fiscal:**	No
Consultant:	Dawn Clover		

SUBJECT: Peace officers: injury or illness: leaves of absence

KEY ISSUE

This bill expands a limited paid leave of absence provision to park rangers and housing authority officer law enforcement classifications throughout the entire state.

ANALYSIS

Existing law:

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

2) Establishes within the workers' compensation system temporary and permanent benefits, referred to as disability indemnity, which offer wage replacement equal to two-thirds of a specified injured employee's average weekly earnings while an employee is unable to work due to a workplace illness or injury. The current minimum benefit is $242.86 per week and the maximum is $1,619.15 per week.[1] (Labor Code §§4653-4656)

3) Provides that specified public law enforcement employees who are employed on a regular full-time basis, regardless of their period of service, and who experience a work-related injury or illness, are entitled to an enhanced temporary disability benefit: paid leave of absence of up to one year instead of workers' compensation temporary disability indemnity. This is referred to as "4850 leave." If the employee retires on permanent disability, they may receive 4850 leave until they obtain a permanent disability pension. Employees eligible for 4850 leave are:
   a) City police officers;
   b) City, county, or district firefighters;
   c) Sheriffs;
   d) Inspectors, investigators, detectives, or personnel with comparable titles in any district attorney's office;
   e) County probation officers, group counselors, or juvenile services officers;
   f) Specified law enforcement officers employed by Los Angeles County, including park rangers and housing patrol officers;
   g) Lifeguards employed by Los Angeles County;

[1] DWC Announces Temporary Total Disability Rates for 2024, State of California Department of Industrial Relations, November 27, 2023, https://www.dir.ca.gov/DIRNews/2023/2023-84.html

h) Airport law enforcement;
i) Harbor and port police officers, wardens, or special officers; and
j) Los Angeles Unified School District police officers. (Labor Code §4850)

4) Excludes police officers and firefighters employed by the City and County of San Francisco from 4850 leave and instead provides for somewhat similar leave pursuant to a local ordinance. (Labor Code §4850)

5) Provides peace officers and firefighters of the Department of Justice, law enforcement officers employed by the Department of Fish and Wildlife, and harbor police officers employed by the San Francisco Port Commission with up to one year paid leave of absence while disabled as a result of injury incurred during work, instead of workers' compensation disability payments. (Labor Code §4800)

6) Provides sworn members of the California Highway Patrol who become disabled by a single injury with up to one year of paid leave of absence while disabled, in lieu of workers' compensation disability payments. (Labor Code §4800.5)

7) Provides that the following persons are peace officers, who may carry firearms only if authorized and under terms and conditions specified by their employing agency, whose authority extends to any place in California to perform their primary duty, or when arresting for a public offense where there is immediate danger to a person or property or to prevent the perpetrator's escape, as specified:
   a) A police officer of Los Angeles County if the primary duty of the officer is the enforcement of the law in or about properties owned, operated, or administered by their employing agency or when performing necessary duties concerning patrons, employees, and properties of their employing agency;
   b) During a proclaimed state of emergency or war, peace officers of the California Highway Patrol, deputies of the Department of Fish and Game, the Director and peace officers of the Department of Forestry and Fire Protection, and specified peace officers who are state employees.
   c) During a local emergency, peace officers of the California Highway Patrol, Department of Corrections, and Department of Youth Authority, when requested by local authorities to assist in local law enforcement.
   d) A person designated by a local agency as a park ranger who is regularly employed and paid in that capacity, if the primary duty is the protection of park and other property of the agency and the preservation of the peace therein; and
   e) A housing authority patrol officer employed by the housing authority of a city, district, county, or city and county, or employed by the police department of a city and county, if the primary duty of the officer is the enforcement of the law in or about properties owned, operated, or administered by his/her employing agency or when performing necessary duties with respect to patrons, employees, and properties of his/her employing agency. (Penal Code §830.31)

This bill:

1) Expands 4850 leave to:

   a) Park rangers outside of Los Angeles County who are designated by a local agency as a park ranger and regularly employed and paid in that capacity if their primary duty is the

protection of the park and other agency property and preservation of peace therein; and

b) Housing authority patrol officers outside of Los Angeles County who are employed by the housing authority or by a police department if the primary duty of the officer is the enforcement of the law in or about properties owned, operated, or administered by the employing agency.

COMMENTS

1. Background

Workers' Compensation

Workers' compensation temporary disability indemnity benefits are what an injured worker receives to make up for wages lost due to injury or illness acquired on the job or during the course of their work. The goal is to approximate an employee's take home pay, basing the benefit on two-thirds of the employee's average weekly wages. Calculation of indemnity benefits is based on the employee's type of injury and subsequent disability. Because there is a cap, employees who make more than $1,619.50 per week do not reach the two-thirds goal, but because the benefit is not taxed, employees generally receive an adequate disability benefit while they are recovering.

Certain public safety classifications receive workers' compensation benefits that other employees do not receive, such as presumptions that certain maladies are automatically deemed work-related (other employees are required to prove that their condition is work-related), and 4850 leave, which grants up to one year of full salary instead of the regular method for calculating temporary disability benefits. Because these benefits are paid due to disability, they are not subject to either state or federal taxes. Subsequently, the injured peace officer takes home more in weekly benefits than they normally would earn while working. Upon expiration of 4850 leave benefits, if the employee is still temporarily disabled, they are eligible to receive workers' compensation TDI. In most cases, TDI will not be paid beyond 104 weeks.

Employee Classifications Proposed To Be Added

Park rangers who obtain peace officer's standards training, among various other duties, provide public safety services at California's parks and other public properties and are often the first responders for medical, fire, and other emergencies. Part of their duties can also entail addressing unlawful homeless encampments, which places these officers at risk of harm. The park ranger classifications proposed to be included in the 4850 leave provisions of this bill are employed by some, but not all, cities, counties, and local agencies. Currently, there are 208 park rangers and 71 vacancies that would be included as a result of this bill. In Sacramento County alone, park rangers issued 226 parking citations, 138 infractions, made 83 felony arrests, and made 62 misdemeanor arrests just in February of this year.

From time to time, employers and employee representatives will negotiate working conditions, policies, salaries, and benefits, among other things. This, the collective bargaining process, allows public employers and employee representatives to consider factors unique to the employee group and come to an agreement on those factors. In Sacramento County, for example, the Board of Supervisors has agreed to provide park rangers with leave benefits similar to 4850 leave to provide parity for that employee classification.

Proposed Committee Amendments
This bill is drafted to recast a provision that relates to Los Angeles County and apply it to all California counties. In the interest of clarity and to prevent confusion regarding which employee classification is proposed to be added, committee staff recommends the bill be amended to separate out the classification the author and sponsor wish to include in 4850 leave provisions and to specify that addition does not conflict with existing exclusions from 4850 leave.

Labor Code §4850

(a) Whenever any person listed in subdivision (b), who is employed on a regular, full-time basis, and is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of the person's duties, the person shall become entitled, regardless of the person's period of service with the city, county, or district, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments or maintenance allowance payments, if any, that would be payable under this chapter, for the period of the disability, but not exceeding one year, or until that earlier date as the person is retired on permanent disability pension, and is actually receiving disability pension payments, or advanced disability pension payments pursuant to Section 4850.3.
(b) The persons eligible under subdivision (a) include all of the following:
(1) City police officers.
(2) City, county, or district firefighters.
(3) Sheriffs.
(4) Officers or employees of any sheriff's offices.
(5) Inspectors, investigators, detectives, or personnel with comparable titles in any district attorney's office.
(6) County probation officers, group counselors, or juvenile services officers.
(7) Officers or employees of a probation office.
(8) Peace officers under Section 830.31 of the Penal Code employed on a regular, full-time basis by a ~~**county**~~ ***county of the first class***.
(9) Lifeguards employed year round on a regular, full-time basis by a county of the first class or by the City of San Diego.
(10) Airport law enforcement officers under subdivision (d) of Section 830.33 of the Penal Code.
(11) Harbor or port police officers, wardens, or special officers of a harbor or port district or city or county harbor department under subdivision (a) of Section 830.1 or subdivision (b) of Section 830.33 of the Penal Code.
(12) Police officers of the Los Angeles Unified School District.
(13) Peace officers under Section 830.31 of the Penal Code who are park rangers employed on a regular, full-time basis by a county or special district.

2. Need for this bill?

The author states "Currently, peace officers employed on a regular, full-time basis by a county are not afforded workers' compensation and disability protections, except for county peace officers in Los Angeles County. The reason for that is because, due to language in the Labor Code specifying population, LA County is the only county that qualifies for these protections."

3. Proponent Arguments

The sponsor, Sacramento County Criminal Justice Employees' Union (SCCJEU) states "SCCJEU oversees a variety of county peace officers in Sacramento County, including park rangers, whose duties often times overlap with those of law enforcement and other peace officer entities who are already rightfully afforded these protections. Extending these protections to all peace officers employed on a regular, full-time basis by a county ensures parity across the state and protects many of these frontline workers.

Peace Officers' Research Association of California states "Current law entitles, among others, peace officers employed on a regular full-time basis by a county of the first class, to a leave of absence without loss of salary while disabled by injury or illness arising out of and in the course of their duties… Current law provides that a leave of absence under those provisions is in lieu of temporary disability payments or maintenance allowance payments otherwise payable under the workers' compensation system. This bill would expand these provisions to instead entitle a peace officer employed on a regular full-time basis by any county to this leave of absence."

4. Opponent Arguments

The coalition of opponents state "Our coalition opposes this expansion of salary continuation benefits as proposed by SB 1058 because no objective evidence has been offered to demonstrate that this enhanced benefit is necessary, and there has been no evaluation of the cost to our members. Local agencies typically fund workers' compensation costs out of their general fund, and every dollar spent on special enhanced benefits must come from somewhere. Funding for the special benefits proposed by [this bill] will come out of local government budgets, and our coalition would respectfully urge the legislature to fully examine both the justification and cost related to the proposal.

Prior legislation that similarly expanded application of this benefit has been met with caution. Specifically, AB 346 (Cooper, 2019) expanded the application of salary continuation benefits to officers at local school districts and county offices of education. That bill was vetoed by Governor Newsom, who observed that the bill 'would significantly expand 4850 benefits that can be negotiated locally through the collective bargaining process. Many local school districts face financial stress, and the addition of a well-intentioned but costly benefit should be left to local entities that are struggling to balance their priorities.' We believe the same logic applies here."

5. Prior Legislation

AB 346 (Cooper, 2019) would have granted 4850 leave benefits to police officers employed by a school district, county office of education, or community college district. *In his veto message, Governor Newsom stated "While I appreciate the Legislature's intent, and do not take lightly the important public service provided by police officers in education settings, this bill would significantly expand 4850 benefits that can be negotiated locally through the collective bargaining process. Many local school districts face financial stress, and the addition of a well-intentioned but costly benefit should be left to local entities that are struggling to balance their priorities."*

AB 2047 (Chávez, 2018) was identical to AB 1451 (Chávez, 2015). *This bill was held in the Assembly Committee on Insurance.*

AB 1451 (Chávez, 2015) would have extended 4850 leave to lifeguards employed year-round on a regular, full-time basis by the City of Oceanside. In his veto message, Governor Brown stated "Recent data indicates public employers' costs related to this disability leave benefit have increased at an alarming rate. These cost figures give me pause to extend this benefit further in state law. If the City of Oceanside wishes to offer full salary in lieu of temporary disability for one year to their regular full-time lifeguards, they are free to do so by means of the collective bargaining process. Eligibility for this benefit is best left to the City of Oceanside, not the state, to determine."

SB 559 (Block, 2015) would have authorized 4850 leave for specified lifeguards employed by the City of Imperial Beach. *This bill was held in the Assembly Committee on Insurance.*

SB 527 (Block, Chapter 66, Statutes of 2013) extended 4850 leave to full-time lifeguards employed by the City of San Diego.

AB 2397 (Solorio, 2010) would have authorized a public agency and a peace officer to mutually agree to extend a leave of absence with full pay applicable to the public safety officer injured on the job beyond the one year authorized by law for up to one additional year. This bill was vetoed by Governor Schwarzenegger, who stated "I appreciate and value the duties of public servants who perform difficult and dangerous tasks that risk their lives. However, as we have seen with the current pension crisis, there is often an inclination to add special benefits and compensation to unsustainable levels. I am unwilling to facilitate this lack of fiscal responsibility by creating potentially new costs for public entities administering the public's money."

AB 1227 (Feuer, Chapter 389, Statutes 2009) removed the requirement that safety officers can only be eligible for 4850 leave if they belong to a public retirement system and instead only required that the safety officers be employed on a regular, full-time basis.

SUPPORT

Sacramento County Criminal Justice Employees' Union (Sponsor)
California State Lodge Fraternal Order of Police
County of Sacramento
Park Rangers Association of California
Peace Officers Research Association of California
Monterey County Park Rangers Association
Sacramento County Deputy Sheriffs' Association
Sacramento County Supervisor Sue Frost
Santa Clara County Park Rangers Association

OPPOSITION

California Association of Joint Powers Authorities
California Coalition on Workers' Compensation
League of California Cities
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California

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SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1157	**Hearing Date:**	April 17, 2024
Author:	Hurtado		
Version:	April 10, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: State contracts: certification process: forced labor and human trafficking

KEY ISSUE

This bill revises existing state contracting requirements to require contractors and subcontractors to certify that contracts comply with specified human trafficking prohibitions and a detailed series of labor standards. Additionally, the bill creates a new requirement for contractors and subcontractors to develop and implement compliance plans, as specified, and expands the list of potential sanctions for violations of these provisions.

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. Requires a contract entered into by any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, to require that a contractor certify that nothing furnished to the state pursuant to the contract has been laundered or produced by certain types of forced labor, as specified. (Public Contract Code §6108)

3. Specifies that a contractor is required to cooperate fully in providing reasonable access to the contractor's records, documents, agents, employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations (DIR), or the Department of Justice (DOJ) to determine the contractor's compliance, as specified. (Public Contract Code §6108(a))

4. Authorizes certain sanctions to be imposed if a contractor knew or should have known that the apparel, garments, corresponding accessories, equipment, materials, or supplies furnished to the state were laundered or produced in violation of specified conditions including, among others, voiding the contract under which the items were laundered or provided at the option of the state agency and removing the contractor from the bidder's list for a period not to exceed 360 days. (Public Contract Code §6108(b))

5. Requires DIR to establish a contractor responsibility program, including a Sweatfree Code of Conduct, to be signed by all bidders on state contracts and subcontracts, as specified. (Public Contract Code §6108(f))

6. Specifies that any person who certifies as true any material matter pursuant to the above provisions that he or she know to be false is guilty of a misdemeanor. (Public Contract Code §6108(h))

7. Requires employers to establish, implement, and maintain an effective Injury and Illness Prevention Program (IIPP) that must include, among other things, a system for identifying and evaluating workplace hazards. (Labor Code §6401.7)

8. Requires employers, as specified, to establish, implement, and maintain an effective workplace violence prevention plan that includes, among other elements, requirements to maintain incident logs, provide specified trainings, and conduct periodic reviews of the plan. (Labor Code §6401.9)

This bill:

1. Requires every contractor working with a state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, to certify that the contract, among other things, complies with the requirement that contractors, contractor employees, subcontractors, subcontractor employees, and their agents are prohibited from all of the following:

    a. Engaging in severe forms of trafficking in persons during the performance period of the contract.
    b. Using forced labor in the performance of the contract.
    c. Destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity or immigration documents, regardless of the issuing authority.
    d. Using misleading or fraudulent practices during the recruitment or hiring of employees, including failing to disclose, in a format and language understood by the employee or potential employee, basic information or making material misrepresentations regarding the key terms and conditions of employment, as specified.
    e. Using recruiters that do not comply with state labor laws and the laws of the country that the recruiting takes place.
    f. Charging employees or potential employees recruitment fees.
    g. Failing to provide or pay for the cost of required return transportation upon the end of employment, as specified.
    h. Providing or arranging housing that fails to meet the housing and safety standards of the country where the work is performed.
    i. If required by law or contract, failing to provide an employment contract, recruitment agreement, or other required work document in writing, as specified.

2. Requires contractors and subcontractors to notify employees of the prohibited activities described above and the actions that may be taken against them for violations.

3. Provides that the contractor is ineligible for, and shall not bid on, or submit a proposal for, a contract described above if that contractor has failed to certify compliance, as specified.

4. Requires a contractor, before a contract or subcontract is awarded, to provide or obtain from the proposed subcontractor and then provide to the contracting officer a certification that states both of the following: the contractor and/or subcontractor has implemented a compliance plan, as specified; and the contractor and/or subcontractor has conducted due diligence, as specified.

5. Requires the compliance plan to comply with all of the following criteria:

    a. The compliance plan shall be appropriate to the size and complexity of the contract and the nature and scope of its activities, as specified.
    b. The compliance plan shall include, at minimum, all of the following:
        1. An awareness program to inform employees about the prohibited activities described above and the actions that will be taken against them for violations.
        2. A process for employees to report activity inconsistent with the above provisions, as specified.
        3. A recruitment and wage plan, as specified.
        4. If the contractor or subcontractor intends to provide or arrange housing, a housing plan that ensures that the housing meets the housing and safety standards of the country where the work is performed.
        5. Procedures to prevent subcontractors and agents at any tier and at any dollar value from engaging in trafficking in persons, including the prohibited activities described above and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in the prohibited activities.

6. Requires a contractor and subcontractor to comply with all of the following:

    a. Disclose to the contracting officer and the state agency with oversight information sufficient to identify the nature and extent of a violation of a prohibited activity described above and the individuals responsible for the conduct.
    b. Provide timely and complete responses to state auditors' and investigators' requests for documents.
    c. Cooperate fully in providing reasonable access to their facilities and staff, inside and outside the state, to allow contracting agencies and other responsible government agencies to conduct audits, investigations, or other actions to ascertain compliance with this section and other anti-human trafficking laws.
    d. Protect all employees suspected of being victims of or witnesses to prohibited activities before returning to the country from which the employee was recruited.
    e. Not prevent or hinder an employee from cooperating fully with government authorities.

7. Requires contracts to provide suitable remedies, including termination, to be imposed on contractors and subcontractors that fail to comply with the requirements of this bill.

8. Provides that the contract shall specify that the contractor is required to cooperate fully in providing reasonable access to the contractor's records, documents, agents, employees, or premises if reasonably required by authorized officials of the contracting agency, DIR, or the DOJ to determine the contractor's compliance with the requirements under this bill.

9. Provides that any contractor contracting with the state who knew or should have known that the apparel, garments, corresponding accessories, equipment, materials, or supplies furnished to the state were laundered or produced in violation of specified conditions when entering into a contract pursuant to the above, may, in addition to existing sanctions, have any or all of the following sanctions applied:

    a. The contractor may be required to remove a contractor employee from the performance of the contract.
    b. The contractor may be required to terminate a subcontractor.
    c. Contract payments may be suspended until the contractor has taken appropriate remedial action.
    d. If the state determines contractor noncompliance, there may be a loss of award fee, consistent with the award fee plan, for the performance period the state determined contractor noncompliance.
    e. The state may decline to exercise available options under the contract.
    f. The contractor may be subject to suspension or debarment.

10. Provides that if a contractor, contractor employee, subcontractor, subcontractor employee, or agent violates specified provisions of the Penal Code, the federal Trafficking Victims Protection Act of 2000, Federal Executive Order 13627, or this bill the contractor must, among other things,

    a. Notify its employees and agents of the prohibited activities described above, and the actions that will be taken for violations of this bill, including, but not limited to, removal from the contract, reduction in benefits, or termination of employment.
    b. Inform the contracting officer and all appropriate state agencies with oversight information sufficient to identify the nature and extent of a violation of a prohibited activity and the individuals responsible for the conduct, as specified.
    c. Provide timely and complete responses to state auditors' and investigators' requests for documents.
    d. Cooperate fully in providing reasonable access to its facilities and staff, inside and outside the state, to allow contracting agencies and other responsible government agencies to conduct audits, investigations, or other actions to ascertain compliance, as specified.
    e. Protect all employees suspected of being victims of or witnesses to prohibited activities from retaliation from employers, as specified and shall not prevent or hinder the ability of these employees from cooperating fully with state authorities.
    f. Post the minimum requirements of the compliance plan, as specified.

g. Within 60 days of receiving the contract, provide the compliance plan to the contracting officer.

11. Provides that when imposing the above sanctions, the contracting agency shall notify the contractor of the right to a hearing, if requested, within 15 days of the date of the notice, as specified.

12. Authorizes an administrative law judge, during a hearing requested by a contractor on the imposition of sanctions, to consider both mitigating and aggravating factors, as specified.

13. Requires a contracting officer, upon receipt of credible information regarding a violation described above, to promptly notify, in accordance with agency procedures, the state agency with oversight, the agency debarring and suspending official, and if appropriate, law enforcement officials with jurisdiction over the alleged offense. The contracting officer may direct the contractor to take specific steps to abate the alleged violation or enforce the requirements of its compliance plan.

14. Defines "severe forms of trafficking in persons" as either of the following:

    a. Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform that act has not attained 18 years of age.
    b. The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

15. Includes various other definitions for words and terms relevant to the bill, as specified.

16. Specifies that requirements set forth in this bill shall govern contracts and subcontracts entered into by a state agency, regardless of place of performance.

COMMENTS

1. Human and Labor Trafficking in California

A series of 2020 reports by the Little Hoover Commission highlighted the obstacles to tracking and preventing labor trafficking in California[1]. Among the issues identified were the absence of an aggressive state response and a focus on sex trafficking. While the focus on sex trafficking, particularly among minors, is important, relatively few resources are devoted to labor trafficking. The Commission found that while several state agencies play a role in combatting human trafficking, there is no coordinated strategy to target the crime statewide. The state's ability to "flip the script by proactively and strategically looking for traffickers" requires the effective use of state resources[2].

This bill furthers efforts to combat human trafficking by directing the state to ensure public funds are not awarded to contractors engaging in severe forms of trafficking.

2. Contracting Requirements:

[1] Little Hoover Commission (September 2020, pages 3-4). Labor Trafficking: Strategies to Uncover this Hidden Crime
[2] Little Hoover Commission (September 2020, page 2). Labor Trafficking: Strategies to Uncover this Hidden Crime

Existing State Contracting Requirements

Existing law requires state contractor awardees to certify that no apparel, garments, corresponding accessories, equipment, materials, or supplies furnished to the state have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor.

Contractors must also comply with the Sweatfree Code of Conduct. This Code requires, among other things, that all state contractors and subcontractors *certify under penalty of perjury* that they do not use any form of forced labor and that they adhere to all appropriate state and federal laws concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards[3]. In cases where a contractor violates these conditions, the Sweat Free Code of Conduct outlines various sanctions including financial penalties of up to $1,000 or twenty percent of the value of the products and/or the contractor or subcontractor being barred from participating in future state contracts.

Existing Federal Contracting Requirements

According to the Senate Governmental Relations Committee,

"The United States federal government has long had a policy prohibiting government employees and contractor personnel from engaging in trafficking persons. The efficacy of this policy was strengthened in 2015 when the Federal Acquisition Regulation (FAR) rule, entitled 'Ending Trafficking in Persons,' implemented trafficking-related prohibitions for federal contractors and subcontractors.

The FAR rule requires contractors and subcontractors to notify government procurement personnel whenever they receive credible information of human trafficking or violations of the prohibited practices associated with trafficking, and puts parties on notice that federal agencies may impose remedies, up to and including suspension and debarment, for failure to comply with the requirements.

The regulations apply to all contracts and prohibit contractors and subcontractors from engaging in prohibited practices including:

a. Engaging in severe forms of trafficking persons.
b. Procuring commercial sex acts during the performance of the contract.
c. Using forced labor in the performance of the contract.
d. Destroying, concealing, confiscating, or otherwise denying access by an employee to his or her identity or immigration documents.
e. Using misleading or fraudulent recruitment practices.
f. Using recruiters that do not comply with local labor laws.
g. Charging employees recruitment fees.
h. Failing to provide return transportation for employees upon the end of the contract.
i. Providing or arranging housing that fails to meet the host country's housing and safety standards.

[3] "Sweatfree Code of Conduct," Department of Industrial Relations, https://www.dir.ca.gov/sweatfreecode.htm

j. If required by law or contract, failing to provide an employment contract in writing."

SB 1157 Additional Certification Requirements, New Sanctions, and Compliance Plans

This bill expands the enumerated list of prohibitions a contractor must certify to, specifically adding human trafficking and recruitment protections, as well as others. The new certification requires prohibitions against types of labor used (sweatshop, forced, etc.) and labor practices (confiscating identification, recruitment fees, etc.). The expanded list *is consistent with existing labor law protections*. Contractors are also tasked with exercising due diligence to ensure subcontractors certify compliance.

Additionally, the bill expands the potential sanctions for a contractor who knew or should have known that items furnished to the state were laundered or produced in violation of the conditions specified. Among others, a contractor may now be required to remove a contractor employee from the performance of the contract, terminate a subcontractor, or face suspension of contract payments. If a contractor does know of any abuses, they are required to take appropriate remedial and referral actions, as specified.

Lastly, the bill requires both contractors and subcontractors to implement and maintain a compliance plan to prevent and detect prohibited activities. Before a contract is awarded and work can begin, these plans must be drafted and posted at the workplace and/ or contractor's website. These posting requirements are consistent with those required for other workplace protection plans.

3. Committee Comments:

The provisions of this bill aim to protect workers by requiring contractors, subcontractors, and their agents to certify that they are not engaging in a series of prohibited actions and that they have implemented a compliance plan. Outside of the compliance plan, this certification only requires contractors to affirm they are following existing law and *does not impose any new requirements that are not already illegal*. Regardless of certification, a state contractor who violates any of the enumerated prohibitions faces potential sanctions.

The Sweatfree Code of Conduct, described above, requires contractors to certify under penalty of perjury that they comply with all appropriate state and federal laws concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards. Because all the prohibited actions enumerated in this bill are outlawed in federal and state law, any state contract awardee has already certified their compliance. For example, destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity or immigration documents, regardless of the issuing authority, is included in the expanded certification requirement. Existing federal law, under 18 U.S.C. §1592, prohibits this, thus any state contract awardee has already certified compliance under the Sweatfree Code of Conduct.

Implementing a compliance plan and facing an expanded list of sanctions are the only new provisions of this bill applied to state contractors and subcontractors.

4. Need for this bill?

According to the author, "This bill would revise existing law by requiring that any business that wishes to contract with the state of California complies with updated provisions currently enumerated in Federal regulations in 2016 to better identify and prevent human trafficking and other forms of labor exploitation in company supply chains. If an applicant for a CA contract or a contractor fails to certify that they are taking the enumerated steps to prevent trafficking in their supply chains, they are not eligible to receive a California contract or can lose their procurement contract with the State."

Additionally, "In 2016 the United Nations in a public forum highlighted the need to look at public procurement to ensure human rights and that 'The UN Guiding Principles on Business and Human Rights (UNGPs) make clear that states' duty to protect human rights extends to their purchasing activities.' California, which is the 5th largest economy in the world, has done little to follow the recommendation to better respond to and prevent labor trafficking. Updating California's own procurement polices is an important step in combating this crime both globally and in our own backyard."

5. Proponent Arguments:

The sponsor of the measure, the Sunita Jain Anti-Trafficking Initiative, argues that, "As the fifth largest economy in the world, California has a responsibility to respond to and prevent labor trafficking. An innovative and effective way to address human trafficking in its supply chains is through updating public procurement policies. Procurement accounts for nearly 13% of the GDP in places like the U.S. with recent years showing further increases in the share of public procurement relative to GDP. By ensuring that California will not award it's public contracts to private companies that are not in compliance with these standards, the state can take major strides towards effectuating change in our own backyard as well as influencing supply chain standards throughout the world."

"SB 1157 provides clear standards and recommendations to curtail forced labor practices, including employer responsibility for their labor recruitment supply chain and worker access to self-help advocacy. Specifically, the bill provides guidance on what companies must do to contract with California by adopting updated provisions of the Federal Acquisition Regulation (FAR)."

6. Opponent Arguments:

None received.

7. Dual Referral:

This bill was previously heard and passed out of the Senate Committee on Governmental Organization.

8. Prior Legislation:

AB 964 (Ortega, 2023) would have revised the current contracting requirements for any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, to also require a contractor to certify, under penalty of perjury, that the contract complies with specified requirements relating to human trafficking,

including certain prohibitions on contractors, contractor employees, subcontractors, subcontractor employees, and their agents. (Held on the Assembly Appropriations Committee Suspense File)

SB 657 (Steinberg, Chapter 556, Statutes of 2010) enacted the California Transparency in Supply Chains Act to require retail sellers and manufacturers doing business in the state to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale, as specified.

SB 1231 (Corbett, 2010) would have made various changes including renaming the code of conduct to the Slave and Sweat Free Code of Conduct, mandating state procurement contracts to include certifications that products are not made with abusive labor, and increasing penalties for non-compliance, as specified. (Vetoed by Governor Schwarzenegger)

SB 578 (Alarcon, Chapter 711, Statutes of 2003) enacted non-sweatshop labor guidelines to state procurement policies to ensure that goods and services purchased by the State of California be produced in workplaces that adhere to minimum standards for protecting workers.

SB 1888 (Hayden, Chapter 891, Statutes of 2000) extended existing law that prohibits state agencies from procuring foreign goods made by forced labor, convict labor, or indentured labor to include goods made by abusive forms of child labor or exploitation of children in sweatshop labor.

AB 2457 (Figueroa, Chapter 1149, Statutes of 1996) required every contract entered into by a state agency for the procurement of equipment, materials, or supplies to specify that no foreign-made equipment, materials, or supplies furnished to the state may be produced by forced labor, convict labor, or indentured labor, as specified.

SUPPORT

Sunita Jain Anti-Trafficking Initiative at Loyola Law School (Sponsor)
California Catholic Conference
Central Valley Justice Coalition
Community Legal Services in East Palo Alto
International Corporate Accountability Roundtable (ICAR)
National Consumers League
Reformed Church of Highland Park Affordable Housing Corp - Still Waters Anti-trafficking Program
Verité
Waymakers
Worksafe

OPPOSITION

None received

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1189	**Hearing Date:**	April 17, 2024
Author:	Limón		
Version:	February 14, 2024		
Urgency:	No	**Fiscal:**	No
Consultant:	Glenn Miles		

SUBJECT: County Employees Retirement Law of 1937: county board of retirement

KEY ISSUE

This bill authorizes the Ventura County Employees' Retirement Association (VCERA) to add a Chief Technology Officer to the number of positions it can appoint that are exempt from the county civil service system, as specified.

ANALYSIS

Existing law:

1) Establishes the County Employees Retirement Law of 1937 (CERL or '37 Act), which governs twenty independent county retirement associations, including the VCERA. (Government Code (GC) § 31450 et seq.)

2) Defines "district" as a district formed under the law of the state, located wholly or partially within a county, and states that these districts are public employers whose employees are eligible to participate in their respective '37 Act county retirement associations. (GC § 31468)

3) Authorizes the respective associations' boards to appoint such administrative, technical, and clerical staff personnel as are required to accomplish the necessary work of the boards. (GC § 31522.1)

4) Requires boards to make the personnel appointments from eligible lists created in accordance with the civil service or merit system rules of the county in which the retirement system governed by the boards is situated. (GC § 31522.1)

5) Provides that the associations' personnel shall be county employees and shall be subject to the county civil service or merit system rules and shall be included in the salary ordinance or resolution adopted by the respective board of supervisors for the compensation of county officers and employees. (GC § 31522.1)

6) Authorizes VCERA to appoint a retirement administrator, chief financial officer, chief operations officer, chief investment officer, and general counsel and provides that these employees are not county employees but association employees subject to terms and conditions of employment established by the VCERA retirement board, as specified. (GC § 31522.10.)

This bill: Authorizes VCERA to add a Chief Technology Officer position to the number of positions it can appoint exempt from the county civil service system, as specified.

COMMENTS

1. Background

The ’37 Act generally classifies county retirement associations as county agencies and their employees as county employees. Current law authorizes the boards of retirement of a county retirement association (or for certain associations, the board of retirement and the board of investment) to appoint staff who, as county employees, are subject to the county’s civil service and merit system rules.

In order to avoid staff conflicts of interest between their status as county personnel and their fiduciary duties as retirement system administrators, a number of county retirement systems have sponsored legislation allowing them to opt to become independent retirement districts within their retirement associations rather than a county agency. This change allows the retirement association board (instead of the county board of supervisors) to appoint staff, and in the case of certain key executive staff, avoid complying with the county’s civil service requirements. The change provides the retirement association with greater flexibility on compensation and other terms of employment than would otherwise be available through the county civil service system.

In 2015, the Legislature enacted AB 1291, which authorized VCERA to shift key executive employee positions, as specified, from county to VCERA employment. This bill would add an additional key executive position, Chief Technology Officer.

2. Need for this bill?

According to the sponsor:

“The Chief Technology Officer (CTO) is a critical chief-level position for VCERA that was created a few years after the original 2016 legislation (GC Section 31522.10) that listed the positions the Board of Retirement (BOR) could appoint. The position operates at the same level as the other VCERA chiefs, but has a different compensation and benefits package defined by the County instead of the VCERA BOR and has an assigned job classification from the County that does not match the CTO job duties. The County requires VCERA to use existing County job classifications for VCERA’s retirement system positions which do not match the job duties of those positions and do not provide the compensation and benefits required to recruit the right level of experience and knowledge/skills/abilities for these jobs. This has resulted in lengthy recruitments in some cases due to the time and effort spent with County Human Resources to prepare job bulletins to try to attract the right candidates and to determine the right screening criteria for qualifications, as well as resulting in some positions being underpaid relative to their counterparts at other retirement systems.”

3. Proponent Arguments

According to the author:

"As VCERA matures, it is imperative that their executive management team can efficiently navigate technological advancements. This bill seeks to add a Chief Technology Officer to VCERA's list of employable positions."

4. Opponent Arguments:

None received.

5. Prior Legislation:

AB 1270 (Vidak, Chapter 114, Statutes of 2018) authorized any county board of retirement, as specified, to appoint assistant administrators and chief investment officers provided the board of supervisors approves and adopts a resolution by majority vote.

AB 995 (Limón, Chapter 48, Statutes of 2017) required that any leave balance accrued by a county employee prior to their appointment as an employee of the Ventura County retirement system be transferred to the retirement system, and that the county pay to the system an equal amount of the value of the accrued leave.

AB 1853 (Cooper, 2016) would have authorized any county retirement board to become an independent district and employ personnel, as specified. According to the Governor's veto message, "this is too far-reaching. Previous bills that authorized a county retirement system to become independent were the result of agreement between the county and the retirement system… [which] better serves the public interest."

AB 1291 (Williams, Chapter 223, Statutes of 2015), made VCERA an independent district and authorized VCERA to appoint specified positions exempt from the county civil service system, as specified.

SUPPORT

Ventura County Employees' Retirement Association (Sponsor)
California Retired County Employees Association
County of Ventura

OPPOSITION

None received.

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SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1202	**Hearing Date:**	April 17, 2024
Author:	Newman		
Version:	April 9, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: Labor and Workforce Development Agency: reports: assaults

KEY ISSUE

This bill directs the Labor and Workforce Development Agency (LWDA) to compile a quarterly report regarding assaults against employees and distribute it to specified entities, including the Labor Commissioner (LC) and the Legislature.

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 et seq.)

2. Establishes the Department of Industrial Relations (DIR) in the 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)

3. Establishes within DIR, the Division of Labor Standards Enforcement (DLSE) under the direction of the 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)

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

5. Defines, for purposes of Division 5 of the Labor Code (§6300-9254), "employer" as having the same meaning put forth in Division 4, §3300 of the Labor Code. This section provides that an "employer" means:

    a. The State and every State agency.
    b. Each county, city, district, and all public and quasi-public corporations and public agencies therein.
    c. Every person including any public service corporation, which has any natural person in service.

d. The legal representative of any deceased employer.

(Labor Code §§3300, 6304)

6. Defines, for purposes of Division 5 of the Labor Code, an "employee" as every person who is required or directed by any employer to engage in any employment or to go to work or be at any time in any place of employment. (Labor Code §6304.1)

7. Requires every employer, as part of the Injury and Illness Prevention Plan (IIPP) to additionally establish, implement, and maintain, an effective workplace violence prevention plan (WVPP) that is written, available, and easily accessible at all times, as specified. (Labor Code §6401.9)

8. Requires employers to record information in a violent incident log for every workplace violence incident. Specifies that information recorded in the log include, among other things, a detailed description of the incident, a classification of who committed the violence, the working conditions at the time, the type of incident, and the consequences, including actions taken to protect employees, as specified. (Labor Code §6401.9(d))

9. Provides that all records of violent incident logs and violent incident investigations be maintained for a minimum of five years and be made available to Cal/OSHA, employees, and their representatives, as specified. (Labor Code §6401.9(f))

10. 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)

This bill:

1. Defines "assault" as a physically aggressive act to staff, including hitting, pushing, kicking, or other acts directed against a staff person that could cause potential or actual injury.

2. Directs the LWDA to make a quarterly report regarding assaults against employees to both of the following:

    a. The LC and any bargaining unit within the agency within 30 calendar days of the last day of the quarter with respect to assaults that occurred during that quarter.
    b. On or before January 30, 2026, and annually thereafter, the Legislature and the chairs of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget with respect to assaults that occurred during the preceding calendar year.

3. Provides that a report made pursuant to these provisions shall include all of the following with respect to any assault that occurred during the previous reporting period:

a. The date of the assault.
b. The job classification of any affected represented employee.
c. The employee's state bargaining unit designation.
d. The name of the location at which the incident occurred.

4. Specifies that information reported pursuant to these provisions shall be reported in a manner that appropriately protects the confidentiality of employees.

COMMENTS

1. Committee Comments:

Which employees are included in the report?

SB 1202 proposes to add a section to Division 5 of the Labor Code. This particular division uses the definition of "employer" and "employee" specified above *under existing law*. Specifically, the division defines "employee" as *every* person who is required or directed by any employer to engage in employment. The bill in print applies to both public and private sector employees. The background document provided by the author's office refers to "employees" generally, but then specifies that the "intent of this bill is to provide unions, the Labor Commissioner, and the legislature with more accurate data about assaults in *public workplaces*." The document also cites a study, conducted by the U.S. Department of Justice[1], on rates of workplace violence experienced by government employees.

After the LWDA compiles the report on assaults against employees, the agency is directed to submit it to, among others, the LC and any bargaining unit within the agency. It is unclear if the intent of the author is to compile a report of workplace assaults against *all* employees in the state, all employees under the jurisdiction of the LWDA, or just all state employees. If the intent is to capture reports of assaults against all employees in the state, it is unclear why state bargaining units within the LWDA would need or should have access to this information for every employee in California.

Duplicative Information?

There is an existing mechanism to track incidents of workplace violence for public and private sector employees. SB 553 (Cortese, Chapter 289, Statutes of 2023) requires employers to establish, implement, and maintain an effective workplace violence prevention plan that includes, among other elements, a requirement to maintain workplace violence incident logs and make them available to employees and their representatives. With the exception of including a represented employee's job classification and their state bargaining unit, the information in SB 1202's report is already included in workplace violence incident logs.

Employees, and their representatives, are entitled to examine and copy workplace violence logs within 15 days of their request without cost.

LWDA vs. LC?

[1] Erika Harrell, PH.D,"Workplace Violence Against Government Employees," U.S. Department of Justice, Bureau of Justice Statistics, April 2013

The LWDA oversees seven major departments, boards, and panels that serve California workers and employers. DIR is one of these departments. Within DIR is the Labor Commissioner's (LC) office, also known as DLSE.

This bill directs the LWDA to make a quarterly report to the LC. Seeing as the LWDA oversees the LC, the author may want to consider requiring a different entity to compile the report and furnish it to the LWDA. Cal/OSHA, also within DIR, already receives reports of occupational injuries and illnesses and has access to workplace violence incident logs. The LC promotes economic justice through robust enforcement of labor laws. Either of these two divisions is more equipped to compile a report on employee assaults. The LWDA is the over-arching authority and should be the one receiving the report, regardless of the division tasked with making it.

Purpose of the Bill?

The committee is uncertain if the bill in print captures the author's intentions. The author may wish to amend the bill to clarify what employee assaults are to be reported and to whom. Should the author decide to apply these provisions only to public employees, the committee recommends working on amendments in Senate Judiciary. The bill's late amended date of April 9th and the quick turnaround necessitated by the double referral prohibits amendments from being processed in this committee.

2. Need for this Bill?

According to the author, "There is currently no requirement for unions to be notified of on the job assaults to their members. This represents a gap for representation and bargaining agreements."

They also state that, "The intent of this bill is to provide unions, the Labor Commissioner, and the legislature with more accurate data about assaults in public workplaces. According to DIR, In the U.S., an average of 1.3 million nonfatal violent crimes in the workplace occurred annually from 2015 to 2019.[2]"

Finally, they argue, "Public sector unions work every day to ensure that their members receive due compensation and are able to work in safe and positive work environments. They should have access to this type of data to better represent their members and bargain for protections that keep those employees safe. As we rely on public workers to implement our policies and provide services to the public, the unions that represent them should at the minimum have access to general and current data about the frequency, location and circumstances surrounding assault in the workplace."

3. Proponent Arguments:

None received.

[2] "Workplace Violence Prevention in General Industry" https://www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/

4. Opponent Arguments:

None received.

5. Dual Referral:

Amendments taken after the bill was referred to the Committee on Labor, Public Employment and Retirement have triggered a re-referral to Senate Judiciary. Should the bill be passed today, it will be sent to Senate Rules Committee for a re-referral to Senate Judiciary Committee.

6. Prior Legislation:

SB 553 (Cortese, Chapter 289, Statutes of 2023) required employers to establish, implement and maintain an effective workplace violence prevention plan that includes, among other elements, requirements to maintain incident logs, provide specified trainings, and conduct periodic reviews of the plan.

SB 363 (Pan, 2019, Vetoed) would have required the Department of State Hospitals, the Department of Developmental Services, and the Department of Corrections and Rehabilitation to report monthly the total number of assaults against employees to the bargaining unit of the affected employees.

SUPPORT

None received

OPPOSITION

None received

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SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1303	**Hearing Date:**	April 17, 2024
Author:	Caballero		
Version:	April 10, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: Public works

KEY ISSUE

This bill requires an awarding body or its agent, prior to withholding contract payments for violations of public works law, to, among other things, notify the Division of Labor Standards Enforcement (DLSE) and confer with negotiating parties as well as participate in a process authorizing the contractor to review and respond to the alleged violations.

Additionally, this bill requires a private labor compliance entity to disclose potential conflicts of interest and submit to the awarding body and DLSE a signed declaration under penalty of perjury verifying that it has no conflicts of interest and creates a private right of action, 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, 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:

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. Defines "public work" to include, 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, except work done directly by a public utility company pursuant to order of the Public Utilities Commission or other public authority. (Labor Code §1720(a))

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

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

7. Authorizes an awarding body to elect to initiate and be approved by DIR to enforce a labor compliance program in exchange for higher prevailing wage exemptions. (Labor Code §1771.5)

8. Requires the body awarding the contract for public work to take cognizance of violations of public works law committed in the course of the execution of the contract, and promptly report any suspected violations to the LC. An awarding body may withhold contract payments following an investigation, as specified. (Labor Code §1726)

9. Directs any awarding body enforcing public works law to provide notice of the withholding of contract payments to the contractor and subcontractor in writing. The notice shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld as well as the procedure for obtaining review of the withholding. (Labor Code §1771.6)

10. Specifies that the withholding of contract payments by an awarding body is reviewable in the same manner as if the notice of the withholding was a civil penalty order of the LC and that the LC may intervene to represent the awarding body. (Labor Code §1771.6)

11. Authorizes a joint labor-management committee (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 required payroll records. (Labor Code §1771.2)

12. Requires that any action brought by a JLMC be commenced 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)

13. Provides for the enforcement of specified labor laws through civil or criminal actions by a public prosecutor without specific authorization from the Division of Labor Standards Enforcement (DLSE). (Labor Code §180-183)

This bill:

1. Defines a "private labor compliance entity" as a third-party company that is hired by an awarding body to perform labor compliance and enforcement activities on public works projects on its behalf.

2. Prohibits a private labor compliance entity from providing labor compliance and enforcement activities on behalf of an awarding body if it has a conflict of interest and

requires these entities to submit to the awarding body and DLSE a signed declaration under penalty of perjury verifying that it has no conflicts of interest.

3. Requires a private labor compliance entity to disclose a potential conflict of interest to the awarding body and the DLSE, including whether a client of the private labor compliance entity has bid on, or has been awarded, a public works project that the labor compliance program has or will contract.

4. Requires an awarding body or its agent, prior to withholding funds from a public works contractor for an alleged violation to do all of the following:

    a. Confer with the negotiating parties of the applicable agreements to review relevant public works law.

    b. Notify DLSE.

    c. Not withhold an amount that exceeds the alleged underpayments and penalty assessments.

5. Directs an awarding body or its agent that withholds funds from a public works contractor or subcontractor to do both of the following:

    a. Within 20 days of a written request for review by the contractor or subcontractor, provide a venue for a public works contractor or subcontractor to review and respond to evidence of alleged violations.

    b. Forward any unremedied alleged violations to DLSE for formal investigation within 45 days of withholding of funds.

6. Provides that a violation of these provisions shall make a contract between a private labor compliance entity and an awarding agency null and void, and subjects the private labor compliance entity to a penalty of not less than one thousand dollars ($1,000), including reasonable attorney's fees, subject matter expert costs, and expenses.

7. Authorizes, in the event of a violation of these provisions, an aggrieved party, including a JLMC established pursuant to the federal Labor Management Cooperation Act of 1978, to initiate a private right of action. The court shall award reasonable attorney's fees and costs incurred in maintaining the action, including expert witness fees to a prevailing plaintiff.

8. Specifies that the LC or a public prosecutor may enforce the provisions of this section.

9. Provides that these provisions do not apply to the following awarding bodies operating labor compliance programs approved and monitored by DIR:

    a. The Department of Transportation
    b. The City of Los Angeles
    c. The Los Angeles Unified School District
    d. The County of Sacramento

COMMENTS

1. Labor Compliance Programs:

The determination that a project constitutes a "public work" carries with it contractor requirements to, among other things, pay prevailing wage and submit certified payroll records to the LC. These requirements necessitate monitoring by the LC, awarding bodies, and JLMCs.

Specifically, awarding bodies have a responsibility to "take cognizance of violations of public works law." This responsibility is often shifted to labor compliance entities, of which there are two kinds, ones approved by the Department of Industrial Relations (DIR) and ones operated by third parties.

DIR-Approved Labor Compliance Entities

Labor compliance entities or programs approved by DIR are a rarity these days, and only exist for public works funded by Proposition 84, in certain pre-2012 projects subject to the requirement, and in four legacy programs for Caltrans, the City of Los Angeles, the Los Angeles Unified School District, and the County of Sacramento. Unlike private labor compliance entities, DIR-approved ones are required to submit applications demonstrating their capacity to operate and expertise in public works. Staff working for these entities must know how to conduct pre-job conferences with contractors, ensure certified payroll records are submitted on time, identify potential violations in those records, conduct investigations, prepare an audit, and assess penalties. DIR considers the extent to which a compliance entity is already providing services for other awarding bodies before it approves an application. Additionally, these entities are subject to specific reporting and performance standards set forth in regulations adopted by the Director of Industrial Relations in Title 8, California Code of Regulations (CCR), sections §16421–16439.

Third Party Labor Compliance Entities

These entities are not specifically authorized by statute and are not subject to DIR approval or oversight. However, they do follow the enforcement procedures specified in the Labor Code for awarding bodies. There is no requirement that their staff have knowledge of public works law or that the entity not take on too many compliance projects at once. The pre-job conference to review labor law, required for DIR-approved entities, does not exist here. These entities cannot have their authority revoked. Ultimately, these third party entities are receiving public funds with little oversight over how they operate.

2. Existing Withholding Process

Withholding Process for DIR-Approved Labor Compliance Entities

When DIR-approved labor compliance entities withhold funds from contractors they are required to follow specific protocols enumerated in the CCR, including, in some instances, obtaining prior approval from the LC. The withholding of contract payments when payroll records are delinquent or inadequate does not require the prior approval of the LC. The compliance entity, however, is required to provide the contractor and subcontractor with

written notice specifying why payments are being withheld, the amount withheld, and their right to repeal and request an expedited hearing.

The withholding of contract payments when an underpayment of wages or another violation has occurred *does* require approval from the LC. The compliance entity must submit a comprehensive report that includes, among other things, evidence of the violation and evidence that the contractor had the opportunity to explain why there was no violation, or that any violation was a good faith mistake and promptly corrected. A copy of this report is served to the contractor and subcontractor. The LC then affirms, rejects, or modifies the withholding in whole or in part.

Withholding Process for Third Party Labor Compliance Entities

An awarding body, or its third party labor compliance entity, *does not* need to obtain approval from the LC to withhold funds from contractors for any violation of public works law. If the awarding body determines after an investigation that there has been a violation, they are required to report this to the LC, but they do not need express permission to act. Once a violation is identified, written notice describing the nature of the violation, the amount of wages and penalties withheld, and the procedure for obtaining review of the withholding is served to the contractor and subcontractor.

An affected contractor or subcontractor may obtain review of a withholding by transmitting a written request to the LC within 60 days after service of the assessment. If review is requested the LC may intervene to represent the awarding body. Within 45 days of the conclusion of the hearing, the Director of Industrial Relations shall issue a written decision affirming, modifying, or dismissing the assessment. If no hearing is requested within 60 days after service of the assessment, the assessment shall become final.

These entities are not required to give contractors the opportunity to explain why there was no violation of law or why any violation was caused by a good faith mistake and promptly corrected before funds are withheld. Violations can include, but are not limited to, missing payroll records, incorrect wage rates, and illegal taking of wages.

3. Need for this bill?

According to the author, "Third-party labor compliance companies are hired by the public agency who awards the public works project. The job of these 3rd party labor compliance companies is to conduct enforcement activities on public works projects. There are minimal guidelines or requirements as to how these 3rd party compliance companies operate. This lack of guidelines negatively impact public works projects, which can result in compliance companies withholding funds with no procedure and stalling the project, with little recourse to remedy these effects."

4. Proponent Arguments:

According to the sponsors, the California Labor Federation and California-Nevada Conference of Operating Engineers,

"Recently, more public agencies have started contracting out enforcement on public works projects to for-profit third-party companies who claim to specialize in labor compliance.

Although increased labor compliance is positive, there are very minimal guidelines or standards for these third parties creating inconsistencies in enforcement. Third parties can create unnecessary delays on projects when they are unfamiliar with existing labor agreements and misinterpret them. These misinterpretations can lead to withholding of funds that stall projects, with little recourse or procedure for contractors to clarify misunderstandings."

"Third party compliance groups can act to withhold funds or demand alleged penalties in a completely subjective manner. They can also operate even if they have conflicts of interest on projects they are tasked with overseeing. A third party with a conflict of interest on a project may enforce to their advantage, resulting in labor law not being enforced fairly or uniformly. This causes unnecessary delays of payment to workers and slows completion of projects, wasting taxpayer dollars in the process."

4. Opponent Arguments:

The Associated General Contractors, who are opposed unless amended, argue, "Creating more specific rules for third-party labor compliance entities provides more certainty around the roles of these entities. It also provides opportunities for streamlining and accelerating project delivery in certain cases by hiring companies to complete this work."

"However, we have concerns additional liabilities contractors may encounter based on if an awarding jurisdiction chooses to use a third-party labor compliance entity. Specifically, proposed Labor Code Section 1771.8 (f) would allow for a private right of action by an aggrieved party, which includes joint labor-management committee. Further, the section allows for the court to award reasonable attorney's fees and costs to the prevailing plaintiff, not the party. This section potentially creates conflicts and selectively biased enforcement between unions. It is possible a union would file a private right of action simply because their union workers are not affiliated with the project. This does not help in the delivery of the public works project, but rather increases liability and costs for the contractor, and overall, for public works projects."

5. Dual Referral:

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

6. Prior Legislation:

AB 594 (Maienschein, Chapter 659, Statutes of 2023) provided for the enforcement of specified labor laws through civil or criminal actions by a public prosecutor without specific authorization from (DLSE).

SB 854 (Committee on Budget and Fiscal Review, Chapter 28, Statutes of 2014) directed specified awarding bodies to develop and get DIR approval for labor compliance programs.

AB 1646 (Steinberg, Chapter 2000, Statutes of 2000) required, among other things, an awarding body to report promptly any suspected violations of public works law to the LC.

SUPPORT

California Labor Federation (Co-Sponsor)
California-Nevada Conference of Operating Engineers (Co-Sponsor)
California Construction and Industrial Materials Association
California State Association of Electrical Workers
California State Pipe Trades Council
Painters and Allied Trades- District Council 36
State Building and Construction Trades Council
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION

Associated General Contractors

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1316	**Hearing Date:**	April 17, 2024
Author:	Wahab		
Version:	February 16, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Glenn Miles		

SUBJECT: School employees: state special school personnel: salaries

KEY ISSUE

This bill would require the California Department of Human Resources (CalHR) to establish salaries for specified personnel of the California School for the Deaf (CSD) and the California School for the Blind (CSB) that are comparable with the salaries of similarly qualified school personnel who are employed by their encompassing school districts.

ANALYSIS

Existing law:

1. Declares that there are two state schools for the deaf, known and designated as the California School for the Deaf, Northern California, and the California School for the Deaf, Southern California. The term "California School for the Deaf" (CSD) shall refer to both schools unless the context otherwise requires. (Education Code (EC) § 59000)

2. Declares that there is one state school for the blind, known and designated as the California School for the Blind (CSB). (EC § 59100)

3. Provides that the CSD and the CSB are part of the public school system of the state except that they derive no revenue from the State School Fund, and have for their object, respectively, the education of the deaf and of the blind pursuant to their particular educational needs, as specified. (EC § 59001, § 59101)

4. Places the CSD and the CSB under the administration of the State Department of Education (CDE). (EC § 59002, § 59102)

5. Requires CDE to appoint CSD's and CSB's superintendents and other officers and employees and to fix the compensation of their officers, teachers, and employees. (EC § 59003, § 59103)

6. Requires CalHR to consider making salaries for CSD and CSB teachers, specialists, and administrators competitive with the salaries of similarly qualified school teachers, specialists, and administrators who are employed by the encompassing school districts. (EC § 59008 (a), § 59104 (a))

7. Defines "teachers," "teacher specialists," and "administrators" to mean those individuals who hold the appropriate teaching, service, or teaching and administrative credential, as appropriate, as issued by the Commission on Teacher Credentialing, as determined by the employing state agency. (EC § 59008 (b), § 59104 (b)

8. Establishes the Ralph C. Dills Act, which requires the state to collectively bargain with the exclusive representatives of state employees' regarding wages and working conditions, and to define negotiated agreements in memoranda of understanding (MOUs). (Government Code (GC) § 3512 et seq.)

9. Designates CalHR as the Governor's official representative in all matters related to collective bargaining with state employees. (GC § 19815.4 (g))

This bill:

1. Requires CalHR to establish salaries for the CSD and CSB school personnel that are comparable with the salaries of similarly qualified school personnel employed by the encompassing school districts.

2. Defines "school personnel" to mean those individuals who are employed to perform services at the school, including, but not limited to, teachers, specialists, administrators, counselors, substitute teachers, support liaisons, custodians, and groundskeepers.

COMMENTS

1. Need for this bill?

According to the author:

"Existing law only requires the Department of Human Resources to consider making salaries for teachers, specialists, and administrators of state special schools competitive with those in encompassing school districts. This allows for discrepancies in compensation levels and has led to unequal pay for teachers, specialists, and administrators of state special schools."

Background

California operates three State Special Schools (SSS): the California School for the Deaf, Fremont (CSDF); the California School for the Deaf, Riverside (CSDR); and the California School for the Blind (CSB), which is also located in Fremont. The CDE also operates three Diagnostic Centers, located in Fremont, Fresno, and Los Angeles. CDE administer the SSS and Diagnostic Centers, all of which the state funds by an appropriation in the annual budget act.

CSDF was established in 1860 and CDFR opened in 1953. The schools provide instructional programs to deaf students in California and serve as resources to educational and community service agencies. Students are enrolled in either a day school or a residential program, depending upon their individual needs and their residences.

CSB was founded in 1860 as part of the same institution as CSD but became a separate school in 1922. CSB provides educational programs for blind, visually impaired, and deaf-blind students from five through twenty-two years of age in residential as well as day school programs. CSB's long-term goal for each student is to preparation them for adult life in their home community. CSB also provides local education agencies with a variety of staff development programs to assist with local efforts in the areas of assistive technology and instruction for blind students.

Like other California public schools, the SSS experienced significant enrollment declines due to the COVID-19 pandemic. Additionally, CSDF representatives state that CSDF faces a particularly severe employee recruitment and retention crisis because school personnel are either transferring to the CSDR (where the cost of living is more affordable) or leaving for positions in surrounding Bay Area school districts that pay substantially more than CSDF. Therefore, unless the state provides some kind of relief, CSDF faces a serious risk of closing. This bill seeks to address the problem by requiring the state to compensate all SSS personnel at a level that is comparable to the pay scales of their nearby, local school districts.

State Employees and Collective Bargaining

The SSS receive funding from the state through an annual budget appropriation and SSS employees are state employees, not local school district employees. Pursuant to the Dills Act, state employee compensation and working conditions are subject to collective bargaining between CalHR and the employees' unions. Therefore, proposed requests for the Legislature to impose special statutory conditions on employee compensation interfere with important policy goals underlying the public sector collective bargaining system and should instead be resolved through bargaining.

Nevertheless, the SSS' unique circumstances and their rich historical and cultural importance may justify legislative action to stabilize these state landmarks. Even so, the bill's supporters will likely face significant challenges in getting the Administration to approve statutory compensation requirements that CalHR has until now declined to implement through the collective bargaining process.

2. Proponent Arguments

According to Service Employees International Union, Local 1000:

"Currently, California School for the Deaf educators in Fremont (CSDF) make 25% less in salary compared to other educators in nearby districts. For example, new teachers at the California School for the Deaf-Fremont are paid $24,160 less than their counterparts in the neighboring school district. This further exacerbates wage discrepancies amongst individuals doing the same vital work to serve the same communities. Despite desperately needing high-quality educators, CSDF struggles with recruitment and retention and cannot compete with neighboring districts. CSDF has been an incredible lifeline for generations of students and families. The school is a safe space for learning, moral guidance, and developing social skills for one of the most underserved communities in our state."

According to the California Superintendent of Public Instruction:

"Senate Bill 1316 addresses pay disparity among employees at California's oldest schools for individuals with sensory impairments, the California Schools for the Deaf and the California School for the Blind. These schools' staff members currently receive compensation rates significantly lower than those in publicly funded schools in surrounding districts. This bill will help ensure that all employees at these schools receive pay comparable to staff members in their respective school districts. Given the high cost of living throughout the state, this compensation adjustment is crucial for these institutions to attract and retain qualified personnel."

3. Opponent Arguments:

None received.

4. Prior Legislation:

AB 1051 (Cervantes 2023) would have required, commencing with the 2024-25 fiscal year, that the amount apportioned to the State Special Schools for the Deaf and the Blind (SSS) for categorical programs as of the 2012-13 fiscal year be annually adjusted by a cost-of-living (COLA) adjustment. The bill also would have declared that it is the intent of the Legislature to provide an annual COLA to the SSS and Diagnostic Centers. The bill died in the Assembly Appropriations Committee.

SUPPORT

Service Employees International Union, Local 1000 (co-sponsor)
State Superintendent of Public Instruction Tony Thurmond (co-sponsor)
Alameda County Democratic Central Committee

OPPOSITION

None received.

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1162	**Hearing Date:**	April 17, 2024
Author:	Cortese		
Version:	April 1, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Emma Bruce		

SUBJECT: Public contracts: employment compliance reports and payroll records: workers' dates of birth

KEY ISSUE

This bill requires contractors and subcontractors to include a worker's date of birth in existing public works payroll records and in existing monthly compliance reports made to the public entity or other awarding body for projects with a skilled and trained workforce requirement.

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, 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)

Existing state law:

1. 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)

2. Defines "public work" to include, 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, except work done directly by a public utility company pursuant to order of the Public Utilities Commission or other public authority. (Labor Code §1720(a))

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

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

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

6. Specifies that any records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement (DLSE) shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. (Labor Code, §1776 (e))

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

8. Requires, upon request, agencies included in the Joint Enforcement Strike Force on the Underground Economy (JESF) and other law enforcement agencies investigating violations of law, to be provided nonredacted copies of certified payroll records, as specified. (Labor Code, §1776 (f)(1))

9. Authorizes a public entity to require a bidder, contractor, or other entity to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by a statute or regulation. (Public Contract Code §2600)

10. Defines "skilled and trained workforce" to mean, among other requirements, a workforce where all the workers performing work in an apprenticeable occupation, as defined, in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief of the Division of Apprenticeship Standards (DAS). (Public Contract Code §2601)

11. Requires a contractor, bidder, or other entity to provide to the public entity or other awarding body, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with skilled and trained workforce requirements. (Public Contract Code §2602)

12. Provides that if a monthly report does not demonstrate compliance, the public agency or other awarding body shall withhold contract payments, as specified, and forward a copy of the report to the LC. (Public Contract Code §2602(c))

13. Requires a contractor or subcontractor to pay a civil penalty to the state of not more than $5,000 per month of work performed in violation of the skilled and trained workforce requirements if the LC or his or her designee determines that the contractor or subcontractor failed to use a skilled and trained workforce. A contractor or subcontractor that commits a second or subsequent violation within a three-year period shall forfeit as a civil penalty to the state the sum of not more than ten thousand dollars ($10,000) per month of work performed in violation of this chapter. (Public Contract Code §2603)

This bill:

1. Requires contractors and subcontractors, while performing public works, to include in existing payroll records the date of birth of each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work.

2. Includes date of birth in the existing list of redacted information in any payroll records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or DLSE

3. Includes date of birth in the existing list of redacted information in any payroll records made available for inspection and furnished upon request to the public by an agency included in JESF or by a law enforcement agency investigating a violation of law.

4. Requires a contractor, bidder, or other entity, on projects requiring a skilled and trained workforce, to include the date of birth of each worker in the existing monthly compliance report furnished to the public entity or other awarding body.

5. Declares that in order to protect the privacy of a journeyman, apprentice, worker, or other employee employed by a contractor or subcontractor in connection with a public work, it is necessary to limit the public's right of access to their personal information.

COMMENTS

1. Background:

Joint Labor Management Committees (JLMCs)

JLMCs, established pursuant to the federal Labor Management Cooperation Act of 1978, aim to improve communications 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. In California, JLMCs play a vital role in ensuring compliance with public works and skilled and trained statutes. Specifically, JLMCs are empowered 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 payroll records, as required by public works law.

Public Works Requirements and Monitoring

The determination that a project constitutes a "public work" carries with it contractor requirements to, among other things, pay prevailing wage and utilize apprentices for contracts valued at $30,000 or more. California's prevailing wage laws ensure that the ability to secure a public works contract is not based on paying lower wages than a competitor. One component of prevailing wage policy is the requirement that contractors and subcontractors register with DIR and submit their payroll records to the LC to ensure compliance with various pay and records keeping requirements. As noted under *existing law*, these payroll records, sans an individual's social security number, are available to JLMCs. The additional obligations that accompany a "public work" necessitate monitoring by the LC, awarding bodies, and JLMCs.

Oftentimes workers with identical or similar names are employed on the same construction site. This can make it difficult for monitoring bodies, like JLMCs, to verify whether a contractor is paying prevailing wage. Including the date of birth of each journeyman, apprentice, worker, or other employee employed on public works projects provides JLMCs a unique identifier to differentiate between individuals with similar names. Additionally, on projects that require registered DAS-apprentices, access to an individual's date of birth assists JLMCs in verifying a worker's enrollment in an apprenticeship program approved by DAS.

Given the risks associated with sharing social security numbers, using an individual's date of birth is a safer way to provide JLMCs a unique identifier.

Skilled and Trained Requirements and Monitoring

Skilled and trained workforce requirements are qualifications for the building and construction workforce that California law requires on certain projects. A "skilled and trained workforce" is one where all the workers performing work in an apprenticeable occupation in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by DAS. It is important to remember that a project can be subject to either a skilled and trained workforce, prevailing wage law, both, or neither.

When a contractor is required to use a skilled and trained workforce to complete a project, they commit to doing so in an enforceable agreement with the public entity or awarding body. The contractor agrees to comply at every tier and is required to complete and submit to the awarding body a monthly report demonstrating compliance. Should a contractor fail to provide the monthly report or fall out of compliance, a list of penalties exist and the LC is notified by the awarding body. Ensuring compliance can be difficult, because on projects that are only subject to skilled and trained requirements, and are not also a public work, it is incumbent upon the awarding body to enforce penalties and notify the LC. The payroll reporting requirements that exist for public works projects do not apply to projects that only require a skilled and trained workforce requirement.

As of now, skilled and trained workforce provisions contain no specifics as to what contractors need to include in their monthly compliance reports. Public Contract Code simply specifies they must contain information sufficient to "demonstrate compliance." SB 1162 would require that these reports include the date of birth of each worker. As explained above, JLMCs would then be able to use this information to verify a worker's enrollment in, or graduation from, a DAS-approved apprenticeship program.

2. Committee Comments:

The author may wish to consider amending the bill to specify that JLMCs can request copies of the monthly compliance report submitted to awarding bodies for projects with a skilled and trained workforce requirement. Existing public works law creates a clear mechanism for JLMCs to access payroll records, but on projects only subject to skilled and trained requirements, no such clear mechanism exists.

3. Need for this bill?

According to the author, "[Joint] Labor-Management Cooperation Committees [JLMCs] play a crucial role in ensuring that employers comply with wage and labor requirements, particularly in the context of public works projects. One of their primary functions is to oversee and monitor employer adherence to these regulations. Currently, [JLMCCs] have access to certain resources such as employer-certified payroll records for public works projects and online databases provided by the Department of Industrial Relations (DIR), which include information on Apprenticeship Status and Safety Training Certification by name."

Furthermore, "Despite having access to the online database, they often encounter difficulties in identifying the correct individual because multiple workers may share the same name. This situation underscores the need for an additional unique identifier that can effectively differentiate between individuals with similar names."

4. Proponent Arguments

The sponsors of the measure, the California State Association of Electrical Workers, the California State Pipe Trades Council, and the Western States Council of Sheet Metal Workers, state,

"By requiring employers to include the date of birth of each worker in their certified payroll reports, SB 1162 provides JLMCs with a powerful tool to accurately locate individuals within the Department of Industrial Relations (DIR) database. This information is essential for verifying whether workers meet the eligibility criteria to participate in skilled and trained projects, as mandated by state regulations. Furthermore, the inclusion of date of birth data enables JLMCs to verify whether a worker has successfully completed a state-certified apprenticeship program. This verification process is pivotal in ensuring compliance with labor standards and upholding the integrity of skilled and trained workforce initiatives. SB 1162 streamlines the verification process for JLMCs, empowering them to enforce regulations more efficiently while maintaining the highest standards of accountability. By accurately identifying individuals and confirming their eligibility to work on specific projects, JLMCs can better ensure that skilled and trained workers are employed in accordance with state requirements."

5. Opponent Arguments:

None received.

6. Dual Referral:

Amendments taken after the bill was referred to the Committee on Labor, Public Employment and Retirement have triggered a re-referral to the Senate Judiciary. Should the bill be passed today, it will be sent to the Senate Rules Committee for a re-referral to the Senate Judiciary Committee.

7. **Prior Legislation:**

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

SB 2311 (Low, Chapter 347, Statutes of 2020) required a public entity to include in all bid documents and construction contracts whether the project is subject to skilled and trained workforce provisions in existing law. The bill also specified that failure of a public entity to provide this notice does not excuse the public entity of the obligation to obtain a commitment that these provisions will be followed OR a bidder or contractor from the obligation to use a skilled and trained workforce if this is a requirement imposed by statute or regulation.

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

AB 3018 (Low, Chapter 882, Statutes of 2018) addressed compliance with skilled and trained workforce rules by strengthening public agency reporting requirements, creating penalties for noncompliance, and providing the Labor Commissioner (LC) with the authority to issue a civil wage and penalty assessment against a contractor or subcontractor found in violation of state law.

SUPPORT

California State Association of Electrical Workers (co-sponsor)
California State Pipe Trades Council (co-sponsor)
Western States Council of Sheet Metal Workers (co-sponsor)

OPPOSITION

None received

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1350	**Hearing Date:**	April 17, 2024
Author:	Durazo		
Version:	March 18, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Private employment: domestic workers

KEY ISSUE

This bill requires the Department of Industrial Relations (DIR) to make recommendations by submitting to the Legislature and publicly posting on its website, a report on policies the state may adopt to protect domestic workers from work-related injuries and illnesses.

ANALYSIS

Existing law:

1) Under the California Occupational Safety and Health Act (OSHA), 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 (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 that the jurisdictional reach of Cal/OSHA's enforcement extends to "every employment and place of employment in this state, which is necessary adequately to enforce and administer all laws and lawful standards and orders, or special orders requiring such employment and place of employment to be safe, and requiring the protection of the life, safety, and health of every employee in such employment or place of employment." (Labor Code §6307).

4) Defines, for purposes of OSHA, "employment" to include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, *except household domestic service.* (Labor Code §6303)

5) Defines "domestic work" as services related to the care of persons in private households or maintenance of private households or their premises. Domestic work occupations include childcare providers, caregivers of people with disabilities, sick, convalescing, or elderly persons, house cleaners, housekeepers, maids and other household occupations. (Labor Code §1451)

6) Requires Cal/OSHA, if the division learns or has reason to believe that an employment or place of employment is not safe or is injurious to the welfare of an employee, it may, on its own motion, or upon complaint, summarily investigate the employment or place of employment, with or without notice or hearings. Certain timeframes exist if a complaint is deemed to allege a serious violation. (Labor Code §6309)

7) Under the Domestic Worker Bill of Rights, regulates the hours of work of certain domestic work employees and provides an overtime compensation rate. Specifically, the law provides that a domestic work employee who is a personal attendant shall not be employed more than nine hours in any workday or more than 45 hours in any workweek unless the employee receives one and one-half times the employee's regular rate of pay for all hours worked over nine in a day and 45 in a workweek. (Labor Code §1450-1454)

8) Requires the chief of Cal/OSHA, or a representative, to convene an advisory committee for the purposes of creating *voluntary guidance and making recommendations* to the Department of Industrial Relations and the Legislature on policies the state may adopt to protect the health and safety of privately funded household domestic service employees. Requires the advisory committee to develop voluntary industry-specific occupational health and safety guidance for the purpose of the following:

    a. Educating household domestic service employees on how, to the extent possible, they may identify and evaluate workplace hazards and prevent or minimize work-related injuries and illnesses.
    b. Educating household domestic service employers on how they may create safer workplaces by identifying and evaluating workplace hazards and how to prevent or minimize work-related injuries and illnesses for their employees.
    (Labor Code §6305.1)

9) In making these recommendations, the advisory group shall consider the following:

    a. How to protect the privacy of individuals who employ domestic workers in their private residences in the context of future potential enforcement of health and safety standards, orders, and regulations, including applicability to household domestic service employers of the existing civil monetary penalty structure for violations.
    b. Identifying and evaluating common workplace hazards specific to the industry.
    c. The scope and applicability of existing regulations to the industry.
    d. The need to develop industry-specific requirements.
    e. How to conduct training and outreach to employers and employees in the industry.
    (Labor Code §6305.1)

10) Required Cal/OSHA to release and publicly post the report of the advisory committee on its website and submit it to the Legislature by January 1, 2023. The report was completed and received by the Legislature. (Labor Code §6305.1)

11) Establishes within DIR, the Division of Fair Labor Standards Enforcement (DLSE) lead by the Labor Commissioner, tasked with administering and enforcing labor code provisions concerning wages, hours, and working conditions. (Labor Code §56)

12) Requires DLSE, upon appropriation and with an opportunity to expand or renew contingent on allocation of state funds or identification of other revenue sources, to establish and maintain an outreach and education program to promote awareness of, and compliance with, labor protections that affect the domestic work industry and to promote fair and dignified labor standards in this industry and other low-wage industries. As part of the program, authorizes:

    a. Cal/OSHA to issue competitive request to Community Based Organizations (CBOs) to provide education and outreach services, as specified.
    b. CBOs to be responsible for developing, and consulting with CalOSHA on, the core education and outreach materials regarding minimum wage, overtime, sick leave, record-keeping, retaliation, and the division wage adjudication and retaliation process, including specific issues that affect certain industries, such as the domestic work industry, differently.
    c. CBOs to be responsible for all costs related to the development, printing, advertising, or distribution of the education and outreach materials. The materials shall be translated into non-English languages as may be appropriate, as determined by the applicable CBO in consultation with the division. At the discretion of the division, the division shall have final approval over the education and outreach materials
    (Labor Code §1455)

This bill:

1) Requires the Department of Industrial Relations to make recommendations to the Legislature on policies the state may adopt to protect domestic workers from work-related injuries and illnesses.

2) In making these recommendations, requires DIR to consider the recommendations previously made by the existing domestic worker advisory committee.

3) Requires DIR to release and publicly post the report of its recommendations on its internet website and submit a copy of the report to the appropriate policy committees of the Legislature no later than September 1, 2025.

4) Requires the report to be submitted pursuant to existing reporting requirements, as specified, and repeals these provisions on September 1, 2029.

COMMENTS

1. Background:

In California, every employer has a legal obligation to provide and maintain a safe and healthful workplace for their employees. Under existing law, employers must have a written Injury and Illness Prevention Program (IIPP) that must be developed and implemented effectively by employers. Additionally, Cal/OSHA has the duty and authority to investigate workplaces for the safety and welfare of employees, either on its own motion or upon complaints. Additionally, Cal/OSHA is required to compile annual data pertaining to complaints received and citations issued and post it on its website.

Historically domestic workers have been excluded from occupational safety and health laws as well as many other worker protections. The reasons are related to the nature of the work, who performs the work, and a long history of treating these workers as an extension of the "household." Domestic workers are amongst one of the most vulnerable and unprotected categories of workers. Many domestic workers may lack decent working conditions, which is compounded with the fact that the sector often encompasses disadvantaged groups, including immigrants where language barriers pose additional challenges. A June 2020 report from the University of California, Los Angeles Labor and Occupational Safety and Health Program found that 85 percent of domestic workers surveyed experience musculoskeletal injuries that are associated with chronic pain. Many respondents reported continuing to work through their injuries for fear of job or financial loss.[1] Many of these injuries could be prevented by appropriate health and safety guidance that specifically targets this industry, both the domestic worker and the domestic worker employers.

Legislative Efforts to Right a Wrong

The concept of removing the domestic worker exclusion from the definition of "employment" for OSHA purposes has been the subject of several bills dating back to AB 889 (Ammiano) in 2011. The first successful change to the industry was in 2013, when AB 241 (Ammiano) enacted the Domestic Worker Bill of Rights to regulate the hours of work of certain domestic work employees and provide an overtime compensation rate for these workers who were not previously entitled to overtime compensation. AB 241 included a January 1, 2017 sunset date on its provisions that was later removed by SB 1015 (Leyva) in 2016, making the overtime requirements permanent.

More recently, in 2019, SB 83 (Committee on Budget and Fiscal Review) established, until July 1, 2024, the Domestic Worker and Employer Outreach and Education Program (DWEOP) within DLSE to promote awareness of, and compliance with, labor protections that affect the domestic work industry. Last year, AB 130 (Committee on Budget) removed the sunset date thereby making the program permanent. Additionally, the state budget included a $35 million funding allocation for grants to community-based organizations for domestic worker education and outreach.

In 2021, SB 321 (Durazo) required that Cal/OSHA convene an advisory committee to provide voluntary guidance and make recommendations on policies the state may adopt to protect the health and safety of privately funded household domestic service employees.

Concerning the removal of the domestic worker exclusion from OSHA, there have been two attempts through SB 1257 (Durazo) in 2020 and SB 686 (Durazo) in 2023. Last year's bill would have removed the household domestic service exemption, required Cal/OSHA to adopt industry guidance to assist household domestic service employers understand their legal obligations and requiring all household domestic services employers to comply with, and adhere to, all applicable occupational safety and health regulations by January 1, 2025. Governor Newsom vetoed both SB 1257 and SB 686. In his veto message for SB 686, the Governor stated:

[1] UCLA Labor and Occupational Safety and Health Program, "Hidden Work, Hidden Pain: Injury Experience of Domestic Workers in California," June 2020.

"New laws in this area must recognize that private households and families cannot be regulated in the exact same manner as traditional businesses.

SB 686 as written would make private household employers immediately subject to the full set of existing workplace safety and health regulations governing businesses in the state, starting January 1, 2025. These obligations range from the requirement to establish an effective Injury and Illness Prevention Program to providing an eyewash station if household workers use chemicals like bleach, to implementing a Hazard Communication Program. Additionally, the current penalty scheme was meant for businesses and not private individuals. For a domestic employer covered by SB 686, these penalties could be up to $15,000 per violation depending on the circumstances.

That said, my Administration is committed to the wellbeing of domestic workers. I just signed a budget that includes $35 million in funding for grants to community-based organizations for domestic worker education and outreach. And two years ago, I signed SB 321, which established an advisory committee to make recommendations on how to protect the health and safety of domestic service employees. The committee discussed the importance of allowing employers the opportunity to learn about their obligations and correct any violations voluntarily before formal enforcement occurs. Unfortunately, SB 686 does not identify which specific standards domestic employers would be required to follow, nor does it outline an industry-specific system for investigation or enforcement as discussed and recommended by the Advisory Committee.

The households that employ domestic workers include middle- and low-income families and older Californians who require daily assistance, ranging from personal care to home cleaning to childcare. I am particularly concerned given that approximately 44% of the households that employ domestic workers are low-income themselves, that this bill creates severe cost burdens and penalties for many people who cannot afford them."

2. SB 321 Household Domestic Services Employment Safety Committee (Advisory Committee):

As noted above, in 2021, Governor Gavin Newsom signed into law SB 321 (Durazo) which required the Chief of Cal/OSHA to convene an advisory committee composed of key stakeholders in this industry. The purpose of the advisory committee was to provide policy recommendations to DIR and the California Legislature on policies the state may adopt to protect the health and safety of privately funded household domestic service employees, along with drafting **voluntary** industry-specific guidelines for the purpose of educating household domestic service employers and workers.

The Advisory Committee was made up of individuals who represent key stakeholders, including employers, workers, non-profit advocates, and health and safety experts. The outputs of their meetings are the policy recommendations and industry guidelines put forth by the Advisory Committee based on their discussions, literature reviews, review of existing policies, and input from experts in the field, workers, employers, and the public. Both the guidelines (*Voluntary Industry Guidelines to Protect the Health and Safety of Domestic Workers and Day Laborers*[2]) and the report (*SB 321 Committee Policy Recommendation to*

[2] SB 321 Advisory Committee Voluntary Industry Guidelines. https://www.dir.ca.gov/dosh/documents/Voluntary-Industry-Guidelines-SB-321.pdf

Protect the Health and Safety of Household Domestic Services Employees[3]) were released by DIR and made available on their website in December 2022.

Among its recommendations for advancing the Advisory Committee's view of the fundamental need for employers to have legal responsibility for the working conditions of domestic workers, the committee recommended:

1) Remove the household domestic services exclusion from the California Labor Code.
2) Once removed, DIR and Cal/OSHA shall enforce health and safety regulations.
3) Implement an industry-specific system for investigation and enforcement.
4) Develop and fund a pilot mediation program.
5) Maintain the existing civil monetary penalty structure for health and safety violations.
6) Create a liaison position within Cal/OSHA and train Cal/OSHA staff.
7) Uphold robust anti-retaliation protections for workers who speak out.

SB 1350 would require DIR to make recommendations to the Legislature on policies the state may adopt to protect domestic workers from work-related injuries and illnesses, and, in making these recommendations, to consider the recommendations previously made by the Advisory Committee.

3. Need for this bill?

According to the author, "These workers provide front-line care to California's most vulnerable, like seniors and people with compromised immune systems, yet they often remain without any health and safety protections. One year into the pandemic, domestic workers were three times more likely to have contracted COVID-19 than the general population in California, putting their lives at risk as well as their families and communities.

Climate accelerated disasters have also magnified the vulnerability and dangers that domestic workers and day laborers face on a daily basis. During the wildfires that devastated California, domestic workers and other household workers, such as day laborers, were asked to stay behind to fight fires, guard homes or pets, work in smoky conditions, and clean up toxic ash. Workers were further put at risk when employers failed to tell them that the homes they work in were under mandatory evacuation. The growing frequency and intensity of wildfires, extreme weather events and other natural disasters make it imperative that legislators take immediate legislative action to protect the health and safety of these workers. Beyond these extreme dangers, domestic workers also face risk of injury and illness in their day-to-day work."

4. Proponent Arguments:

According to the sponsors of the measure, the California Domestic Workers Coalition, "Without occupational safety and health protections, the over 300,000 domestic workers who work as housekeepers, nannies, and caregivers for seniors and people with disabilities, remain vulnerable to high rates of illness and injury at their workplace." Furthermore, they argue, "such injuries could be prevented by appropriate health and safety guidance and subsequent enforcement. Domestic workers are also at risk of suffering from psychological

[3] SB321 Committee Policy Recommendations Report – December 2022. https://www.dir.ca.gov/dosh/documents/Policy-Recommendations-SB-321.pdf

stress, and are especially vulnerable to workplace violations. They are at risk of physical, emotional and sexual abuse by employers or clients, and those risks are heightened because they work alone, in informal workplace environments, without psychological support or physical assistance. COVID-19 further exposed the impacts of these inequalities in our labor laws: in a study by UC Davis Environmental Health Sciences Center in 2021, Domestic workers suffered triple the risk of getting COVID-19 compared with the general population in California."

5. Opponent Arguments:

None received.

6. Prior Legislation:

SB 686 (Durazo, 2023, Vetoed) would have made specified changes to occupational safety law as it pertains to domestic workers including removing the "household domestic service" exemption from the Occupational Safety and Health Act definition of employment; requiring Cal/OSHA to adopt industry guidance to assist household domestic service employers understand their legal obligations that would now apply to them; and requiring all household domestic services employers to comply with, and adhere to, all applicable occupational safety and health regulations by January 1, 2025.

AB 130 (Committee on Budget, Chapter 39, Statutes of 2023) made some changes to the domestic worker outreach and education program. Specifically, the bill removed previous provisions that would have made the program inoperative on July 1, 2024 and repealed as of January 1, 2025 thereby making the program permanent. Additionally, the state budget included a $35 million funding allocation for grants to community-based organizations for domestic worker education and outreach.

SB 321 (Durazo, Chapter 332, Statutes of 2021) required Cal/OSHA to convene an advisory committee to provide voluntary guidance and make recommendations on policies the state may adopt to protect the health and safety of privately funded household domestic service employees. This bill also required Cal/OSHA to release and publicly post a report of the advisory committee on its internet website and submit a copy to the Legislature.

SB 1257 (Durazo, 2020, Vetoed) would have 1) removed the "household domestic service" exemption from the Occupational Safety and Health Act definition of employment (thereby applying all of its requirements and obligations on domestic service employers); 2) required the Chief of Cal/OSHA to convene an advisory committee to make findings and recommendations to the Occupational Safety and Health Standards Board (Standards Board) for industry-specific regulations related to household domestic service; 3) required the Standards Board to adopt such regulations by January 1, 2022; and 4) authorized Cal/OSHA to enforce occupational safety and health laws to protect domestic service employees at private residential dwellings.

AB 2658 (Burke, Chapter 288, Statutes of 2020) made it a crime for a person, after receiving notice to evacuate or leave, to willfully and knowingly direct an employee to remain in, or enter, an area closed under prescribed provisions of law due to a menace to the public health or safety. The bill defined "employee" for this purpose to include a person receiving employment for household domestic service.

SB 83 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2019), among other things, established DWEOP within DLSE to promote awareness of, and compliance with, labor protections that affect the domestic work industry and to promote fair and dignified labor standards in this industry

SB 1015 (Leyva, Chapter 315, Statutes of 2016) deleted the January 1, 2017 repeal date for the provisions under the Domestic Worker Bill of Rights, thereby making the requirement permanent.

AB 241 (Ammiano, Chapter 374, Statutes of 2013) enacted the Domestic Worker Bill of Rights to regulate the hours of work of certain domestic work employees and provide an overtime compensation rate for those employees, with a January 1, 2017 sunset date.

AB 889 (Ammiano, 2012, Vetoed) would have required, no later than January 1, 2014, the Department of Industrial Relations to adopt regulations governing the working conditions of domestic work employees, as defined. The bill was vetoed by the Governor Brown.

SUPPORT

California Domestic Workers Coalition – Sponsors

OPPOSITION

None received

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1089	**Hearing Date:**	April 17, 2024
Author:	Smallwood-Cuevas		
Version:	March 18, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Food and prescription access: grocery and pharmacy closures

KEY ISSUES

This bill requires grocery and pharmacy establishments to provide written notice no later than 90 days prior to a closure, including specified information such as closure date and reason for the closure, to employees, specified government entities, and customers.

This bill requires, for a pharmacy establishment closure, that the written notice to customers also include information of the pharmacy where prescriptions will be transferred to and information on transferring the prescription to a pharmacy of the consumer's choosing.

This bill authorizes any person injured by a violation of any of these provisions to bring a civil action and imposes specified civil penalties for violations.

ANALYSIS

Existing federal law:

1) Establishes the federal Worker Adjustment and Retraining Notification (WARN) Act to provide workers with sufficient time to prepare for impending employment closures or mass layoffs. The Act requires employers to provide written notice at least *60 calendar days* in advance of covered plant closings and mass layoffs. (29 U.S.C. § 2101 *et seq*. and 20 CFR 639.3)

2) Requires the 60-day prior to a closure or layoff notice be provided to employees or their representative, the state dislocated worker unit (in California that is the Employment Development Department, Workforce Services Division), and the chief elected official of local government where the closing or layoff is to occur. (29 U.S.C. § 2101 *et seq*. and 20 CFR 639.3)

3) Applies the WARN Act requirements to employers with *100 or more full-time employees*, who must have been employed for at least 6 months of the 12 months preceding the date of the required notice, and when the closure or layoff involves 50 or more employees during a 30-day period. (29 U.S.C. § 2101 *et seq*. and 20 CFR 639.3)

4) Makes an employer who violates the WARN provisions liable to each employee for an amount equal to back pay and benefits for the period of the violation, up to 60 days, but no more than half the number of days the employee was employed by the employer. (29 U.S.C. § 2104 (a))

Existing state law:

California WARN Act

1) Establishes the California Worker Adjustment and Retraining Notification (Cal-WARN) Act prohibiting an employer from ordering a mass layoff, relocation, or termination at a covered establishment unless, *60 days before* the order takes effect, the employer gives written notice of the order to employees, the Employment Development Department, the Local Workforce Investment Board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs. (Labor Code §1400, *et seq*.)

2) Specifies that Cal-WARN requirements apply to a "covered establishment" that employs or has employed in the preceding 12 months, *75 or more full time and part-time employees*. As under the federal WARN Act, employees must have been employed for at least 6 months of the 12 months preceding the date of the required notice in order to be counted. Additionally, requires employers to include in the notice, elements required by the federal WARN Act. (Labor Code §1400.5 and §1401)

3) Makes employers who fail to give notice as required by Cal-WARN subject to a civil penalty of $500 a day for each day of the employer's violation, as specified. Additionally, entitles employees to the following:

    a) Receive back pay to be paid at employee's final rate or 3 year average rate of compensation, whichever is higher;
    b) Cost of any medical expenses incurred by employees that would have been covered under an employee benefit plan.
    (Labor Code §1402)

4) Authorizes a person, including a local government or an employee representative, seeking to establish liability against an employer for violations of Cal-WARN to bring a civil action on behalf of the person, other persons similarly situated, or both, in any court of competent jurisdiction. Additionally, permits a court to award reasonable attorney's fees as part costs to any plaintiff who prevails in a civil action. (Labor Code §1404)

Grocery Worker Retention

5) Establishes grocery worker retention provisions requiring an incumbent (buyer) of an existing grocery establishment to retain employees for a *90-day transition period* during which an employee may only be discharged for cause, as specified, and considered for continued employment at the end of the transition period. (Labor Code §2500-2522)

6) Requires the incumbent grocery employer to post a public notice of the change in control at the location of the affected grocery establishment within five business days following the execution of the transfer document. Notice shall remain posted during any closure of the grocery establishment and until the grocery establishment is fully operational and open to the public under the successor grocery employer. (Labor Code §2508)

7) Requires the above notice to include, but not be limited to, the name and contact information of the incumbent and successor grocery employers, and the effective date of the change in

control and requires that the notice be posted in a conspicuous place at the establishment where it can be readily viewed by both employees and customers. (Labor Code §2508)

8) Defines "grocery establishment" to mean a retail store in this state that is over 15,000 square feet in size and that sells primarily household foodstuffs for offsite consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. Other household supplies or other products shall be secondary to the primary purpose of food sales. A distribution center owned and operated by a grocery establishment and used primarily to distribute goods to or from its owned stores shall be considered a grocery establishment, regardless of its square footage. A grocery establishment does not include a retail store that has ceased operations for 12 months or more. (Labor Code §2502)

9) Authorizes an aggrieved employee of a grocery establishment or their representative, as specified, to bring an action for violations of the above-described change of control provisions to recover, among other awards, reasonable attorney's fees and costs, if specified requirements are met, including that the employee provided written notice to the employer of the violations, as specified. (Labor Code §2510)

10) Authorizes a civil penalty not to exceed $100 against, among other specified entities, the grocery employer for each employee whose rights are violated under those provisions. Existing law also authorizes an additional amount of $100 per employee payable as liquidated damages for each day of the violation until the violation is cured, as specified, and authorizes that amount to be recovered by the Labor Commissioner, as specified, and paid to the employee as compensatory damages. (Labor Code §2510)

Pharmacy Laws

11) Under the Pharmacy Law, provides for the licensure and regulation of pharmacies by the California State Board of Pharmacy and authorizes a pharmacy to furnish prescription drugs only to certain entities, including specific health care entities, and individual patients or another pharmacy either pursuant to prescription or as otherwise authorized by law. (Business and Professions Code §4000 *et seq*.)

12) Defines "pharmacy" to mean an area, place, or premises licensed by the board in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" includes, but is not limited to, any area, place, or premises described in a license issued by the board wherein controlled substances, dangerous drugs, or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which the controlled substances, dangerous drugs, or dangerous devices are furnished, sold, or dispensed at retail. (Business and Professions Code §4037)

This bill:

1) Makes several findings and declarations regarding the impact of store closures including:

    a. That advance notification of grocery store closures is needed because many low-income Californians are suffering and losing access to healthy and affordable food.

b. That "pharmacy deserts," which are similar to "food deserts," are an often overlooked contributor to persistent racial and ethnic health disparities.
c. In order to remedy the harms from abrupt disruptions in access to food, prescriptions, and other household goods, the California Reparations Task Force recommends requiring advance notifications to the affected community, employees, and other stakeholders before the closure of a grocery store or pharmacy to ensure that community members are able to locate healthy and affordable food in the surrounding community and that employees are equipped with the resources necessary to gain employment elsewhere.

2) Defines, among others, the following terms:

a. "Grocery establishment" means a retail store operating in this state that meets both of the following requirements:
   i. The retail store sells primarily household foodstuffs for offsite consumption, including, but not limited to, the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods.
   ii. The sale of any other household supplies or other products by the retail store is secondary to the primary purpose of food sales.
b. "Pharmacy establishment" means a pharmacy as defined in Section 4037 (Business and Professions Code) that meets both of the following requirements"
   i. The pharmacy is a chain or independent pharmacy as defined in Section 4001.
   ii. The pharmacy is open to the public.

3) Requires a covered establishment, no later than 90 days before a closure takes effect, to perform all of the following acts:

a. Provide written notice of the closure to all of the following persons or entities:
   i. The employees of the covered establishment and their authorized representatives.
   ii. The Employment Development Department.
   iii. The State Department of Social Services.
   iv. The Local Workforce Development Board of any city and county government within which the covered establishment is located.
   v. The chief elected official of each city and county government within which the covered establishment is located.
   vi. The local human services departments of each county government within which the covered establishment is located.

b. Post a written notice of the closure in a conspicuous location at the entrance to the covered establishment's premises that includes a link to, or a quick response (QR) code that links to, a page on the State Department of Social Services' internet website that outlines these requirements.

c. Provide a written notice of the closure in any other form in which the covered establishment regularly communicates or advertises to its customers, including, but not limited to, text message, email, or advertisements of general circulation.

4) Specifies that the written notice must include, but not be limited to, the following information:
   a. The planned closure date of the covered establishment.

   b. The reasons for the closure of the covered establishment.
   c. The names, addresses, and contact information of the three nearest covered establishments that provide comparable services to the covered establishment.

5) Requires the written notice by a pharmacy establishment to also include the name, address, and contact information of the pharmacy where any prescriptions will be transferred and information regarding the process of transferring the prescription to a pharmacy of the consumer's choosing.

6) Subjects a covered establishment that violates these provisions to a civil penalty not to exceed $10,000 for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney where the covered establishment was located.

7) Authorizes the court, in assessing the amount of the civil penalty, to consider relevant circumstances presented by the parties to the case, including, but not limited to, the nature and severity of the misconduct, the number of violations and length of time, the willfulness and the defendant's assets, liabilities and net worth.

8) Specifies the following regarding amounts collected through civil actions:

   a. If the Attorney General brings the action, 1/2 of the civil penalty collected is paid to the treasurer of the county where judgment was entered, and 1/2 paid to the General Fund.
   b. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered.
   c. If a city attorney brings the action, 1/2 of the civil penalty collected shall be paid to the treasurer of the city where judgment was entered, and 1/2 paid to the treasurer of the county in which the judgment was entered.

9) Authorizes the court to grant a prevailing plaintiff reasonable attorneys' fees and costs.

10) Entitles an employee that does not receive written notice in violation of these provisions to recover, in a civil action, an additional sum payable as liquidated damages in the amount of $100 per employee for each day of the violation and continuing until the violation is cured.

11) Specifies that these provisions do not preempt or alter any other rights or remedies, including any causes of action, available under any other federal or state law.

12) After the specified government entities receive the written notice about the closure:

   a. Requires the county in which that establishment is located to provide the establishment with information about safety net programs, including, but not limited to, unemployment insurance, the CalWORKs program, the CalFresh program, and the Medi-Cal program.
   b. Requires the local workforce development board to provide the establishment with information about the availability of local workforce training services.
   c. Requires the State Department of Social Services to post on its internet website section on the CalFresh benefits program, as specified, information regarding the establishment closing and the closure date.
   d. Requires each county to track and monitor all of the following:

i. Any grocery establishment closures in its jurisdiction.
ii. Identify any trends in grocery establishment closures.
iii. Address reasons for the closures if findings suggest the possible need for intervention by the county.

13) Requires the covered establishment, no later than 30 days before a closure takes effect, to provide any information that it receives from the county and local workforce development board to each employee of the covered establishment.

COMMENTS

1. Reparations Task Force Report:

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

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

On June 29, 2023, the Task Force issued its final report to the California Legislature. Among other things, the report highlighted the disparities that exist in access to food, noting that "predominantly African American communities also disproportionately experience highly limited access to affordable, nutritious food, and are often inundated with unhealthy options like sugary drinks and processed or fast food. High densities of liquor stores and tobacco shops in these communities also pose a public health concern because of their link with violent crime. The resulting health harms are stark. Redlining, bolstered by other government and government-enabled discrimination, is a central cause of this food injustice."[1]

In order to remedy these harms and improve access to food, the Task Force recommended various measures including that "the Legislature consider requiring advance notifications to the affected community, employees, and other stakeholders, prior to the closure of a grocery store in underserved or at-risk African American communities. Such notice should be meaningful and adequate for the circumstances and include informing the California Department of Social Services and local entities of a planned closure, and should also include the identification of the three nearest grocery establishments that provide comparable service. The Legislature should also consider requiring county human services departments to provide grocery establishments that have announced a closure with information about public social services for which employees may be eligible. Additionally, cities should be required to monitor grocery store closures to assess potential trends."[2]

[1] Reparations Task Force to Study and Develop Reparation Proposals for African Americans, Final Report. (June 29, 2023, Chapter 29) https://oag.ca.gov/system/files/media/full-ca-reparations.pdf
[2] Ibid 777.

The Reparations Task Force Report also addressed the negative and disproportionate impacts of the environment on the health of African American communities. As noted in the report, "state and federal underfunding of medical resources combined with unhealthy physical environments, unemployment, and poverty in African American communities has led to a public health crisis. Urban neighborhoods have the highest rates of preventable diseases, and lack health insurance and adequate housing." Furthermore, "housing segregation excessively exposes African American communities to pollution and isolates African Americans from healthcare resources, including *pharmacies*, clinics, hospitals, and healthy food stores."[3]

This bill advances some of the recommendations by the Task Force to address food injustice.

2. Background on Grocery and Pharmacy Store Closure Trends:

Grocery Store Closures

The last few decades have seen a rise in the closure or consolidation of grocery store chains by mergers and acquisitions. Regarding mergers and acquisitions, researchers studying past grocery store mergers have identified significant risks for workers, including the loss of good jobs. Additionally, the impact of grocery store consolidations and closures extends to consumers and local communities that rely on these establishments.

According to the California Association of Food Banks, as of October 2023, over 3 million households in California – including over 1 million households with children – face food insecurity. Using data collected by the U.S. Census Bureau on food hardships, it appears that 23 percent of overall households and 28 percent of households with children in California are struggling with food insecurity and do not know where their next meal will come from. Unfortunately, because of vast structural inequities, much higher levels of food insecurity are experienced by Black and Hispanic/Latino households, with white Californians experiencing food insecurity at rates lower than the general population.

Additionally, according to a 2016 report by the California Endowment, "nearly one million Californians, 45 percent of whom are low-income, live without access to nearby supermarkets or large grocery stores in communities known as 'food deserts.'[4] The report noted that providing access to healthy food through full-service supermarkets and other retail outlets is an important part of the solution, and an essential component of healthy communities. The problem is further complicated, as noted by Food & Water Watch, an advocacy organization fighting for safe food, clean water, and a livable climate, by the trend of fewer, bigger stores. From 1993 to 2019, the number of grocery stores nationwide declined by roughly 30 percent, as the combined market share of the four largest grocery retailers tripled to 69 percent."[5]

Pharmacy Store Closures

Pharmacy establishment closures also appear to be on the rise. On April 10, 2024, Rite Aid announced the closure of 53 stores, including 18 in California, adding to the nearly 200 it has

[3] Ibid 463.
[4] The California Endowment. (May 2016) *California FreshWorks Food Access Report, An Examination of Three Northgate Gonzalez Grocery Store Investments*.
[5] https://www.foodandwaterwatch.org/2021/11/15/as-food-prices-soar-new-report-details-vast-grocery-industry-consolidation-crisis/#:%7E:text=The%20research%20also%20shows%20an,retailers%20tripled%20to%2069%20percent

already shut down since filing for bankruptcy last year.[6] CVS has also closed many of its pharmacies throughout the country, including dozens in California located inside Target as well as CVS MinuteClinics throughout the Los Angeles area.[7] As noted in the Reparations Task Force Report, highlighted above, racism and housing segregation has created a lack of access to high-quality primary and specialty care as well as lack of access to pharmacy services. Pharmacy closures only make these health disparities worse.

3. Need for this bill?

According to the author, "disparities are exacerbated further when grocery stores and pharmacies abruptly close. Residents of the community may not know where to go to or how to get to similar grocery or pharmacy establishments." Additionally, the author states that "grocery store and pharmacy closures are especially harmful for the employees who work in these stores and who are often residents of the community as well. These workers will experience both a disruption in food security *and* financial security. Indeed, over 33% of Californians do not have 3 months of savings to cover basic necessities in the event of an unexpected job loss."

4. Proponent Arguments:

According to the sponsors, the United Food and Commercial Workers Western States Council, this bill will "help mitigate the harms from abrupt disruptions in access to food and prescription medication, especially in underserved or at-risk African American communities, by requiring advance notifications to the affected community, employees, and other stakeholders, prior to the closure of a grocery store or pharmacy. This bill is part of the 2024 Reparations Priority Bill Package by the California Legislative Black Caucus."

According to proponents, "for example, when grocery stores close, individuals using food benefit programs, such as CalFresh and the Women, Infants and Children (WIC) food program may need to check with the California Department of Social Services or their local agencies for help locating alternative food sources that participate in those programs. When a pharmacy establishment closes, prescriptions are often sold to another pharmacy establishment without any notice to the consumer and without any opportunity for the consumer to choose an alternative pharmacy establishment which may be more convenient, affordable, or accessible for them. This could result in prescriptions unintentionally being sent out of the patients network leaving them with a large financial bill."

5. Opponent Arguments:

Opposition from the California Community Pharmacy Coalition, the California Retailers Association, and the California Chamber of Commerce rests on the unintended consequences of the bill which they argue could put Californians at risk. According to them "90-days' advance notification would be unfeasible in many situations and could lead to unmanned, or at the very least understaffed, pharmacies and grocery stores. California already imposes stringent staffing restrictions on California pharmacies, allowing pharmacists to supervise

[6] Langenfeld, D. & Bink, A. (April 10, 2024) Rite Aid announces more store closures, including 18 in California. *KTLA 5*. https://ktla.com/news/california/rite-aid-announces-more-store-closures-including-18-in-california/

[7] https://www.latimes.com/business/story/2024-01-31/cvs-to-close-25-minuteclinics-los-angeles-area https://www.ocregister.com/2024/01/12/cvs-closing-dozens-of-pharmacies-inside-target-by-april/

only one pharmacy technician at any given time in most circumstances." They argue that this bill exacerbates this difficult situation adding pressure on pharmacy employees. They argue that pharmacies already work closely with impacted employees to place them in other stores or comparable positions when a pharmacy closes.

These opposing organizations are additionally concerned with the "onerous reporting requirements of the bill" arguing that, "rather than preparing and submitting multiple, duplicate written notices, pharmacies and grocery stores should be allowed to provide one notice to its employees and specified government entities that fulfills both the requirements of this bill and the Worker Adjustment and Retraining Notification (WARN) Act." Further, they argue, "mandating grocery stores and pharmacies to provide the required notice to its customer base would be a tremendous undertaking. Worse, the bill appears to give standing to a citizen to bring a civil action for penalties if they believe that the store did not effectively communicate to the community about the closure. This would have catastrophic consequences with costly litigation."

Additional opposition comes from the California Grocers Association (CGA) who write, "We find the changes and additions unnecessary as there are already mechanisms in place to notify employees of anticipated store closures, no data that supports such a drastic change, and we believe the bill would exacerbate existing food insecurity and food deserts in California." They argue that grocers are already obligated to comply with the Federal and state WARN Act and cite that "since 2015, according to the EDD, 10,136 California WARN Act notices have been filed of which 15 notices have come from grocery store closures, which represents .001 percent of the closures. Of the roughly 1,500 WARN Act notices issued since July 1, 2021, only two have been for grocery store closures. There is no data that WARN notices have been inadequate or that grocery store closures are a rampant issue."

With respect to planned closure dates, CGA argues, "the grocery establishment may not be aware of the exact date of closure considering notice must be provided an entire fiscal quarter before closure is anticipated. Significant economic changes may occur from that period which could lead to shifting closure dates or no closure." Additionally, regarding the requirement to state the reason for a closure, they argue, "considering the notice would be publicly advertised, reasons such negative financial margins, high instances of retail theft, etc. would further disincentivize any successor grocer from replacing that predecessor store with grocery services, thus perpetuating food deserts." Lastly, they argue that the consequences for failing to provide notice or perhaps simply failing to provide this notice correctly are severe, which will have a significant chilling effect on any store expansion in California.

6. Staff Comments:

As noted above, this bill requires grocery and pharmacy establishments to satisfy specified notice requirements no later than 90 days prior to a closure, including providing written notice of the closure containing specified information. The bill requires written notice be provided to 1) employees, 2) specified government departments, both state and local, 3) specified elected officials, and 4) customers. The bill also requires additional information regarding prescriptions to be included in the written notice when it applies to a pharmacy closure. Throughout the measure, the term "written notice" is used to refer to all the entities being informed of the closure. *The author may wish to amend the bill to differentiate the various written notices and address any potential confusion that may arise.*

7. 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.

8. Prior/Related Legislation:

SB 627 (Smallwood-Cuevas, 2023, Vetoed) would have established the Displaced Worker Retention and Transfer Rights Act to, among other things; require a chain employer (100 or more establishments, as defined) to provide workers and their exclusive representative, if any, a displacement notice at least 60 days before the expected date of closure of a covered establishment; require a chain employer to provide workers the opportunity to transfer to a location of the chain within 25 miles of the closing establishment; and require chain employers to maintain a preferential transfer list and make job offers based on length of service.

AB 647 (Holden, Chapter 452, Statutes of 2023) strengthened the existing recall and retention protections for grocery workers under the Grocery Worker Retention Law by, among other things, (1) adding an enforcement mechanism to hold the employer accountable for violations; (2) including distribution centers that meet specified requirements within the definition of "grocery establishment"; and (3) exempting incumbent and successor grocery employers whose sum of employees is less than 300 nationwide, as specified.

AB 853 (Maienschein, Chapter 457, Statutes of 2023) prohibited a person from acquiring any voting securities or assets of a retail grocery firm or retail drug firm, as those terms are defined, unless specified written notice is given to the Attorney General at least 180 days before the acquisition is to become effective. The bill specified information required to be included in the notice, including information required to assess the competitive effects of the proposed acquisition and to assess the economic and community impact of any planned divestiture or store closures, including, but not limited to, the impact on food deserts.

AB 1356 (Haney, 2023, Vetoed), among other things, would have revised the Cal-WARN provisions to include a "client employer" of a "labor contractor" in the definition of "employer" and would have increased from 60 to 90 days the length of notice an employer must provide to employees prior to terminations, relocations, or mass layoffs.

AB 889 (Gipson, 2021) would have required grocery establishments, as soon as possible, but no later than 60 or 180 days depending on the size of the establishment, to provide written notice to the California Department of Social Services (CDSS), the city and county in which the establishment is located, and the local workforce development board of a planned closure; requires the notice include specific information about the closure plan; requires a county to provide information to the grocery establishment about the availability of public social services benefits; and, requires CDSS to include closure information in its internet website, among other requirements. This bill was gut and amended when it arrived in the Senate into an issue dealing with landlords.

SUPPORT

United Food and Commercial Workers, Western States Council (Sponsor)
Alchemist CDC
Black Equity Collective
Ca4health
California Black Power Network
California Coalition for Worker Power
California Federation of Teachers
California Food and Farming Network
California Labor Federation, Afl-cio
California Reparations Task Force Members Dr. Cheryl Grills, Lisa Holder, and Don Tamaki
Catalyst California
Ceres Community Project
Courage California
Equal Justice Society
Friends Committee on Legislation of California
Fund Her
Grace - End Child Poverty in California
Harbor Christian Church
Livefree California
Marin Food Policy Council
Nourish California
Pesticide Action Network
Pesticide Action Network North America
Rising Communities
Roots of Change
Sacramento Food Policy Council
Santa Monica Democratic Club
SEIU California State Council
The Praxis Project
Veggielution
Voices for Progress
Western Center on Law and Poverty

OPPOSITION

California Chamber of Commerce
California Community Pharmacy Coalition
California Grocers Association
California Retailers Association

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No:	SB 1446	**Hearing Date:**	April 17, 2024
Author:	Smallwood-Cuevas		
Version:	April 9, 2024		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Grocery establishment and retail drug establishment employees: self-service checkout and technologies affecting essential job functions

KEY ISSUES

This bill prohibits a grocery or retail drug establishment from providing a self-service checkout option for customers unless specified conditions are met, including, among others, that at least one manual station is staffed by an employee and that self-service checkouts be limited to purchases of 10 or fewer items.

This bill requires a grocery or retail drug establishment that develops, procures, uses, or otherwise implements artificial intelligence, automation, or any new or modified technology that significantly affects the essential job functions of its employees, eliminates jobs or functions, or that enables self-service by its customers to complete a *worker and consumer impact assessment* before implementing the technology.

ANALYSIS

Existing law:

1) 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 (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 employers to establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP) that must include, among other things, a system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices and the employer's methods and procedures for correcting those unsafe or unhealthy conditions and work practices in a timely manner. The IIPP must also include the employer's system for communicating with employees on occupational health and safety matters. (Labor Code §6401.7)

4) Requires an employer to establish, implement, and maintain an effective Workplace Violence Prevention Plan (WVPP) that is in writing, available and easily accessible to employees,

authorized employee representatives, and representatives of the division at all times, and be specific to the hazards and corrective measures for each work area and operation. Provides that the WVPP may be incorporated as a stand-alone section in the employer's existing IIPP or maintained as a separate document. (Labor Code §6401.9)

5) Requires the WVPP, among other elements, to include:

   a) Names or job titles of the person responsible for implementing the plan.
   b) Procedures to obtain the active involvement of employees and authorized employee representatives in developing and implementing the plan.
   c) Effective procedures for the employer to accept and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report.
   d) Effective procedures to respond to actual or potential workplace violence emergencies, including evacuation and sheltering plans, as specified.
   e) Procedures to develop and provide specified training to respond to emergencies.
   f) Procedures to correct workplace violence hazards, as specified, and procedures to review the effectiveness of the plan and revise as needed.
   (Labor Code §6401.9)

6) Requires employers to record information in a violent incident log of every workplace violence incident, as specified, and include detailed information regarding the type of attack, weapons used, and consequences including whether or not law enforcement was contacted and their response. (Labor Code §6401.9)

7) Authorizes Cal/OSHA to enforce these provisions by issuing a citation alleging a violation and a notice of civil penalty, as specified, and authorizes any person cited to appeal the citation and penalty to the appeals board in a manner consistent with Labor Code Section 6319. (Labor Code §6401.9)

8) Prohibits a person from discharging or in any manner discriminating or retaliating against any employee because the employee, among other things, reported a work-related fatality, injury, or illness, requested access to occupational injury or illness reports and records, or exercised any other rights protected by the federal Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.), as specified. (Labor Code §6310)

9) Establishes grocery worker retention provisions requiring an incumbent (buyer) of an existing grocery establishment to retain employees for a *90-day transition period* during which an employee may only be discharged for cause, as specified, and considered for continued employment at the end of the transition period. (Labor Code §2500-2522)

10) Defines "grocery establishment" to mean a retail store in this state that is over 15,000 square feet in size and that sells primarily household foodstuffs for offsite consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. Other household supplies or other products shall be secondary to the primary purpose of food sales. A distribution center owned and operated by a grocery establishment and used primarily to distribute goods to or from its owned stores shall be considered a grocery establishment, regardless of its square footage. A grocery establishment does not include a retail store that has ceased operations for 12 months or more. (Labor Code §2502)

This bill:

1) Defines, among others, the following terms:

    a. "Grocery establishment" as defined in existing Labor Code Section 2502.
    b. "Manual checkout station" means a station that is not a self-service checkout station and at which an employee provides human assistance to a customer scanning, bagging, or accepting payment for the customer's purchases.
    c. "Retail drug establishment" means a person, including an individual, a corporation, a partnership, a limited partnership, a limited liability partnership, a limited liability company, a business trust, an estate, a trust, an association, a joint venture, a proprietorship, a joint venture, an agency, an instrumentality, a corporate officer, an executive, or any other legal or commercial entity, whether domestic or foreign, that has 75 or more businesses or establishments located within the state and is identified as a retail business or establishment in the North American Industry Classification System within the retail trade category 45611.
    d. "Self-service checkout" means an automated process that enables customers to scan, bag, and pay for their purchases without human assistance.

2) Prohibits a grocery establishment or retail drug establishment from providing a self-service checkout option for customers unless all of the following conditions are satisfied:

    a. At least one manual checkout station is staffed by an employee at the time that a self-service checkout option is made available.
    b. Self-service checkouts are limited to purchases of 10 or fewer items and the establishment must include signage to that effect.
    c. Customers are prohibited from using self-service checkout to purchase the following:
        i. Items that require customers to provide a form of identification, including, but not limited to, alcohol and tobacco products.
        ii. Items subject to special theft-deterrent measures, including, but not limited to, locked cabinets and electronic article surveillance tags, that require the intervention of an employee of the establishment for the customer to access or purchase the item.
    d. No more than two self-service checkout stations are simultaneously monitored by any one employee and the employee is relieved from all other duties while monitoring, including, but not limited to, operating a manual checkout station.

3) Requires a grocery establishment or retail drug establishment that offers self-service checkout to include self-service checkout in their analysis of potential work hazards for purposes of their existing Injury and Illness Prevention Plans.

4) Requires a grocery establishment or retail drug establishment that develops, procures, uses, or otherwise implements artificial intelligence, automation, or any new or modified technology that significantly affects the essential job functions of its employees, eliminates jobs or essential job functions of its employees, or that enables self-service by its customers to complete a *worker and consumer impact assessment* before implementing the technology.

5) Defines "worker and consumer impact assessment" to mean a study evaluating the potential negative effects on employees, consumers, or the public of a new or modified workplace technology that significantly affects the essential job functions of employees, eliminates jobs or essential job functions of employees, or that enables self-service by customers.

6) Specifies that a worker and consumer impact assessment shall include all of the following:

   a. A detailed description of the workplace technology, its intended purpose, and justification for adoption by the employer.
   b. A description of the data used by the technology, including the specific categories of data that will be processed as input and any data used to train the technology.
   c. The number of employees, identified by job classification, whose duties would be affected by the workplace technology, as well as a description of how the duties of employees in each job classification would be affected.
   d. The number of jobs, identified by job classification, that would be eliminated by the workplace technology.
   e. The number of work hours, identified by job classification, that would be eliminated by the workplace technology.
   f. The total amount of salaries and benefits that would be eliminated as a result of the workplace technology.
   g. A description of the potential gaps in skills of employees affected by the workplace technology that may result from the workplace technology.
   h. The total amount budgeted for, and descriptions of, training and retraining programs for affected employees.
   i. An analysis of whether there will be human oversight of the workplace technology.
   j. An analysis of the potential effect of the workplace technology on consumers, including any barriers to access that the technology could create for certain populations of consumers, including, but not limited to, seniors, the disabled, the unbanked, those without access to appropriate technology, youth, or other vulnerable populations.
   k. An analysis of the potential health and safety hazards created for employees, customers, or the public at large by the workplace technology and what measures the employer will take to mitigate those potential hazards.
   l. What data will be collected from employees and consumers by the workplace technology and whether they will have the option to opt-out of personal data collection.

7) Requires the grocery or retail drug establishment to notify and solicit input from its employees potentially affected by the workplace technology, or their collective bargaining representative, at least 60 days before drafting the worker and consumer impact assessment.

8) Requires that the worker and consumer impact assessment be provided to employees potentially affected by the workplace technology, or their collective bargaining representative, 60 days before implementation of the workplace technology.

9) Requires the grocery or retail drug establishment to post a copy of the worker and consumer impact assessment in a location accessible to its employees and customers before, and for at least 90 days following, implementation of the workplace technology.

COMMENTS

1. Background on Existing Employer Obligations:

In California, every employer has a legal obligation to provide and maintain a safe and healthful workplace for their employees. Employers must have a written Injury and Illness

Prevention Program (IIPP) that is developed and implemented effectively with emphasis on staff safety and health. Among other elements, the IIPP must include procedures for identifying and evaluating workplace hazards as well as procedures for correcting them. Employers are also required to periodically review and update the IIPP to account for changing work conditions.

Last year, SB 553 (Cortese) was chaptered, which additionally required employers to establish, implement, and maintain an effective Workplace Violence Prevention Plan (WVPP) that includes, among other elements, requirements to maintain incident logs, provide specified trainings, and conduct periodic reviews. WVPP requirements specifically focus on injuries that could result from violence experienced while at work. The bill defined "workplace violence" as, among other things, the threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, *or stress*, regardless of whether the employee sustains an injury.

2. Technology and its Impact on Employment:

With technological advancements happening faster than humans can react, the opportunities for pausing to evaluate its impact are often missed. Until recently, advancements in technology often automated physical tasks, such as those performed on factory floors or self-checkouts, but artificial intelligence (AI) functions more like human brainpower. As this technology develops, so do fears of worker displacement in more areas and industries. According to the Pew Research Center, in 2022, 19 percent of American workers were in jobs that are the most exposed to AI, in which the most important activities may be either replaced or assisted by AI.[1] Because technology can be used to either replace or complement the work of employees, it is difficult to identify which industries or occupations will be most impacted.

3. Self-Checkouts and Retail Theft:

Self-checkout lanes were introduced as a way to cut down on wait times, boost efficiency in stores, and both reduce the need for staff in those lanes or allow for their reassignment to other tasks. Self-checkouts served a critical role during the COVID-19 pandemic and helped address the need to isolate and limit contact with other people to reduce the spread of the virus. With the help of self-checkouts and other models like curbside pick-up, technology has made some aspects of everyday shopping easier. Unfortunately, it also appears to have contributed to retail theft or inventory "shrink" and understaffing, which increases potential for verbal and physical altercations, and the displacement of workers.

Recent news articles have reported many companies moving away from its use. A January 2024 CNN article references a study by Drexel University published in the Journal of Business Research, which found that regular check-out lanes staffed by cashiers made customers more loyal to the store and more likely to revisit in the future as opposed to using self-checkout.[2] The article further reports that self-checkouts lead to higher merchandise losses from customer errors and more intentional shoplifting than when human cashiers are

[1] "Which U.S. Workers Are More Exposed to AI on Their Jobs?" Pew Research Center, Washington, D.C. (July 26, 2023) https://www.pewresearch.org/social-trends/2023/07/26/which-u-s-workers-are-more-exposed-to-ai-on-their-jobs/

[2] Meyersohn, N. (January 23, 2024) Customers have soured on self-checkout, and a new study says there's proof. *CNN*. https://www.cnn.com/2024/01/23/business/self-checkout-shopping-stores/index.html

ringing up customers. According to this article, a study of retailers in the United States, Britain and other European countries found that companies with self-checkout lanes and apps had a loss rate of about 4 percent - more than double the industry average.[3]

Several companies, including Target and Walmart, have recently announced changes to their automated register options in stores throughout the country, scaling back on the use of self-checkout and imposing item limits. Target, for example, is restricting self-checkout to customers buying 10 items or less and directing larger item purchases to full service lanes with cashiers. Target has cited the impetus as customer feedback and a desire to provide a better shopping experience.[4] Dollar General is another retailer scaling back on self-checkouts, reporting that in 9,000 of its stores the company will be converting some or all of the self-checkout registers to assisted-checkout options.[5]

Some retailers are taking other approaches to try to curb retail theft with the help of technology. For example, Sam's Club is replacing the practice of having workers verifying receipts as shoppers' exit the store with the use of AI powered technology that can visually scan a customer's cart and verify items are paid.[6]

As these new technologies are developed, it is imperative that the state provide guidance to employers on how to review and disclose the impacts to workers and consumers.

4. Need for this bill?

According to the author, "Self-checkout and the reduction in front-line grocery workers have created a range of problems for retailers, workers, and the public. While companies proclaim there has been an increase in retail theft, much of the losses they allege can be traced to self-checkout and the reduction in their workforce. Data shows that self-checkout machines cause 16 times more shrink than checkout via a cashier. In 2022, self-checkout accounted for under 30% of total transactions, yet self-checkout machines have cost food retailers more than $10 billion in lost profits annually. Nearly 7% of self-checkout transactions had at least some partial shrink compared to 0.32% with cashiers. On a revenue basis, this suggests a shrink rate of 3.5% for self-checkout machines versus only 0.21% for full-service cashier stations staffed by an employee.

The elimination of workers' jobs due to self-checkout is especially harmful to the workers' health and safety. The reduction in frontline checkers has caused a crisis with chronic understaffing and an overworked workforce creating opportunities for theft, assault, and violent incidents. Self-checkout machines are notoriously glitchy, which creates more work for the reduced workforce and workers are expected to monitor anywhere from four to ten machines on their own. The issues with self-checkout machines and understaffing also increase customer irritation and workers are at risk of verbal and physical assault by frustrated customers.

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[3] Ibid.
[4] Meyersohn, N. (November 18,2023) Target is testing a new self-checkout policy. *CNN.* https://www.cnn.com/2023/11/18/business/target-self-checkout-new-system/index.html
[5] PYMTS. (March 21, 2024) Retailers' Self-Checkout Enthusiasm Dwindles Amid Elevated Theft. *PYMTS.* https://www.pymnts.com/news/retail/2024/retailers-self-checkout-enthusiasm-dwindles-amid-elevated-theft/
[6] Ibid.

Self-checkout also creates other problems for the public. Customers who are not tech savvy or need human assistance have limited access when there are fewer staffed check stands open. Self-checkout often does not have language options other than English, making them more challenging for speakers of other languages. The overall lack of workers available for customer assistance makes the shopping experience unpleasant and inconvenient. The touted convenience of self-checkout is, in reality, understaffed stores, glitchy machines, and increased retail theft."

5. Proponent Arguments:

The sponsors of the measure, the United Food and Commercial Workers, argue that "Understaffed stores create the opportunity for theft, assault, and violent incidents. Lone frontline clerks must serve customers while at the same time watching for shoplifters and dealing with disruptive individuals. The issues with self-checkout machines and understaffing also increase customer irritation and workers are at risk of verbal and physical assault by frustrated customers. All the while, violence against retail workers is at an all-time high. According to the Occupational Safety and Health Administration (OSHA), workplace violence is the third leading cause of fatal occupational injuries and affects nearly two million workers annually."

Furthermore, they note "retailers have used the threat of theft caused by understaffing as an excuse to lock up products, creating more work and further frustrating customers. The types of products that are locked up, and in which stores, also indicate racial bias, rightfully angering customers who see that stores are unfairly targeting them." They argue that, "in recognition of the problem, companies like Walmart, Target, Dollar General, and other major grocery stores, are moving away from self-checkout as the losses from retail theft hit their bottom line. Lowe's CEO has come out and said that the way to reduce losses, now being the industry norm, is to remove self-checkout and increase staffing in the stores, not just at checkout but in every department.[7]"

Proponents further argue that, "the shift away from self-checkout does not mean a return to human staffing. The rapid advancement of AI and adoption by stores like Amazon Go means employers are poised to implement new technology most likely to replace workers and reduce labor costs. The lesson of self-checkout is that employers need to thoroughly assess the impact on workers and customers before adopting technology to prevent harm."

6. Opponent Arguments:

The California Chamber of Commerce and the California Retailers Association are opposed, arguing that, "this bill attempts to insert burdensome regulations on retailers who are already reevaluating how to best use self-checkout technologies, with some moving to new forms of technology to help deter theft and make the workplace safer. Specifically, this bill requires retailers to complete 'a worker and consumer impact assessment' for every new technology that has a 'significant' impact on job functions. Not only is the assessment unnecessarily intrusive into a retailer's business practices, the 'significant' language is undefined and vague. While it is important to consider the potential effects of new technologies on employees and consumers, overly burdensome regulations, such as those proposed in this

[7] https://www.businessinsider.com/lowes-ceo-workers-are-greatest-deterrent-for-retail-theft-2023-9

bill, may stifle business growth, innovation, and competitiveness in an increasingly digital economy."

Additionally, they write that, "Retail theft committed in stores has been brazenly committed regardless of whether there's employees staffing checkout lanes or the presence of self-checkout lanes. Importantly, many retailers have policies that prevent employees from intervening in theft instances to protect their safety. It should also be noted that SB 1446 requires self-checkout to be included in their analysis of potential work hazards for the purposes of their injury and illness prevention programs. If self-checkout stations are potential hazards, then this is arguably already covered by existing law and the passage of SB 553 (Cortese, Chapter 289, Statutes of 2023), which takes effect July of this year. Adding the duplicative requirement to the injury and illness prevention program is unnecessary and would add confusion to retailers who are already working on compliance with existing law. Because SB 1446 adds provisions to the Labor Code, any error in implementing this new law would expose the retailer to penalties under PAGA."

Regarding the 10-item limit for self-checkout provisions, they argue, "to place this type of restriction in statute opens the door for meaningless litigation and forces retailers to police the number of items going through self-checkout lanes, which could create a point of friction between a customer and a retail employee, something retailers try to avoid. Many customers appreciate the convenience of self-checkout, particularly for quick purchases, and imposing unnecessary restrictions may deter them from patronizing these establishments altogether."

Additional opposition from the California Grocers Association notes, "self-checkout is a tool given to a customer to choose how they want to fulfill their shopping experience. Proponents of the measure will say that self-checkout has led to loss of jobs, but that is not the reality. Grocery store operators make sure the workers who, otherwise would have been at the cash register, move to other departments to improve the customer experience." Furthermore, they argue, "self-checkout is generally a smaller controlled area with several check stands, to have multiple employees in that small area crowds the field for employees and customer. Additionally, the requirement to have an employee to stay in the self-checkout area and not move until relieved by another employee will not allow that employee to go to other departments to help customers, ultimately hurting the customer experience."

7. Prior/Related Legislation:

SB 553 (Cortese, Chapter 289, Statutes of 2023) required employers to establish, implement, and maintain an effective workplace violence prevention plan (WVPP) that includes, among other elements, requirements to maintain incident logs, provide specified trainings, and conduct periodic reviews of the plan. This bill also authorizes a collective bargaining representative of an employee who has suffered unlawful violence from any individual, to seek a temporary restraining order (TRO) and an order after hearing on behalf of the employee(s) at the workplace.

AB 183 (Ma, Chapter 726, Statutes of 2011) prohibited off-sale licensees from selling alcoholic beverages using a customer-operated checkout stand located on the licensee's physical premises. This bill makes findings and declarations regarding the negative effects of allowing alcoholic beverages to be sold using self-service checkouts.

SUPPORT

California Labor Federation (Co-Sponsor)
Prosecutors Alliance of California (Co-Sponsor)
United Food and Commercial Workers, Western States Council (Co-Sponsor)
California Federation of Teachers
California State Legislative Board of the Sheet Metal, Air, Rail and Transportation Workers – Transportation Division (SMART-TD)
California United for a Responsible Budget
Californians for Safety and Justice
Consumer Attorneys of California
Courage California
Ella Baker Center for Human Right
Fund Her
Initiate Justice Action
Legal Services for Prisoners with Children
Smart Justice California
TechEquity Collaborative
Vera California
Voices for Progress

OPPOSITION

California Chamber of Commerce
California Grocers Association
California Retailers Association

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