SWCLC
Southwest California Legislative Council

MEETING AGENDA
Monday August 16, 2021
Presiding: Adam Ruiz, Chair

August: https://us02web.zoom.us/meeting/register/tZYrdO-grzgpGN37vh7mC4aYAefpN9jSiXkQ

2021 Strategic Initiatives
Budget, Tax Reform & Economic Recovery / Job Creation and Retention / Healthcare / Infrastructure & the Environment/ Public Safety

Call to Order, Roll Call & Introductions: 12:00 p.m.

Chair Report
Approval of Minutes **Action**

2021 Legislative Report #8 **Action**

1. AB 284 (Robert Rivas) California Global Warming Solutions Act of 2006: climate goal: natural and working lands.
2. AB 332 (Committee on Environmental Safety and Toxic Materials) Hazardous waste: treated wood waste: management standards.
3. AB 364 (Rodriguez) Foreign labor contractor registration: agricultural workers.
4. AB 654 (Reyes) COVID-19: exposure: notification.
5. AB 1041 (Wicks) *Employment: leave.*
6. AB 1074 (Lorena Gonzalez) Employment: displaced workers.
7. AB 1177 (Santiago) California Public Banking Option Act.
8. SB 420 (Umberg) Unemployment insurance: Unemployment Insurance Integrity Enforcement Act.
9. SB 443 (Hertzberg) Referendum measures.
10. SCA 1 (Hertzberg) Elections: referenda
11. SB 727 (Leyva) Labor-related liabilities: direct contractor.
12. AB 857 (Kalra) Employers: Labor Commissioner: required disclosures.

Guest Speaker **Information**
Chamber Announcements **Information**
Lunch Sponsor **So Cal Gas brings us Jersey Mike's** **Thank you!**
Adjourn – Next Meeting October 18, 2021

Follow us on:

The Southwest California Legislative Council thanks our Partners

Southwest Riverside Country
Association of Realtors
Metropolitan Water District of Southern California
Elsinore Valley MWD
CR&R Waste Services
Abbott Vascular

4M Engineering & Development
Temecula Valley Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Menifee Valley Chamber of Commerce
Southwest Healthcare Systems
Temecula Valley Hospital

Economic Development Coalition
The Murrieta Temecula Group
Southern California Edison
The Gas Company
California Apartment Association
Mt. San Jacinto College
Murrieta Spectrum

SWCLC
Southwest California Legislative Council

MEETING MINUTES
Monday, July 19, 2021
SRCAR/ Zoom

Attendance

Council Representatives Present
Daneen Ashworth, Murrieta/Wildomar
Adam Eventov, Temecula
Dennis Frank, Temecula
Eric McLeod, Murrieta/Wildomar
Kassen Klein, Menifee
Ben Benoit, Lake Elsinore
Ben Diedrich, Murrieta/Wildomar
Joan Sparkman, Temecula

Council Representatives Absent
Greg Morrison, Lake Elsinore
Brad Neet. Murrieta/Wildomar
Chris Sizemore, Temecula
Jennifer Sevilla, Murrieta/Wildomar
Alex Braicovich, Lake Elsinore
Adam Ruiz, Temecula

Call to Order
The meeting was called to order by Vice Chair McLeod at 12:06pm.

Roll Call
Attendance was called by Vice Chair McLeod at 12:06pm.

Guest Presentation
Riverside County Treasurer/Tax Collector, Matt Jennings, gave a presentation to the SWCLC. He overviewed what his job entails. He overviewed the property tax workflow and the Treasurers pooled investment fund. Jennings shared insight into the Covid-19 economic shock followed by fiscal and monetary support and how it effected investments. He explained that there is a dramatic effect on the 3-month treasury bill rate. He shared property tax collections and annual assessments have continued to grow. Delinquency rates have dropped during the pandemic compared to before the pandemic. He overviewed government response and the effects on real estate. Demand continues to overtake supply. He overviewed California housing affordability. The median price of a home has increased from $589,200.00 to $720,490.00 from 2020 to 2021. Jennings discussed the commercial real estate market in the Inland Empire. He touched on a few legislative items they are watching: SB 555, SB 675, SB 219, SB 303, and SB 667.

Approval of Minutes
A motion was made to approve the minutes from the June 21, 2021 meeting as written. The motion was seconded. Klein abstained.

Review of Legislative Items

1. AB 310 **(Lee) Wealth tax.**
   ACA 8 **(Lee) Wealth tax: appropriation limits.**
   A question was asked what "intangible wealth" was. An answer was provided that it refers to things like intellectual property, such as patents.
   There was a motion to oppose and a second. Vote to oppose was unanimous.
2. AB 331 **(Jones-Sawyer) Organized theft**

   There was a motion to support and a second. Vote to support was unanimous with no discussion.

3. AB 511 **(Muratsuchi) Securities transactions: qualification requirements, exemptions, and liability**.

   There was a motion to support and a second. Vote to support was unanimous with no discussion.

4. AB 616 **(Stone) Agricultural labor relations: labor representative elections: representation ballot.**

   There was a motion to oppose and a second. Vote to oppose was unanimous with no discussion.
5. AB 1200 **(Ting) Plant-based food packaging: cookware: hazardous chemicals.**

   There was a comment that AB 1200 gives some pause due to the implications to both manufacturers & retailers balanced against public health, but there is no reason to fast track a process to address PFAS substances which is already in process. Science should have time to work out the correct balance.
   There was a motion to oppose and a second. Vote to oppose was unanimous.

6. AB 1253 **(Santiago) Personal income taxes: additional tax.**

   There was a motion to oppose and a second. Vote to oppose was unanimous with no discussion.

7. AB 1395 **(Muratsuchi) Greenhouse gases: carbon neutrality.**

   Comments centered around the goals being too large and the methods are bad in this bill.

   There was a motion to oppose and a second. Vote to oppose was unanimous.

8. SB 336 **(Ochoa Bogh) Public health: COVID-19.**

   There was a comment that SB 336 would be better legislation serving both the business community and public health interests if it had provisions to allow the Department of Public Health to have the ability for immediate closure under exceptional circumstances if a variant of COVID-19 was determined to be newly either exceptionally contagious (high Ro level) or have a new exceptionally high fatality rate.

   There was a motion to support and a second. Vote to support was unanimous.

9. SB 500 **(Min) Autonomous vehicles: zero emissions.**

   There was a motion to oppose and a second. Vote to oppose was unanimous with no discussion.

10. SB 555 **(McGuire) Local agencies: transient occupancy taxes: short-term rental facilitator: collection.**

    A concern was voiced that they would not necessarily have to report where these short term rental locations are and how much money they are charging for the nightly rate. There is no way to verify that they are being up front and honest with how much they are actually collecting so we can't get a lot of the data to make sure they are collecting the right amount of money. It is creating a statewide program that is still hurting some of the local government.

    There was a motion to support and a second. Vote to support was unanimous.

11. SB 660 **(Newman) Ban on pay per signature gathering for ballot initiatives, recalls, referendums.**

    There was a motion to oppose and a second. Vote to oppose was unanimous with no discussion.

Adjourn

Vice Chair McLeod called the meeting to adjourn at 1:45 pm.

Legislative Item #1 **Action**

AB 284, as amended, Robert Rivas. California Global Warming Solutions Act of 2006: climate goal: natural and working lands.

Introduced by Assembly Member Robert Rivas
(Coauthors: Assembly Members Muratsuchi and Stone)
(Coauthor: Senator Skinner)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Increased costs and consolidation of markets. Imposes a climate neutrality goal on California agricultural operations prior to the development of a state-wide climate neutrality plan, which will increase the cost of food and potentially consolidate markets.

This bill would direct ARB, as part of the next update to the scoping plan and no later than January 1, 2023, in collaboration with other state agencies and departments, to identify a 2045 climate goal, with interim milestones, for the state's natural and working lands to sequester carbon and reduce atmospheric GHG emissions.

Description:

The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020 and to ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the 1990 level by 2030. The act requires the state board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years.

This bill would require the state ~~board~~ *board,* as part of the next scoping plan update, in collaboration with the Natural Resources Agency and other relevant state agencies and departments and no later than January 1, 2023, to identify a 2045 climate goal, with interim milestones, for the state's natural and working lands, as defined, and to integrate into the scoping plan update recommendations developed by the Natural Resources Agency and the Department of Food and Agriculture regarding practices, policy and financial incentives, market needs, and potential reductions in barriers that would help achieve the 2045 climate goal, among other recommendations. The bill would require the state board, in collaboration with the Natural Resources Agency and other relevant state agencies and departments, to include this information in each subsequent update to the scoping plan and update that information, as appropriate. ~~The~~

***This* bill** would require the state board, no later than January 1, 2024, to develop standard methods for state agencies to consistently track greenhouse gas emissions and reductions, carbon sequestration, and, where ~~feasible,~~ *feasible and in consultation with the Natural Resources Agency and the Department of Food and Agriculture,* additional benefits from natural and working lands over time. The bill would require the state board, in estimating and tracking greenhouse gas emissions and reductions and carbon sequestration from natural working lands, to take into account, where feasible, greenhouse gas emissions and reductions of carbon dioxide, methane, and nitrous oxide related to natural and working lands and the potential impacts of climate change on the ability to reduce greenhouse gas emissions and sequester carbon from natural and working lands.

Arguments in support:

Author's statement: Global carbon emissions have already passed the limit beyond which catastrophic climate change begins. To prevent the worst impacts of climate change, a sizable amount of AB 284 Page 3 atmospheric carbon will need to be stored back into the ground. The priority California places on stewarding and conserving our natural and working lands will determine how well we fight climate change. In addition to capturing and storing carbon in the ground, investment in nature-based climate strategies means cleaner air and water, flood protection, and improved resiliency to extreme heat and fires. Unfortunately, there is currently a lack of state programs aimed at sequestering the amounts of carbon necessary.

In preparation for the next scoping plan update in 2022, AB 284 directs ARB to incorporate and set an overall climate goal for carbon sequestration for the state's natural and working lands. This legislation will ensure that the next scoping plan fully considers and leverages the huge power of California's natural and working lands in achieving our ambitious greenhouse gas emission goals. AB 284 is strictly a planning document that outlines how the state can meet our ambitious climate goals – it is not a land-use mandate for farmers or other private landowners. This is a basic, yet crucial step the state must take towards establishing a policy framework and setting a climate goal for our natural and working lands to achieve California's GHG emission goals.

Until recently, state action to conserve, restore, and manage NWLs for climate benefits has mostly been piecemeal, with agencies approaching the different facets of NWLs from their various jurisdictions. Most efforts to enhance carbon benefits on NWLs are done on a project-by-project basis, either by targeting a specific category of land (e.g., grasslands, forests, etc.) or by promoting one type of emissions reduction or sequestration technique (e.g., enhancing soil carbon).

Arguments in opposition

We agree that natural and working lands are inherently combatants to the effects of climate change and can sequester carbon in soil and plant material. Early adopters have been implementing such practices on farm and ranch for decades. However, reasonably, in a risk-laden industry such as agriculture where so many factors are uncontrolled (drought, weather, market, pest, etc.), timidity is prudent. This is even more so the case as agricultural practices that sequester carbon or reduce greenhouse gases typically do not have a financial return, but rather, require a financial investment by the landholder. In addition to not serving as a financial burden, the practice proposed must fit within the technological and business structure of the farming operation. In the case of carbon sequestration that may require multi-year practice implementation, the underlying solvency of the business operation and function of the working landscape to produce food and fiber is critical to ensuring the climate benefit practice persists. In short, in order for working lands' conservation values to be realized, their working value must be sustained. Simply setting an audacious climate goal, as proposed in AB 284, will not suffice, unless it is built on a fully vetted strategy that is consistent with the agricultural industry it seeks to guide.

While a coalition of agricultural and business interests agree that natural and working lands can combat climate change and sequester carbon, they argue that "in a risk-laden industry such as agriculture where so many factors are uncontrolled (drought, weather, market, pest, etc.), timidity is prudent. This is even more so the case as agricultural practices that sequester carbon or reduce greenhouse gases typically do not have a financial return, but rather, require a financial investment by the landholder."

This coalition requests amendments to:

- Specify that practices and policies considered by ARB to achieve the goal be done in a manner to protects working lands' ability to produce, allows for marketdriven responses, like carbon offsets, and that agronomic practices be economically and technologically feasible.
- Include an explicit reference that any policies or programs to achieve the stated climate goal are voluntary.
- Direct ARB to consider voluntary policies and programs to achieve the updated goal.

Support: (Verified 8/9/2021)

California Climate & Agriculture Network (co-sponsor)
The Nature Conservancy (co-sponsor)
350 Bay Area Action
350 Sacramento

350 Silicon Valley
ALBA
American Farmland Trust
American Forest Foundation
Audubon California
California Association of Resource Conservation Districts
California Certified Organic Farmers
California Environmental Justice League
California Habitat Conservation Planning Coalition
California League of Conservation Voters
California Native Plant Society
Californians Against Waste
Californians for Pesticide Reform
Carbon Cycle Institute
Ceres Community Project
Community Environmental Council
Defenders of Wildlife
Elders Climate Action, Norcal and Socal Chapters
Environmental Defense Fund
Environmental Justice League
Fibershed
Greenbelt Alliance Land Trust of Santa Cruz County
Marin Interfaith Climate Action
Midpeninsula Regional Open Space District
Mono Lake Committee
Norcal Elders Climate Action Network
Northern California Recycling Association
Peninsula Open Space Trust
Pesticide Action Network
Planning and Conservation League
Roots of Change
Sacramento Area Congregations Together
Santa Clara Valley Open Space Authority
Save Mount Diablo
Sequoia Riverlands Trust
The Climate Center
The Trust for Public Land

Opposition: (Verified 8/9/2021)

Agricultural Council of California
American Pistachio Growers
California Association of Wheat Growers
California Bean Shippers Association
California Chamber of Commerce
California Cotton Ginners & Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Grain and Feed Association
California Pear Growers Association
California Seed Association
California Walnut Commission
Western Agricultural Processors Association Western Growers Association
Western Plant Health Association

Status: Senate Appropriations

Assembly Votes **YES**: Cervantes, Medina **NO**: Seyarto, Waldron

Legislative Item #2 **Action**

AB 332, as amended, Committee on Environmental Safety and Toxic Materials. Hazardous waste: treated wood waste: management standards.

Introduced by Committee on Environmental Safety and Toxic Materials (Assembly Members Quirk (Chair), Smith (Vice Chair), Arambula, Bauer-Kahan, Megan Dahle, Cristina Garcia, Holden, and Mathis)

Recommended action: SUPPORT
Presentation: Gene Wunderlich

Summary:

Treated Wood Waste. Would provide an option to manage and dispose of treated wood waste through alternative standards if certain criteria are met, a process that had been in place for decades before sun setting in 2020, in order to avoid the unnecessary and cost prohibitive management of these materials as RCRA hazardous waste materials.

This bill enacts management standards for treated wood waste similar to the ones that expired on December 21, 2020, and contains an urgency clause. Authorizes treated wood waste (TWW) to be managed under alternative management standards (AMS) instead of as a hazardous waste.

Background:

From 2008 to 2020, the state had specific standards for disposing of wood treated with a chemical preservative, as specified (known as treated wood waste or TWW). In 2020, however, the Governor vetoed SB 68 (Galgiani, 2019), which would have eliminated the sunset on the treated wood waste management standards and made certain changes to the program; the Governor's veto message stated that the additions to the program would have exacerbated the Hazardous Waste Control Account's existing structural deficit and improperly exempted treated wood waste from other hazardous waste laws and regulations. As a result, there is no clear guidance on means of disposing of treated wood waste other than at a Class I hazardous disposal facility, which is significantly more onerous than under the prior laws.

This bill would reauthorize the TWW alternative management standards that expired at the end of 2020 in order to provide clarity for the disposal of treated wood waste while the Legislature works with the Governor to reach an agreement on how to refine the treated wood waste disposal regime, if necessary. The bill contains an urgency clause. This bill is sponsored by the authoring Committee and supported by scores of municipal, waste disposal, and industry entities. There is no known opposition. This bill passed out of the Senate Environmental Quality Committee with a 7-0 vote.

Description:

Existing law, as part of the hazardous waste control laws, requires the Department of Toxic Substances Control to regulate the management and handling of hazardous waste. Under existing law, certain wood waste that is exempt from regulation under the federal Resource Conservation and Recovery Act of 1976, as amended, is exempt from the hazardous waste control laws, if the wood waste is disposed of in a municipal landfill that meets certain requirements imposed pursuant to the Porter-Cologne Water Quality Control Act for the classification of disposal sites, and the landfill meets other specified requirements. A violation of the state's hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime.

This bill would require a person managing treated wood waste to comply with the hazardous waste control laws or the management standards established in the bill, including standards for the reuse, storage, treatment, transportation, tracking, identification, and disposal of treated wood waste, as provided. The bill would limit those standards to treated wood waste that is hazardous only because of a preservative present in or on the wood, and that is not subject to the existing exemption for certain wood waste or to regulation as a hazardous waste under federal law. The bill would require the department to update the Legislature, upon request, regarding those management standards and changes to the treated wood waste program. The bill would make inoperative all variances granted by the department before the enactment of the bill. Since a violation of the requirements of the bill would be a crime, the bill would impose a state-mandated local program.

The bill would require the wood preserving industry, as defined, to update the department, upon request, on trends within the wood preserving industry regarding the use of treated wood preservatives and the generation of treated wood waste. The bill would require the wood preserving industry to, in consultation with the department, maintain an internet website and prepare fact sheets and other outreach materials on the appropriate handling, disposal, and other management of treated wood waste for generators of treated wood waste and for facilities that may receive or handle treated wood waste. The bill would require the wood preserving industry to annually update and renew the outreach materials, disseminate the outreach materials, and provide a specified update to the department relating to that dissemination, as provided.

The bill *would require the department, no later than July 1, 2028, to provide notification to the Legislature if the department is prepared, as determined by the Director of Toxic Substances Control, to ensure the safe management of treated wood waste in accordance with the hazardous waste control laws if the provisions of*

the bill are repealed. If, as of July 1, 2028, the department has provided that notification, the bill would repeal its provisions as of January 1, 2030.

Arguments in support:

According to the author, "The alternative management standards for TWW, expired on December 31, 2020, as the result of the veto of SB 68 (Galgiani). This has created great uncertainty with how TWW shall be managed. Without clear guidance I am greatly concerned that TWW will be mismanaged and ultimately discarded by the side of the road, or disposed of in a manner that could increase the risk of exposure to chemicals from TWW. AB 322 will solve this problem by re-authorizing the alternative management standards that have been in place in regulation since July 2008. I expect there to be further discussions on how to best manage TWW with the Administration, however, the first step is to ensure that TWW is safely managed while those discussions continue."

Arguments in opposition:

None on file

Support: (Verified 8/9/2021)

Agricultural Council of California Aiken-Ford Lumber, Co. Allweather Wood, LLC Amador County Board of Supervisors American Chemistry Council American Forest & Paper Association American Wood Council Associated General Contractors of California Auto Care Association Bay Planning Coalition BB&S Treated Lumber of New England Brooks Manufacturing Co. Cal Chamber CalCIMA California Association of Harbor Masters and Port Captains California Association of Winegrape Growers California Automotive Wholesalers' Association California Biomass Energy Alliance California Builders Alliance California Building Industry Association California Cascade California Cattlemen's Association California Farm Bureau Federation California Forestry Association California Fresh Fruit Association California Landscape Contractors Association California Manufacturers & Technology Association California Product Stewardship Council California Retailers Association California Waste & Recycling Association California Waste Haulers Council Chemical Industry Council of California City of Oroville City of Santa Clara City of Watsonville Conrad Forest Products Construction & Demolition Recycling Association Contra Costa County County of Lake County of Sacramento Creosote Council III, Inc. CSAC Del Norte Solid Waste Management Authority Exterior Wood / Taiga Building Products Fontana Wood Preserving, Inc./Fontana Wholesale Lumber, Inc. Gemini Forest Products Hexion, Inc. Humboldt Redwood Company, LLC Humboldt Waste Management Authority JH Baxter Kern; County of Koppers INC. League of California Cities Lonza Wood Protection Los Angeles County Sanitation Districts LP Building Solutions Manke Lumber Company Marine Recreation Association Mcfarland Cascade Holdings, Inc. Mendo Recycle Nadra Nisus Corporation North American Wood Pole Council Osmose Utilities Services, Inc. Pacific States Treating Pacific Wood Services Premier Recycle Company Princeton Wood Preservers, Ltd. Railway Tie Association Rain Carbon, Inc. - Ruetgers Canada Recology Waste Zero Recyclesmart Republic Services, Inc. Resource Recovery Coalition of California Rural County Representatives of California (RCRC) Sacramento Regional Builders Exchange (SRBX) Santa Barbara County Solid Waste Local Task Force Sierra Pacific Industries South Bayside Waste Management Authority (SBWMA) DBA Rethinkwaste Southeastern Lumber Manufacturers Association Southern Pressure Treaters Association Stopwaste Swana California Chapters Legislative Task Force Thunderbolt Wood Treating Treated Wood Council United Contractors Viance, LLC Waste Management West Coast Lumber & Building Material Association Western Placer Waste Management Authority (WPWMA) Western Wood Preservers Institute Wheeler Lumber, LLC Wine Institute Wood Preservation Canada Zero Waste Sonoma

Opposition: (Verified 8/9/2021)

None on file

Status: Senate Floor

Assembly Votes (preliminary)**: YES:** Cervantes, Medina, Seyarto, Waldron

Legislative Item #3 **Action**

AB 364, as introduced, Rodriguez. Foreign labor contractor registration: agricultural workers.

Introduced by Assembly Member Rodriguez
(Coauthors: Assembly Members Luz Rivas, Chau, Robert Rivas, Blanca Rubio, and Lorena Gonzalez)
(Coauthor: Senator Hueso)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Duplicative Registration of Farm Labor Contractors. Would require farm labor contractors to register under and comply with the requirements for foreign labor contractors, despite such contractors already being required to register and comply with their own pre-existing set of requirements under their own farm labor contractors registration system.

This bill requires most foreign labor contractors, including, but not limited to, those recruiting farmworkers abroad, to register with the California Labor Commissioner, pay a fee, post a bond, and adhere to certain standards designed to prevent exploitation.

Description:

Existing law requires the Labor Commissioner to enforce and administer a program to register and supervise foreign labor contractors who perform foreign labor contracting activities to recruit or solicit foreign workers. Existing law requires foreign labor contractors to register under the program, as prescribed, and imposes specific requirements relating to recruitment or solicitation for employment and relating to work contracts. Existing law authorizes the commissioner to adopt regulations or policies and procedures to implement these provisions. A violation of these provisions is a crime.

Existing law makes these provisions applicable only to nonagricultural workers, and exempts persons licensed as farm labor contractors, specified persons exempt from farm labor contractor licensing requirements, and employers of agricultural workers.

This bill would delete those limitations. By expanding the application of the foreign labor contractor registration provisions, the bill would expand an existing crime, thereby imposing a state-mandated local program.

Argument in support:

According to the author: Internationally recruited temporary workers face common patterns of exploitation. Recent data show labor trafficking increasing within this temporary but sizable workforce. Sadly, too many workers in sectors including the agricultural industry have fallen victim to predatory contracts, forced labor, retaliation, and more. The protections that AB 364 seeks to ensure are in addition to current provisions in California law that address farm labor contracting as they cover activities exclusively involving international labor recruitment. Crucially, they provide safeguards early in the recruiting process -at the time and place of recruitment abroad- and are thus essential in preventing exploitation and trafficking. As a sponsor of the bill, the Coalition to Abolish Slavery & Trafficking (Cast) writes: In Cast's on-the-ground experience working with survivors in California, almost 2/3 of the foreign workers who seek Cast's services are labor trafficking victims on temporary visas. Their vulnerability to trafficking and abuse most frequently started with AB 364 (Rodriguez) Page 12 of 14 false promises and debt to a fraudulent Foreign Labor Recruiter extracted in exchange for a lawful visa to come to California. (Internal citations omitted.) As another sponsor of the bill, Alameda County District Attorney Nancy O'Malley adds: Human trafficking is a horrific crime that is difficult for law enforcement to identify and successfully prosecute, especially those cases involving labor trafficking. One of the largest areas of abuse that law enforcement has seen is when third party recruiters (FLRs) exploit

and traffic foreign workers. This occurs across the state of California. The unscrupulous FLRs threaten workers with blacklisting, discrimination and other forms of retaliation, including the imposition of additional fees and violence against themselves, family members, or their home communities for reporting abuses or seeking to escape their fraudulently induced servitude. AB 364 will make it easier to identify bad actors and to prosecute cases of labor trafficking in California.

Arguments in Opposition:

In opposition, a coalition of agricultural employers including the Western Growers Association, asserts a different understanding of the scope of SB 477. Opponents contend, "The H-2A visa program was NOT overlooked during the discussion and negotiations of SB 477 (Steinberg) in 2014 which created the foreign labor contracting registration program." They argue that the bill is unnecessary because "The H-2A visa program is already regulated by a restrictive application and enforcement program at the federal level." They further contend that California already has a farm labor contractor licensing program, noting "Farm labor contractors in California must be licensed and must take the farm labor contractor exam every two years."

California's [Farm Labor Contractors] were regulated before the creation of SB 477, and in fact formed the model for that legislation. To now loop them into the foreign labor contracting regulations is nonsensical and ignores that they are already covered by preexisting legislation. Moreover, [Farm Labor Contractors] are already subject to a host of requirements that would make such an inclusion unnecessary and duplicative.

Support: (Verified 8/9/2021)

Coalition to Abolish Slavery & Trafficking (sponsor) Alameda County District Attorney's Office (sponsor) San Diego County District Attorney's Office (sponsor) American Civil Liberties Union of California Alliance to End Slavery and Trafficking Bet Tzedek Legal Services California Commission on the Status of Women and Girls Centro de los Derechos del Migrante Coalition of Immokalee Workers CSA San Diego Dolores Street Community Services Economic Policy Institute Policy Center Equal Rights Advocates Freedom United Free the Slaves Free to Thrive Eric Garcetti, Mayor, City of Los Angeles HEAL Trafficking Hewlett Packard Enterprise Human Trafficking Institute Humanity United Action Justice in Motion Legal Aid of Marin Los Angeles Center for Law and Justice Los Angeles County District Attorney's Office McCain Institute for International Leadership National Network for Youth North County Lifeline Pilipino Workers Center of Southern California Polaris Ruby's Place Safe Horizon Santa Barbara Women's Political Committee Service Employees International Union, California State Council Solidarity Center Darrell Steinberg, Mayor, City of Sacramento Sustainable Food Policy Alliance T'ruah: The Rabbinic Call for Human Rights United Way Worldwide The University Corporation D.B.A. "Strength United" Verité Verity, Compassion, Safety, Support Vital Voices Global Partnership Waymakers City of West Hollywood Womankind

Opposition: (Verified 8/9/2021)

African-American Farmers of California Agricultural Council of California California Association of Winegrape Growers California Chamber of Commerce California Citrus Mutual California Cotton Ginners & Growers Association California Farm Bureau Federation California Fresh Fruit Association Family Winemakers of California Farwest Equipment Dealers Association Nisei Farmers League Western Agricultural Processors Association Western Growers Association Western Plant Health Association

Status: Senate Appropriations

Votes (preliminary)**: YES:** Cervantes, Medina NO: Seyarto, Waldron

Legislative Item #4	**Action**

AB 654, as amended, Reyes. COVID-19: exposure: notification.

Recommended action: OPPOSE

Presentation: Gene Wunderlich

Summary:

Shaming List of Businesses with Prior COVID-19 Outbreaks. Would require the California Department of Public Health to post a list of all sites at which a COVID-19 outbreak occurs in the state, creating a scarlet letter for businesses, despite their inability to prevent employees from catching COVID-19 outside the workplace and triggering an outbreak. it provides no health and safety benefit, but will shame both good and bad actors alike. In addition, it will create new costs for the California Department of Public Health to maintain an online listing of an ever-changing list of outbreak sites across the state.

Clarifies the Department of Public Health's (DPH) internet posting requirement of COVID-19 workplace data to mean that the posting includes both workplace and industry information received from local public health departments.

Description:

Existing law, the California Occupational Safety and Health Act of 1973, authorizes the Division of Occupational Safety and Health to prohibit the performance of an operation or process, or entry into that place of employment when, in its opinion, a place of employment, operation, or process, or any part thereof, exposes workers to the risk of infection with COVID-19, so as to constitute an imminent hazard to employees. Existing law requires that the prohibition be issued in a manner so as not to materially interrupt the performance of critical governmental functions essential to ensuring public health and safety functions or the delivery of electrical power or water. Existing law requires that these provisions not prevent the entry or use, with the division's knowledge and permission, for the sole purpose of eliminating the dangerous conditions.

This bill would add the delivery of renewable natural gas to the list of utilities that the division's prohibitions are not allowed to materially interrupt. The bill would also delete the provision regarding entry or use for the sole purpose of eliminating the dangerous condition.

Under existing law, if an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer is required to take specified actions within one business day of the notice of potential exposure to, among other things, provide written notice to all employees on the premises at the worksite that they may have been exposed to COVID-19 and to report related information to the local public health department. Existing law requires, if an employer or the employer's representative is notified of enough COVID-19 cases to meet the definition of an outbreak, the employer, with the exception of a health facility, to notify the local public health agency, as provided. Existing law also requires the State Department of Public Health to make workplace industry information received from local public health departments pursuant to these provisions available on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry reported by any workplace.

This bill, among other things, would require the State Department of Public Health to make workplace and industry information received from local public health departments available on its internet website in a manner that, among other things, allows the public to track the number of COVID-19 cases and outbreaks by both workplace and industry. *The bill would require that workplace information reported regarding active COVID-19 outbreaks, as specified, be removed from the State Department of Public Health's internet website after 14 days if no new cases of COVID-19 have been reported for that specific workplace.* The bill would expand the employers exempt from the COVID-19 outbreak reporting requirement to various licensed entities, including, but not limited to, community clinics, adult day health centers, community care facilities, and child day care facilities.

Argument in support:

"AB 654 is simply clean up to AB 685, Chapter 85 of 2020 and reflects negotiations from last year. Clean up to this measure is essential to the public health and safety of California so that we can mitigate the effects of

the pandemic. We need to be transparent with our constituents on when and where outbreaks happen in their communities and also ensure there is no burden of dual reporting to DPH."T

The California Labor Federation argues in support of this bill, "AB 685 created reporting employer notification and reporting requirements to help stop the spread of COVID-19 in the workplace and the community. It requires employers to notify workers and their exclusive representative of potential exposure to COVID-19 in the workplace and to report workplace outbreaks to the local health agency. These reports are then to be compiled by the state Department of Public Health and posted publicly on their website. The law also expands the authority of Cal/OSHA to cite employers for COVID-19 health and safety violations and to suspend operations if COVID-19 creates an 'imminent hazard.' Regarding the public posting of outbreak reports, the bill requires the California Department of Public Health (CDPH) to post this data by 'workplace industry' on their website. The database was intended, as shared in committee analysis, sponsorship, support, and opposition letters, to include outbreaks by workplace AND industry. However, the data is currently only being released by industry. This bill seeks to clarify how the data as required by AB 685, Chapter 85 of 2020 should be implemented on the CDPH website."

Argument in opposition:

A coalition of employer organizations, including the California Chamber of Commerce, are opposed to the reporting requirements of this bill and state, "First – employers cannot prevent outbreaks, even if an employer is compliant (or exceeding) all applicable laws and regulations, including the COVID-19 Emergency Temporary Standard. For example – if three employees attend a large social gathering on a Saturday night – completely outside of the employers' control - then return to the workplace Monday and all test positive later that week, then that would qualify as an outbreak. It does not matter that the employer was in full compliance with all relevant county and state guidance, or if there is no evidence of any spread in the workplace. In fact, even if a group of employees all admitted they were visiting a COVID-19 positive friend and not social distancing while doing so, the employer would still be listed.

This subjects good faith employers to a scarlet letter, which could be the death knell for struggling restaurants or retailers. Second – there is no requirement here that the list be 'up-to-date' or include only 'active' outbreaks. Without such a guarantee, the list will become meaningless because it won't help consumers. Knowing that three employees got sick at some point in the past doesn't make the public safer – it could be two weeks ago or six months ago. Without the list being kept 'up-todate,' it has no benefit and will only serve to punish employers for conduct they cannot control."

Fiscal comments:

According to the Assembly Appropriations Committee, cost pressure, starting in the hundreds of thousands of dollars (General Fund) for CDPH to post COVID-19 case and outbreak information by workplace. For its part, CDPH estimates it would need an ongoing General Fund budget appropriation of $1.9 million to post COVID-19 case and outbreak information by workplace. CDPH currently posts this information by industry. Distinguishing workplace cases and outbreaks would require CDPH to prepare the large volume of individual report data for public posting in a way that does not compromise an individual's privacy.

Data De-Identification Guidelines may require CDPH to identify the number of employees at each workplace to determine the appropriate way to post information – for example, posting that ten employees have COVID-19 at a workplace publicly known to have ten employees would reveal individual information, whereas posting that ten employees have COVID-19 at a workplace with 100 employees would not. CDPH would also incur costs for database maintenance and operations.

Support: (Verified 8/9/2021)

California Conference Board of The Amalgamated Transit Union California Conference of Machinists California Labor Federation California Rural Legal Assistance Foundation California School Employees Association California Teachers Association California Teamsters Public Affairs Council Ceres Community Project Engineers and Scientists of California Local 20, IFPTE ILWU, Local 26 Pesticide Action Network North America Professional & Technical Engineers, Local 21, IFPTE Restaurant Opportunities Centers of California Unite Here International Union United Food and Commercial Workers, Western States Council Utility Workers Union of America, Local 132

Utility Workers Union of America, Local 483 Utility Workers Union of America, Local 522 Warehouse Worker Resource Center Worksafe

Opposition: (Verified 8/9/2021)

Acclamation Insurance Management Services Advanced Medical Technology Association Agricultural Council of California Allied Managed Care American Council of Engineering Companies, California Brea Chamber of Commerce California Apartment Association California Association of Health Facilities California Association of Joint Powers Authorities California Building Industry Association California Business Roundtable California Chamber of Commerce California Farm Bureau California Food Producers California Fuels and Convenience Alliance California Restaurant Association California Retailers Association California State Association of Counties California Travel Association Carlsbad Chamber of Commerce Coalition of Small and Disabled Veteran Businesses Family Business Association of California Flasher Barricade Association Housing Contractors of California League of California Cities National Federation of Independent Business Oceanside Chamber of Commerce Official Police Garages of Los Angeles Oxnard Chamber of Commerce Pleasanton Chamber of Commerce Public Risk Innovation, Solutions, and Management San Gabriel Valley Economic Partnership Santa Barbara South Coast Chamber of Commerce Specialty Equipment Market Association Torrance Area Chamber of Commerce Western Growers Association

Status: Assembly floor FAIL – 3rd reading urgency

Votes (preliminary)**: Aye**: Cervantes, Medina **No**: Seyarto, Waldron

Legislative Item #5 **Action**

AB 1041, as amended, Wicks. ~~Leave.~~ *Employment: leave.*

Introduced by Assembly Member Wicks
(Coauthors: Assembly Members Bauer-Kahan and Ward)
(Coauthor: Senator Wiener)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Significant Expansion of Family Leave and Paid Sick Leave. Prior to amendments, would have significantly expanded multiple existing leave requirements in California that apply to employers of five or more, including small employers with limited employees who are struggling as a result of the pandemic, by allowing an employee to take leave to care for any family member or any person of their choosing without limitation, and subjecting the employer to costly litigation under the Fair Employment and Housing Act or the Labor Code Private Attorney General Act (PAGA), for any alleged interference, interruption, discouragement, or denial. Job killer tag removed due to April 22, 2021 amendments narrowing the bill so that the only additional persons that an employee can take leave to care for is one designated person per 12-month period.

For purposes of the California Family Rights Act (CFRA), the Healthy Workplaces, Healthy Families Act of 2014, and the Paid Family Leave program (PFL) expands the persons that may be cared for by an employee to include an individual related by blood or whose close association with the employee is the equivalent of a family relationship.

Should an employee be able to take leave under the California Family Rights Act or use their paid sick days to care for a person designated by the employee who is not a family member for which they can currently take leave or sick days?

Description:

(1) Existing law, commonly known as the California Family Rights Act, makes it an unlawful employment practice for any government employer or employer with 5 or more employees to refuse to grant a request by any employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period or who meets certain other requirements, to take up to a total of 12 workweeks in any 12-month period to, among other things, bond with a new child of the employee or to care for themselves or a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as specified.

This bill would expand the population that an employee can take leave to care for to include ~~any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.~~ *a designated person. The bill would define "designated person" to mean a person identified by the employee at the time the employee requests family care and medical leave. The bill would authorize an employer to limit designation of a person, as prescribed.*

(2) Existing law, the Healthy Workplaces, Healthy Families Act of 2014, generally entitles an employee who works in California for the same employer for 30 or more days within a year to paid sick days, as specified, including the use of paid sick days for diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Existing law defines "family member" for this purpose to include individuals who share a prescribed relationship with the employee.

This bill would expand the definition of the term "family member" to include ~~individuals related by blood or whose close association with the employee is the equivalent of a family relationship.~~ *a designated person, which, for purposes of these provisions, would mean a person identified by the employee at the time the employee requests paid sick days, subject to limitation by the employer, as prescribed.*

~~(3)Existing unemployment compensation disability law requires workers to pay contribution rates based on, among other things, wages received in employment and benefit disbursement, for payment into the Unemployment Compensation Disability Fund, a special fund in the State Treasury. That fund is continuously appropriated for the purpose of providing disability benefits and making payment of expenses in administering those provisions.~~

~~Existing law establishes, within the above state disability insurance program, a family temporary disability insurance program, also known as the paid family leave program, for the provision of wage replacement benefits for up to 8 weeks to workers who take time off work for prescribed purposes, including to care for a seriously ill family member. Existing law defines terms for its purposes, including "family care leave" and "family member."~~

~~This bill would expand eligibility for benefits under the paid family leave program to include individuals who take time off work to care for a seriously ill individual related by blood or whose close association with the employee is the equivalent of a family relationship. The bill would make conforming changes to the definitions of the terms "family care leave" and "family member."~~

Argument in support:

According to the author, "Only a minority of paid family leave claims are to care for a seriously ill family member; the overwhelming majority of paid family leave claims in California, are for bonding with a child. When paid family leave is used for care of a seriously ill family member, only a small percentage of these claims are used to care for family other than a child, parent, or spouse. In 2018, only 0.481% of all California's paid family leave claims filed were to care for relatives outside these categories." The author further states that

this bill "will expand the use of paid family leave to chosen family and create an important right for workers with non-nuclear family structures. It is time for California to join these other states (like Oregon, Connecticut, New Jersey and Colorado), ensuring that all Californians have the right to be there for their loved ones when it matters most, regardless of blood or legal relationship."

According to the sponsors of the measure (noted below), "AB 1041 addresses this reality of caregiving relationships by allowing workers to take time off to care for a "designated person" identified by the employee at the time they request leave. The designated person need not be related by blood or legal relationship and an employer may limit an employee to one designated person per 12-month period. There is already significant precedent for an expanded understanding of family relationships in federal and state law. Paid family and medical leave laws in Oregon, Connecticut, New Jersey, and Colorado cover chosen family, and eight localities (including Los Angeles) have passed paid sick time laws that cover chosen family. It is time for California to join these other jurisdictions by ensuring that all Californians have the right to be there for their loved ones when it matters most, regardless of blood or legal relationship."

The American Civil Liberties Union of California (ACLU), in support of this bill, argues "Due to cultural, economic, and social forces, many households today depart from the nuclear family model of married couple and their biological children. Instead, they increasingly include close loved ones who are not biologically or legally related. Yet, California's family leave laws typically reflect the outdated nuclear family model, allowing workers time off to care only for certain narrowly defined family members. Aging adults also rely on a wide network of relationships for caregiving that are not recognized by current law. Many caregivers are partners, neighbors, or friends. Among Americans who provide care to an adult age 65 or older, more than 23 percent provide care for a friend, neighbor, or other unrelated person."

Argument in opposition:

A coalition of employer organizations, including the California Chamber of Commerce, argue in opposition that "the existing provisions of CFRA are already challenging, confusing, and burdensome, and small employers who are struggling as a result of this pandemic are overwhelmed by the current law. AB 1041 would expand CFRA even further and allow employees to take care of any person of their choosing. Under CFRA, if an employer were to question the status of the relationship of the person for whom the employee was taking the leave, this could be seen as interfering with or discouraging the employee from taking the leave, exposing the employer to litigation." Among other things, the coalition argues that: 1) CFRA leave was just expanded this year and the bill imposes a significant burden on small employers; 2) CFRA and the Healthy Workplaces Healthy Family Act already cover time off for those individuals who stand in the shoes of an employee's parents or are like a child to the employee under the "loco parentis" provisions; 3) leave expansions expose employers to costly litigation; 4) California employers, especially small employers, cannot afford yet another mandated increase in benefits; and 5) instead of burdening employers with more costs, the Legislature should provide more flexible work options that benefit employers and employees. AB 1041 (Wicks) Page 5 of 7
Regarding their argument that existing law already covers leave for those who stand in loco parentis, the California Chamber of Commerce states that, "Under CFRA and the Healthy Workplaces Healthy Family Act (Act), an employee can already take time off to care for people who are not family members. An employee can take leave to care for a child if they are someone who stands in loco parentis to the child. Similarly, an employee can take time off to care for an individual who stood in loco parentis to them as a child. A biological or legal relationship is not necessary in either of those situations to qualify for CFRA leave. If an employee is charged with a parent's duties and responsibilities to a child, they can already take leave to care for that child. The law, therefore, already applies to many situations involving non-biological family relationships."

Under CFRA if an employer were to question the status of the relationship of the person for whom the employee was taking the leave, this could be seen as interfering or discouraging the employee from taking the leave, exposing the employer to litigation."

Support: (Verified 8/9/2021)

California Employment Lawyers Association (Co-Sponsor) California Work and Family Coalition (Co-Sponsor) Equal Rights Advocates (Co-Sponsor) Equality California (Co-Sponsor) Legal Aid At Work (Co-Sponsor) AARP Access Reproductive Justice ACLU California Action Alliance of Californians for Community Empowerment (ACCE) Action American Civil Liberties Union/Northern/Southern California/San Diego and Imperial Counties American Federation of State, County and Municipal Employees, AFL-CIO API Equality-LA Association of California Caregiver Resource Centers BreastfeedLA California Alliance for Retired Americans California Faculty Association California Labor Federation, AFL-CIO California Nurse-Midwives Association California Pan - Ethnic Health Network California Partnership to End Domestic Violence AB 1041 (Wicks) Page 6 of 7 California Teamsters Public Affairs Council California Women's Law Center Child Care Law Center Consumer Attorneys of California Drug Policy Alliance Ella Baker Center for Human Rights Empowering Pacific Islander Communities Equality California Family Caregiver Alliance Family Caregiver Alliance, Bay Area Caregiver Resource Center First 5 California Friends Committee on Legislation of California Human Impact Partners If/When/How: Lawyering for Reproductive Justice Jewish Center for Justice LA Best Babies Network Los Angeles Alliance for a New Economy (LAANE) NARAL Pro-Choice California National Association of Social Workers, California Chapter National Council of Jewish Women-California National Council of Jewish Women Los Angeles National Women's Political Caucus of California Orange County Equality Coalition Organization of SMUD Employees Our Family Coalition Prevention Institute Public Counsel Queer Democrats of Sacramento Religious Coalition for Reproductive Choice California Restaurant Opportunities Centers of California Voices for Progress Education Fund Women For: Orange County Women's Foundation of California Work Equity Action Fund Working Partnerships USA

Opposition: (Verified 8/9/2021)

Associated General Contractors Beverly Hills Chamber of Commerce Brea Chamber of Commerce California Association of Joint Powers Authorities California Beer and Beverage Distributors California Building Industry Association California Chamber of Commerce California Farm Bureau California Food Producers California Hospital Association California Landscape Contractors Association California Railroads AB 1041 (Wicks) Page 7 of 7 California Restaurant Association California Retailers Association California Special Districts Association California State Association of Counties California State Council of the Society for Human Resource Management (CalSHRM) Carlsbad Chamber of Commerce El Dorado Hills Chamber of Commerce Family Business Association of California Family Winemakers of California Folsom Chamber of Commerce Garden Grove Chamber of Commerce Greater Bakersfield Chamber of Commerce Greater Coachella Valley Chamber of Commerce Greater High Desert Chamber of Commerce Greater Riverside Chambers of Commerce Housing Contractors of California Long Beach Area Chamber of Commerce Murrieta/Wildomar Chamber of Commerce National Federation of Independent Business North Orange County Chamber North San Diego Business Chamber Oceanside Chamber of Commerce Official Police Garages of Los Angeles Orange County Business Council Oxnard Chamber of Commerce Pleasanton Chamber of Commerce Plumbing-Heating-Cooling Contractors of California Public Risk Innovation, Solutions and Management Rancho Cordova Area Chamber of Commerce Redondo Beach Chamber of Commerce San Gabriel Valley Economic Partnership Santa Maria Valley Chamber of Commerce Santa Rosa Metro Chamber of Commerce Simi Valley Chamber of Commerce South Bay Association of Chambers of Commerce Southwest California Legislative Council Torrance Area Chamber of Commerce Tulare Chamber of Commerce Western Carwash Association Wilmington Chamber of Commerce

Status: Senate Appropriations - Suspense

Votes (preliminary)**:** **AYE: Cervantes,** Medina **NO:** Seyarto, Waldron

Legislative Item #6 **Action**

12. AB 1074, as amended, Lorena Gonzalez. Employment: displaced workers.

Introduced by Assembly Members Lorena Gonzalez and Kalra
(Principal coauthor: Senator Durazo)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Onerous Return to Work Mandate. Prior to amendments, would have imposed an onerous and stringent process that is unlimited in time for specific employers to return employees to the workforce for specified industries, including hotels and restaurants that have been disproportionally impacted by this pandemic, which would have delayed rehiring and employers' ability to re-open after being forced to close or reduce operations due to COVID-19. Job killer tag removed due to April 19, 2021 amendments eliminating COVID-19 related recall provisions from the bill.

Adds employees who provide hotel services, including guest service, food and beverage, or cleaning, for a contractor or subcontractor to the Displaced Janitor Opportunity Act. Should a successor contractor or subcontractor of workers providing guest services, food and beverage and cleaning at a hotel be required to keep the terminated contractor or subcontractor's employees for a 60-day transition employment period and, if the performance is satisfactory, offer them employment?

Description:

Existing law establishes the Displaced Janitor Opportunity Act, which requires contractors and subcontractors, as defined, that are awarded contracts or subcontracts to provide janitorial or building maintenance services at a particular jobsite or sites, to retain, for a period of 60 days, certain employees who were employed at that site by the previous contractor or subcontractor, and offered continued employment if their performance during that 60-day period is satisfactory. Existing law authorizes an employee who was not retained, or the employee's agent, to bring an enforcement action in a court of competent jurisdiction, as specified. Existing law charges the Labor Commissioner, as Chief of the Division of Labor Standards Enforcement, with enforcing these provisions.
Existing law defines "awarding authority" to mean any person that awards or otherwise enters into contracts for janitorial or building maintenance services performed within the State of California, including any subcontracts for janitorial or building maintenance services.
This bill would rename the act the Displaced Janitor and Hotel Worker Opportunity Act and would extend the provisions of the act to hotel workers. The bill would redefine "awarding authority" under the act to include any person that awards or otherwise enters into contracts for hotel ~~services including~~ *services, which include* guest service, *as defined,* food and ~~beverage~~ *beverage service,* or ~~cleaning~~ *cleaning service,* performed within the state, as specified. The will would also redefine "employee" to include a person employed as a service employee of a contractor or subcontractor who works at least 15 hours per week

and whose primary place of employment is in the state under a contract to provide janitorial or building maintenance services or hotel services.

Arguments in support:

According to the author, "Since the COVID-19 pandemic began, over half a million workers in the service and hospitality industry have lost work through no fault of their own and are on the brink of falling deeper into poverty. This female-dominated workforce is made up predominantly of Latinas and immigrant workers who have already been disproportionately devastated by the pandemic. AB 1074 is a commonsense policy that ensures employees in the hospitality industry – who were laid-off for reasons specific to the COVID-19 pandemic – are rehired as their previous jobs become available when businesses reopen. The bill also prevents any further displacement of hotel service employees by ensuring their jobs are retained in the event that a contract for services is terminated and subsequently picked up by a successor contractor. A number of local jurisdictions across the state have already passed similar ordinances to ensure hospitality workers have the right to return to their previous jobs, including Los Angeles, San Diego, Oakland, San Francisco, Santa Clara, Long Beach, and Pasadena. Establishing minimum, statewide rehiring and retention standards would provide job security to hundreds of thousands of hospitality workers and support economic recovery for an industry that has been among the most severely impacted by the pandemic."

The California Labor Federation argues in support of the bill, "AB 1074 creates a right to recall and retention provisions for specific industries that experience layoffs due to an emergency, such as COVID-19. Industries such as hotels, airport hospitality, event centers, and building services AB 1074 Page 3 suffered immense layoffs throughout the pandemic. Many workers have had these jobs for decades and rely on them for income, health coverage, and other benefits. The lack of recall or retention rights give employers the ability to rehire workers at lower pay rates without any seniority. They can hide discrimination against older workers or workplace activists that may have raised issues in the past. Right of recall and retention will guarantee laid-off workers that once their employer begins rehiring incumbent workers will have a shot at getting back their same job on the same career ladder. This is not only important to protect workers from discrimination or attempts to cut wages, but it is also critical to the state's economic recovery. Economists recommend keeping workers connected to their jobs to speed economic recovery and temper the financial dislocation caused by the pandemic. It also benefits employers who can rely on a trained and experienced workforce to return to full productivity on day one of reopening."

This bill is additionally supported by AFSCME who argues that, "As we continue to distribute vaccine doses, it is vital that our economy be progressively and efficiently restored in order to provide California families with income. By ensuring that workers can return to their previous jobs, AB 1074 will expedite California's economic recovery. Since job losses in the hospitality industry make up nearly 40% of pandemic-related unemployment in our AB 1074 (Lorena Gonzalez) Page 5 of 7 state, in addition to the sheer size of the industry, an accelerated return of these workers will provide significant momentum to California's recovery. The hospitality sector is predominately comprised of women from a Latina or immigrant background—demographics that have suffered disproportionately during the pandemic. By enabling hospitality workers to return to their old jobs, this bill will also protect them against further financial hardship. Because many of these workers have held their jobs for years and are earning more than entry-level pay, employers may attempt to cut costs by hiring less experienced workers upon reopening. AB 1074 will ensure that qualified workers are not permanently displaced by COVID-19."

Arguments in opposition:

A coalition of employer organizations, including the California Chamber of Commerce, states in opposition, "AB 1074 is designed to ensure that an incumbent union that has been elected as the bargaining representative through the proper procedures for the prior contractor, will remain the bargaining representative for the

subsequent employer. Under the "successor employer" doctrine, a subsequent employer who (1) hires the majority of its predecessor's employees; and (2) is generally in the same business, must recognize the incumbent union and bargain with it in good faith. See NLRB v. Burns Int'l Security Services, Inc., 406 U.S. 272, 281 (1972). Because AB 1074 mandates that subsequent employers recall the predecessor's employees and also adds hotel workers to Labor Code section 1060, it would allow the incumbent union to demand recognition of its status as the bargaining representative. We believe the decision of whether or not to have a union in the workplace should be left to the employers and employees, after following the proper procedures outlined by the National Labor Relations Act. Neither party should be forced into such a relationship."

A coalition of employers, including the California Hotel & Lodging Association, are opposed and write, "Specifically, this measure expands statutory contractor-retention policies to apply to "hotel services including guest service, food and beverage, or cleaning performed within the State of California, including any subcontracts for janitorial or building maintenance services or hotel services." However, as written, every function a hotel contractor performs to the benefit of its guests would be subject to retention including; booking systems, website disability-access programs, pool cleaning services, hotel advertising services which offer special pricing, and every other potential service the guest interacts with." They continue, "Hotels rely on a wide array of service contractors to provide specialized expertise at every step of the guest experience. For the thousands of small, independent hotels across California, this measure could increase transition and operating costs for both the hotel and new service providers beyond what the hotel's business and service contract can support. For example, if a hotel in a remote part of California currently receives its website support services from a multinational corporation but seeks to change providers, it would likely be unable to do so because: 1. There may not be any other service providers serving the area that are willing to navigate rehiring requirements. 2. Any available service providers would be required to offer employment to all of the multinational corporation's California employees who had some part (15 hours per week) servicing the account. 3. The service providers willing to undergo the transition have significantly increased their costs because there are few others willing to service the account (home insurance in wildfire zones come to mind as a general comparison to highlight the effect of high demand and limited supply). Again, it's important to note that hotels contract for a large number of services, so even if this small hypothetical hotel can obtain the needed services from one contractor, it would need to repeat the process for every service provider it needs to change. In effect, this measure chokes out hotels' abilities to operate and adapt to changes through the sheer volume of the potential burdens it seeks to assert on hotel contractors. California's hotel industry was the most impacted industry by the pandemic, with over 20% of all hotels closing and more than 122,000 employees laid-off during the pandemic. By most estimates, it will take three to five years to return to pre-pandemic levels, and longer for some metropolitan areas. Unfortunately, AB 1074 would not help the lodging industry or people AB 1074 (Lorena Gonzalez) Page 6 of 7 employed by it, but would increase operating costs, threaten small businesses, and represent a significant shift in how the law approaches service contracting."

Support: (Verified 8/9/2021)

UNITE HERE! (Sponsor) American Association of University Women – California American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO California Immigrant Policy Center California Labor Federation, AFl-CIO California Teamsters Public Affairs Council AB 1074 (Lorena Gonzalez) Page 7 of 7 Los Angeles County Federation of Labor, AFL-CIO SEIU California

Opposition: (Verified 8/9/2021)

Beaumont Chamber of Commerce Big Bear Chamber of Commerce California Attractions and Parks Association California Chamber of Commerce California Hotel & Lodging Association California Restaurant Association California Travel Association Chino Valley Chamber of Commerce Civil Justice Association of California Construction Employers' Association Corona Chamber of Commerce Fontana Chamber of Commerce Garden Grove Chamber of Commerce Greater Bakersfield Chamber of Commerce Greater Coachella Valley Chamber of

Commerce Greater Conejo Valley Chamber of Commerce Greater High Desert Chamber of Commerce Greater Ontario Business Council Greater Riverside Chamber of Commerce Greater San Fernando Valley Chamber of Commerce Hemet San Jacinto Valley Chamber of Commerce Highland Area Chamber of Commerce Housing Contractors of California Independent Physical Therapists of California Inland Empire Economic Partnership Long Beach Area Chamber of Commerce AB 1074 Page 5 Menifee Valley Chamber of Commerce Moreno Valley Chamber of Commerce Murrieta Wildomar Chamber of Commerce North Orange County Chamber of Commerce Oceanside Chamber of Commerce Official Police Garages of Los Angeles Oxnard Chamber of Commerce Perris Valley Chamber of Commerce Pleasanton Chamber of Commerce Pomona Chamber of Commerce Rancho Cordova Chamber of Commerce Rancho Cucamonga Chamber of Commerce Redlands Chamber of Commerce Redondo Beach Chamber of Commerce Roseville Area Chamber of Commerce San Gabriel Valley Economic Partnership Santa Maria Valley Chamber of Commerce Santa Rosa Metro Chamber of Commerce South Bay Association of Chambers of Commerce Temecula Valley Chamber of Commerce Torrance Area Chamber of Commerce Tri County Chamber Alliance Tulare Chamber of Commerce Upland Chamber of Commerce Valley Industry and Commerce Association

Status: Senate Appropriations

Votes **YES:** Cervantes, Medina **NO:** Seyarto **NVR:** Waldron

Legislative Item #7	**Action**

13. AB 1177, as amended, Santiago. California Public Banking Option Act.

Introduced by Assembly Members Santiago, Carrillo, Chiu, Eduardo Garcia, Gipson, Lorena Gonzalez, Kalra, Lee, Nazarian, Ting, and Wicks
(Coauthors: Assembly Members Friedman, Jones-Sawyer, and Luz Rivas)
(Coauthors: Senators Durazo, Gonzalez, Hueso, and Wiener)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

New Mandate. Burdens businesses with another unnecessary regulation that requires them to provide direct payroll deposit to the BankCal in addition to any other direct payroll program with commercial institutions or do not provide at all.

Establishes the BankCal Program (BankCal) to provide Californians with zero-fee and zero-penalty transaction accounts and debit card services.

Description:

(1) Existing law, the CalSavers Retirement Savings Trust Act, creates in state government the CalSavers Retirement Savings Board and requires the board to, among other things, design and implement the CalSavers Retirement Savings Program.
This bill, the California Public Banking Option Act, would, among other things, establish in state government the Public Banking Option Board consisting of nine members, including the Treasurer or the Treasurer's designee and would require the board to administer the BankCal Program, which the act would create for the purpose of protecting consumers who lack access to traditional banking services from predatory, discriminatory, and costly alternatives by offering access to voluntary, zero-fee, zero-penalty, federally insured transaction account and related services, as specified, at no cost to accountholders. The act would require the board to design and implement the BankCal Program by, among other things, selecting a financial services network administrator and establishing the duties and functions of the financial services network administrator, including contracting with, managing, and coordinating the financial services vendors for the program, as prescribed. The act would make the requirement of the board to design and implement the BankCal Program, among other requirements, operative only if the Senate Committee on Banking and Financial Institutions and the Assembly Committee on Banking and Finance consider, and the Legislature approves by statute, the implementation of the program after the completion of the market analysis described below. The act would make its provisions inoperative if the board determines, after making 3 solicitations to applicants, that no applicant meets the minimum capabilities of a financial services network administrator, as prescribed.
The act would require, upon appropriation by the Legislature, the Treasurer to, on or before July 1, 2024, conduct and deliver to the board, as specified, a market analysis containing, among other things, a determination as to whether or not the program can be implemented and if program revenue is more likely than not to be sufficient to pay for program costs within 6 years of the program's implementation, including detailed financial projections and key assumptions upon which the determination relies. The act would require the Treasurer and the board to deliver, and upon request present, that market analysis to the Chair of the Senate Committee on Banking and Financial Institutions and the Chair of the Assembly Committee on Banking and Finance.
The act would also establish the BankCal Fund in the State Treasury. The act would make moneys in the fund available upon appropriation by the Legislature for the purposes of the act and would authorize moneys in the BankCal Fund to be used for startup and administrative costs to implement the program only if the Legislature approves by statute, as specified, the implementation of the program.
The act would require employers and hiring entities to have and maintain a payroll direct deposit arrangement that enables voluntary worker participation in the BankCal ~~Program.~~ *Program, as prescribed.* The act would define "employer" to mean a person, including a state or local government or agency, engaged in a business, industry, profession, trade, or other enterprise in the state, whether or not for profit, excluding the federal government, that has ~~at least five~~ *more than 25* employees. By imposing the mandate to maintain a payroll direct deposit arrangement on a local government or agency, this bill would impose a state-mandated local program. The act would require the board to refer to the Labor Commissioner for enforcement a complaint it makes or receives that an employer or hiring entity has failed to allow its workers to participate in the BankCal

Program and would make an employer or hiring entity ~~that, without good cause, fails to allow its workers to participate in the BankCal Program~~ *that violates the provisions described above* liable for a civil penalty, as prescribed.

(2) Existing law requires a landlord or landlord's agent to allow a tenant to pay rent and deposit of security by at least one form of payment that is neither cash nor electronic funds transfer, except as prescribed.

The act would additionally require a landlord or landlord's agent to allow a tenant to pay rent and deposit of security by an electronic funds transfer from a BankCal account, except as specified.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Arguments in support:

According to the Author: "There is a long history of structural and systemic inequities in the traditional financial system, reflecting decades of exclusionary and racist policies on the part of the banks and government policy. BankCal is designed to address the factors that drive the unbanked and underbanked out of this system, such as extractive fees and penalties and account policies that fail to accommodate income volatility. The banking system has not only failed to serve communities of color but has actively perpetuated and compounded the racial wealth gap through a range of discriminatory banking and lending practices. As a result, Black and Latino families face financial insecurity at rates around double those of White families. Like California's government-sponsored retirement savings program, CalSavers, BankCal would allow the state to provide a package of high-value financial services and benefits to all who need them, particularly those low-income families most likely to be excluded from the mainstream financial system."

The California Public Banking Alliance writes in support: "Providing Californians with a public option for essential financial services will help close the racial wealth gap, eliminate the need for exploitative alternatives to traditional banking, and reduce Californians' risk of falling into catastrophic debt. According to a recent study conducted by HR&A Advisors, universal access to essential financial services will result in approximately $3.3 billion in cumulative savings to California's neediest households. This same study found that by redirecting household spending away from interest and fees, AB 1177 will support over 22,000 jobs and have a total economic impact of $4.2 billion on the California economy."

Arguments in opposition:

A coalition of financial services trade associations and other business groups writes in opposition. The coalition argues that proponents of the bill need to be more precise with defining the underlying problem to avoid conflating the challenges of unbanked vs. underbanked Californians. Opponents also argue that the market analysis required by this bill should examine the question of why people are unbanked without presupposing that the BankCal program or public banking provide an answer to that problem. Opponents point out that alternatives to BankCal already exist, including bank accounts that adhere to the BankOn National Account Standards.

According to the measure, this bill is needed to address California's unbanked population and relieve California borrowers of reliance on high-cost payday lenders. We strongly agree with the public policy goal of giving all Californians access to safe, affordable banking products at insured depository institutions. Indeed, the latest FDIC and Federal Reserve data shows that efforts to bring households into the banking system are making progress, but more must be done. According to the Federal Reserve's Report on the Economic Well-Being of U.S. Households in 2018 - May 2019, six percent of adults are unbanked, with 16 percent utilizing non-traditional, high-cost loan products. The Federal Deposit

Insurance Corporation's most recent biennial report is consistent, showing that 5.4 percent of American households do not have a bank account (2020 How America Banks: Household Use of Banking and Financial Services, FDIC). However, according to AB 1177, the number of Californians lacking access to banking services surpasses 40 percent. We question the validity of this data, which is inconsistent with highly regarded federal data, and strongly caution against passing such a dramatic policy change based on the misleading statistics presented in the bill. Public banking proponents often conflate the term "unbanked" and "underbanked" thereby making the assertion that California residents lack adequate access to financial services. The FDIC itself has raised definitional concerns about the term "underbanked," which is inconsistently applied. In fact, the FDIC removed the term "underbanked" from its study title because of these definitional issues. This is a critical distinction that must be made; individuals who utilize payday lenders and other high-cost loan products do so because they have inadequate cash flow, not because they lack access to banking services. Even payday lenders require a consumer to be banked to use their services. BankCal and its proposed network of public banks will not remedy this problem because being underbanked isn't about not having a bank account; rather, it's the result of an individual's economic condition. Nor is it the case that individuals are unbanked simply because they utilize alternative payment systems such as Zelle or Venmo as there must be a bank account on either side of the transaction when using these services. Yet, it is not uncommon for public bank advocates to assert that individuals utilizing these products are underbanked, resulting in a vastly inflated estimate of "underbanked" households.

Study The Problem, Not The Perceived Solution

If the purpose of this measure is to solve for an unbanked population then the proposed study should focus on why Californian's remain unbanked. As currently drafted, this measure creates the Public Bank Options Board to oversee a market analysis prior to implementing the BankCal program. Unfortunately, the proposed market analysis is flawed in that it presupposes that BankCal will bring more Californian's into the financial mainstream. Instead, a more efficacious approach is to study the unbanked and underbanked problem itself without reference to BankCal, or Public Banking as a solution determined in advance.

Support: (Verified 8/10/2021)

California Public Banking Alliance (Co-Sponsor) California Reinvestment Coalition (Co-Sponsor) SEIU California (CoSponsor) Alliance of Californians for Community Empowerment (ACCE) Action Action Center on Race and the Economy Active San Gabriel Valley All Rise Alameda Alliance for a Just Recovery, Sonoma County Asian Pacific Environmental Network Bay Area-System Change Not Climate Change Building the Base Face to Face California Asset Building Coalition California Employment Lawyers Association California Labor Federation, AFL-CIO California Progressive Alliance (CPA) Center for Farmworker Families Climate Protection and Recovery Fund Cloverdale Indivisible Community Financial Resources Community RePower Movement Cooperation Humboldt Consumers for Auto Reliability and Safety Consumers for Auto Reliability and Safety Contra Costa Move On Courage California Democratic Socialists of America, San Francisco Dreams for Change Duende Consulting EcoChoices Ecosocialists El Cerrito Progressives Feel the Bern Democratic Club, Los Angeles Feel the Bern San Fernando Valley Feminists in Action Fight For 15 Fresno Democratic Party Friends Committee on Legislation of California Friends of the Climate Action Plan Friends of the Earth U.S. Friends of Public Banking Santa Rosa Green Lining Institute Green Party Humboldt County Green Party of Santa Clara County Hanmi Bank Haven Neighborhood Services Hillcrest indivisible Hillcrest Indivisible HOPE for All: Helping Others Prosper Economically Hull Professionals Independent Indivisible (INDI Squared) Indivisible 30/Keep Sherman Accountable Indivisible 36 Indivisible 39 Indivisible 41 Indivisible 43 Indivisible Auburn Indivisible Beach Cities Indivisible CA -7 Indivisible California Green Team Indivisible California: StateStrong Indivisible East Bay Indivisible Lorin Indivisible Los Angeles Indivisible OC 46 Indivisible of Sherman Oaks Indivisible Petaluma Indivisible Sacramento Indivisible San Bernardino Indivisible San Diego – Persist Indivisible San Francisco Indivisible San Jose Indivisible Santa Barbara Indivisible Sausalito Indivisible Sebastopol Indivisible SF Peninsula and CA-14 Indivisible Sonoma County Indivisible South Bay Indivisible Stanislaus Indivisible Ventura Indivisible Windsor Justicia Digna LA Forward Lassen County Democratic Central Committee Lawyers' Committee for Civil Rights of San Francisco Bay Area LITE Initiatives Livermore Indivisible Los Angeles Alliance for a New Economy (LAANE) Los Angeles County Democratic Party Malonga Arts Residents Association March and Rally Los Angeles Marin Sunshine Realty McGee-Spaulding Neighbors in Action Media Alliance Mendocino County Public Banking Coalition

Mill Valley Community Action Network Mobility Capital Finance, Inc. (MoCaFi) Mothers Out Front Mount Diablo Education Association Mountain Progressives AB 1177 Page 14 National Domestic Workers Alliance NextGen California North Bay Jobs with Justice Orchard City Indivisible Orinda Progressive Action Alliance Our Revolution Long Beach Partnership for Working Families Peace and Justice Center of Sonoma County Progress Noe Valley Progressive Asian Network for Action (PANA) Prosperity Now Public Bank Long Beach Public Bank Los Angeles (PBLA) Public Bank Pomona Valley Public Counsel Public Banking Institute Public Law Center Ready to Help LA Renaissance Entrepreneurship Center River Watch Romero Institute Rose Foundation for Communities and the Environment San Diego County Democratic Party San Francisco Berniecrats San Francisco Public Bank Coalition San Jose Nikkei Resisters Sanctuary Santa Cruz Santa Cruz Climate Action Network Santa Cruz Indivisible SaverLife SEIU International SFV Indivisible Silicon Valley Rising Action Social Eco Education Sonoma County Climate Activist Network (SoCoCAN) Sonoma County Climate Mobilization Sonoma County Pachamama Alliance South Bay Progressive Alliance South Sacramento Seniors for Systemic Equality Southern Poverty Law Center Strategic Actions for a Just Economy Strike Debt Bay Area Tehama Indivisible Thai Community Development Center The Climate Center The Cobb Institute Together We Will Contra Costa Together We Will/Indivisible – Los Gatos United Farm Workers United Food and Commercial Workers Western States Council UXO Architects Vallejo-Benicia Indivisible Venice Resistance We The People SD Wild Solar Wilshire Center Koreatown Neighborhood Council Women For: Orange County Women's Alliance Los Angeles Working Group for Emergency Climate Action Now Working Partnerships USA Yolo Indivisible 350 Butte County 350 Marin 350 Silicon Valley 350 Sonoma

Opposition: (Verified 8/10/2021)

American Bankers Association Bay Area Council California Bankers Association California Chamber of Commerce California Community Banking Network California Credit Union League California State Controller Card Coalition Credit Union National Association Independent Community Bankers of America National Federation of Independent Business Silicon Valley Leadership Group

Status: Senate Appropriations

Votes (preliminary)**: Yes:** Cervantes, Medina **NO**: Seyarto, Waldron

Legislative Item #9	**Action**

14. SB 420, as amended, Umberg. Unemployment insurance: Unemployment Insurance Integrity Enforcement Act.

Recommended action: SUPPORT
Presentation: Gene Wunderlich

Summary:

Unemployment Insurance Integrity Enforcement Program. Creates the Unemployment Insurance Integrity Enforcement Program, including a task force consisting of the Statute Auditor and Attorney General representatives, to cost-effectively pursue UI fraud and recover money for the state UI fund.

Establishes the Unemployment Insurance Integrity Enforcement Program to promote coordination with county district attorneys, and federal authorities, to pursue civil and criminal actions to recover funds misappropriated from the Employment Development Department ("EDD" or "the department"), to be administered through a task force with grant money, upon appropriation of funds by the Legislature.

Description:

Existing law establishes the Employment Development Department (department) within the Labor and Workforce Development Agency and sets forth its powers and duties, including administration of the unemployment and disability insurance programs for California. Existing law requires the department to pay unemployment compensation benefits from the Unemployment Fund to unemployed individuals meeting specified ~~requirements.~~ *requirements, and continuously appropriates the Unemployment Fund for that purpose.* Existing law requires the department to maintain a field investigating staff, whose function includes investigation of violations of the unemployment and disability insurance programs.

Existing law establishes the Department of Justice within state government, and establishes the Attorney General as the head of the department and as the chief law officer of the state. Existing law sets forth the powers and duties of the Attorney General, including the direct supervision over the district attorneys of the several counties of the state. Existing law authorizes the Attorney General to assist any district attorney in the discharge of their duties, as prescribed.

This bill would establish the Unemployment Insurance Integrity Enforcement Program within the Department of Justice, administered by the Attorney General. The bill would require the Attorney General to establish a task force consisting of the Director of Employment Development and 5 members appointed by the Attorney General. The bill would require the task force to coordinate with local district attorneys and, when available and necessary, with the United States Attorney's Office to pursue available methods to recover improper benefit payments made from the department. The bill would require the task force, prior to pursuing any civil or criminal action, to prepare a cost-benefit analysis, as specified. The bill would make an appropriation by ~~continuously appropriating~~ *depositing* funds recovered pursuant to the program into the *continuously appropriated* Unemployment Fund.

This bill would also require the Attorney General, beginning January 1, 2023, and upon appropriation by the Legislature, to fund a grant program targeted at the successful prosecution and elimination of fraudulent unemployment insurance claims. The bill would require the Attorney General, in determining whether to award a grant, to consider specified criteria, and to give priority to those grant applications with the greatest potential to reduce unemployment fraud activity and lessen the economic losses from that fraud. The bill would also prioritize grant applications for multicounty efforts to investigate and prosecute unemployment insurance fraud activity.

Under existing law, the information obtained in the administration of the Unemployment Insurance Code is for the exclusive use and information of the Director of Employment Development in the discharge of the director's duties and is not open to the public. Existing law permits the use of the information for specified purposes, including providing authorized governmental agencies with information relevant to various types of fraud investigations, including insurance and Department of Motor Vehicle document fraud. Existing law permits the director to require reimbursement for all direct costs incurred in providing information pursuant to these provisions, except as specified. Existing law

makes it a crime for a person to knowingly access, use, or disclose this confidential information without authorization.
This bill would require the Employment Development Department (EDD) to provide specified information relevant to investigations of potential unemployment insurance fraud. The bill would require that the information be provided to the extent allowed by federal law. This bill would exempt conduct related to information provided under this provision from the criminal sanctions.

Arguments in support"
According to the author, SB 420 will expand the resources available to fight the massive amount of unemployment benefits fraud in California and will serve as a critical focal point for these efforts, which cut across jurisdictional lines. The bill would require the task force to coordinate with local district attorneys and with the United States Attorney's Office to pursue available methods to recover improper benefit payments made from the department.
According to the California Chamber of Commerce, SB 420 "will add accountability for UI fraud by creating a task force under the Attorney General to pursue and recover improper benefits payments. "In the wake of this unprecedented emergency and economic shutdown, we have seen fraudsters steal those benefits from Californians who deserve and need them. According to CalChamber's estimates, this fraud could have totaled as much as $30 billion, with more than a billion coming from California's UI Fund. As the funders of California's UI Fund, California's employers see this fraud as doubly troubling because we will face increased taxes in the coming decades to repay the present insolvency. "As the Auditor's reports and legislative hearings have shown, the Employment Development Department must now turn to reviewing the benefits it distributed last year and identifying where fraud occurred. According to all accounts, it will be difficult work – but we see SB 420 as a critical step in the right direction by creating a task force (including the State Auditor) who will pursue cost-effective recovery strategies and incorporating local district attorneys."

Arguments in opposition:

None received

Support: (Verified 8/10/2021)
California Chamber of Commerce California District Attorneys Association

Opposition: (Verified 8/10/2021)
None on file

Status: Senate Appropriations

Votes (preliminary)**: YES: Jones, Ochoa-Bogh, Roth** **NVR**: Melendez

15. SB 443, as amended, Hertzberg. Referendum measures.
16. SCA 1, as introduced, Hertzberg. Elections: referenda

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Elections referenda and ballot language. SB 443 together with SCA 1 will change the California constitution to swap the meaning of a "yes" vote and a "no" vote, creating confusion to the public and voters and adding superfluous legalese to the ballot.

This bill would provide, contingent upon the passage and voter approval of SCA 1 (Hertzberg) of 2021, that a "Yes" vote for a state or local referendum measure is a vote in favor of the referendum and rejects the law subject to the referendum and a "No" vote is against the referendum and approves the law. This bill would also change the order in which statewide initiative measures and referendum measures appear on the ballot.

Background:

SCA 1 (Hertzberg) of 2021, discussed above, proposes a constitutional amendment to require that a "Yes" vote on a ballot referendum is a vote in favor of the referendum and rejects the statute, whereas a "No" vote is against the referendum and approves the statute. SCA 1 is pending before this committee.

Relationship to SCA 1. SCA 1 (Hertzberg) of 2021, which is pending before this committee, would amend the State Constitution to provide that a "yes" vote on a ballot for a statewide referendum is a vote in favor of the referendum and rejects the statute, whereas a "no" vote is against the referendum and approves the statute. SB 443 would conform state statutory law to SCA 1, if SCA 1 is passed and approved by the voters.

Consistent with SCA 1, SB 443 changes the meaning of a "yes" and "no" vote for a referendum in the Elections Code. SB 443 also amends the text of the prompt that is printed in the ballot for state and local referendum measures.

Description:

SB 443: Existing law specifies the order in which statewide ballot measures are required to appear on the ballot, with referendum measures required to be last after all initiative measures.
This bill would instead require initiative and referendum measures to appear in the order in which they qualify for the ballot.
(2) The California Constitution provides that the electors may approve or reject a statute by referendum. Senate Constitutional Amendment 1 of the 2021–22 Regular Session, if approved by the voters, would require that the ballot for a referendum measure provide that a "Yes" vote is in favor of the referendum and rejects the statute or part of the statute subject to the referendum, and a "No" vote is against the referendum and approves the statute or part of the statute subject to the referendum, thus requiring a majority vote in favor of the referendum to reject the statute or part of the statute subject to the referendum.

SCA 1: The California Constitution provides that the electors may approve or reject a statute by referendum. A referendum measure may be proposed by presenting to the Secretary of State a petition that sets forth the statute or part of the statute to be submitted to the electors, and is certified to have been signed by the required number of electors. A majority vote in favor of a referendum measure approves the statute or part of the statute subject to the referendum, and the statute then takes effect on the fifth day after the Secretary of State files the statement of the vote for the election at which the measure is voted on.
This measure would instead require that the ballot for a referendum measure provide that a "Yes" vote is in favor of the referendum and rejects the statute or part of the statute subject to the referendum, and a "No" vote is against the referendum and approves the statute or part of the statute subject to the referendum, thus requiring a majority vote in favor of the referendum to reject the statute or part of the statute subject to the referendum. The measure would also make conforming changes.

Arguments in support:
According to the Author. California voters in recent decades have been asked to weigh in on an increasing number of complex and highly technical ballot propositions. Over 80 percent of likely voters find ballot wording too complicated or confusing. This especially holds true for referendums where voters are often faced with the unclear task of discerning whether a "Yes" or "No" vote is being cast for the referendum on the ballot, or the statute that is being petitioned. SB 443 will eliminate confusion by providing clarity to ballot wording for referendums, and ensures referendums and initiatives are treated similarly for purposes of ballot placement

Arguments in opposition:
The California Chamber of Commerce must respectfully OPPOSE SCA 1 and SB 443 (Hertzberg), which amend the California Constitution to change the referendum process. This change will make it more challenging for groups targeted by the Legislature to seek redress from voters. The California referendum process is an important tool that allows people who are the subject of legislative action to check the Legislature against the will of the people. SCA 1 and SB 443 change this process by changing the meaning of a "yes" vote and a "no" vote. Currently, a referendum that qualifies for the ballot repeals a law at issue if there are more "no" votes cast then "yes" votes. SCA 1 and SB 443 seek to flip this understanding, and provide that a referendum is only successful if it receives more "yes" votes than "no". There is no evidence that this current process has confused voters. The Secretary of State has documented that between 1912 and 2020, a total of 52 referenda qualified for the ballot. Of the 52 that qualified, 21 referenda (40%) were approved by the voters and 30 referenda (58%) were rejected by the voters. And, despite suggestions otherwise, there is no evidence that the referenda process is controlled or manipulated by "corporations." Based upon the most recent data on the Secretary of State's website regarding referenda, there have only been four referenda that have qualified in the last ten years to be voted on by the Legislature: (1) redistricting; (2) ban on single use plastic bags; (3) Indian gaming compact; and (4) bail reform. The Legislature has passed and approved thousands of new laws in the past ten years and yet only four referenda have been filed. Changing the referenda process that has been in place for over 100 years will create more confusion to the public and voters, not eliminate confusion. Qualifying a referendum for the ballot is already a time sensitive and costly endeavor. Changing the process will further limit the ability for targeted groups by the Legislature to seek relief.

Support: (Verified 8/10/2021)
CFT (California Federation of Teachers) - A Union of Educators & Classified Professionals

Opposition: (Verified 8/10/2021)
CalChamber

Status: Assembly Rules

Votes (preliminary)**: Yes:** Ochoa-Bogh, Roth **NVR**: Jones, Melendez

Legislative Item #11 **Action**

17. SB 727, as amended, Leyva. Labor-related liabilities: direct contractor.

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Joint Liability. Expands joint liability within construction industry by expanding a direct contractor's liability to include penalties, liquidated damages, and interest. designated it as a Housing Killer. The purpose of the Housing Killer List is to identify legislation that will further exacerbate the current housing crisis for Californians in dire need of affordable places for them and their families to live

Should the Legislature expand existing joint liability statute to include holding direct contractors liable for any failure of a subcontractor to contribute to Unemployment Insurance, obtain worker's compensation coverage and penalties, interest and liquidated damages for unpaid wage violations?

Background:

Existing law – as enacted by AB 1701 (Chap. 804, Stats. 2017) – makes a direct contractor in the construction industry liable for any unpaid wages owed to a subcontractor's employees. Current law expressly states, however, that the direct contractor's liability shall not extend to "penalties or liquidated damages" arising from the subcontractor's wage violation. Under the Labor Code, when an employer fails to pay an employee the applicable state or local minimum wage, existing law authorizes the Labor Commissioner or the employee to bring an action to recover not only the compensatory actual damages (i.e. the unpaid or underpaid wages with interest), but also to recover additional "liquidated damages" in the same amount as the actual damages, effectively allowing the employee to recover twice the amount of the unpaid wages and interest. In addition, the Labor Commissioner may impose a civil penalty for each underpaid employee for each pay period for which an employee is underpaid. While the direct contractor is liable for the actual wages owed to the employee, the additional civil penalties (owed to the state) and liquidated damages (owed to the employee) remain the obligation of the subcontractor alone. This bill, as of January 1, 2022, would modify existing law by expressly making the direct contractor liable for both the actual wages owed and any additional civil penalties or "liquidated damages," but only if the direct contractor fails to comply with all of the following: (1) periodically review of subcontractor payroll records; (2) take corrective action against any known violations, including withholding payments due to the subcontractor; and (3) before making final payment to the subcontractor, obtain from the subcontractor an affidavit, signed under penalty of perjury, that all wages, benefits, and contributions have been paid. In short, the bill creates a "safe harbor" that would allow direct contractors to avoid civil penalties and liquidated damages altogether, even though they will remain liable for actual damages that is the amount of the unpaid or underpaid wages so that the worker will be compensated for work performed. Effectiveness of existing law. The author and sponsor of this bill claim that wage theft is still common – indeed "rampant" – in the construction industry. The author believes that the only way to

address this problem is to make direct contractors liable for civil penalties and liquidated damages. Simply requiring the general contractor to compensate workers for the wages owed to them is not a severe enough penalty to make direct contractors diligently police their subcontractors. Only by exposing direct contractors to liability for the additional civil penalties and liquidated damages, the author believes, will general contractors have any real incentive to ensure subcontractor compliance with the law. Supporters also point out that the bill does not automatically make direct contractors liable for civil penalties and liquidated damages, noting that direct contractors take the monitoring and corrective actions set forth in the safe harbor provision. While contractors and workers may occupy the same building construction sites in their workaday lives, when it comes to the need for this bill, their respective legislative advocates apparently occupy different planets. While the author and sponsor claim that wage theft in the construction industry is still "rampant," the California Business Industry Association (CBIA), in its coalition letter, makes the rather striking claim that, in the three years since AB 1701 went into effect, there has been only one case of documented wage theft by a subcontractor in the SB 727 Page 5 construction industry. Moreover, CBIA claims, this case was resolved as existing law intended: the direct contractor paid the wages owed to the workers. It is difficult to assess such wildly varying claims between a "rampant" problem and a single instance that was adequately resolved. Both claims are questionable. To support the claim that wage theft is "rampant," the author and sponsor cite a DIR Bureau of Field Enforcement Report for the 2017-2018 fiscal year, but it is not really relevant to the question of the effect of AB 1701, because that law did not go into effect until January 1, 2018. In addition, the cited report's single reference to "rampant" wage theft referred not to the construction industry alone, but to several industries in California, including the construction industry. (See California Labor Commissioner, "2017-2018 FY Report on Effectiveness of the Bureau of Field Enforcement," p.2, available at (www.dir.ca.gov/dlse/BOFE_LegReport2018.pdf.) To the proponent's credit, however, at least they cite reports. The opponent's letter cites no sources whatsoever to support the claim of only one wage theft violation since AB 1701 went into effect. It is difficult to believe, moreover, that the number of wage theft citations in California went from over 3,000 in the single fiscal year of 2017-2018 (See Id. at 4), to just one in the three years since AB 1701 went into effect. Ironically, the opponents of this bill, who now claim that AB 1701 is working so well, opposed it three years ago and warned that it would have disastrous consequences. To be fair, the proponents of this bill who now claim that AB 1701 provides "no effective deterrence," proudly sponsored and supported AB 1701 three years ago.

Description:

Existing law requires, for contracts entered into on or after January 1, 2018, a direct contractor, as defined, making or taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other private work, to assume, and be liable for, any debt owed to a wage claimant or third party on the wage claimant's behalf, incurred by a subcontractor at any tier acting under, by, or for the direct contractor for the wage claimant's performance of labor included in the subject of the original contract.

Existing law limits the direct contractor's liability under those provisions to extend only to any unpaid wage, fringe or other benefit payment or contribution, including interest owed and provides that liability does not extend to penalties or liquidated damages.

This bill would ~~extend~~ *extend, for contracts entered into on or after January 1, 2022,* the direct contractor's liability to penalties, liquidated damages, and interest owed by the subcontractor on account of the performance of the ~~labor.~~ *labor, except as provided.*

Existing law authorizes the Labor Commissioner to enforce against a direct contractor the liability for unpaid wages pursuant to specified provisions, or through a civil action, and limits the direct contractor's liability to unpaid wages, including any interest owed.

This bill would ~~remove~~ *remove, for contracts entered into on or after January 1, 2022,* the limitation of liability.

Existing law ~~also authorizes a third party owed fringe or other benefit payments or contributions on a wage claimant's behalf to bring an action against a direct contractor to enforce the above-described liabilities and also authorizes a joint labor-management cooperation committee to bring an action against a direct contractor or subcontractor at any tier for unpaid wages owed to a wage claimant by the direct contractor or subcontractor, as provided. Existing law~~ requires, prior to commencement of an action against a direct contractor, a joint labor-management cooperation committee to provide the direct contractor and subcontractor that employed the wage claimant with at least 30 days' notice, as provided.

~~This bill would require, prior to commencing action, the Labor Commissioner and a third party to provide similar notices with specified information to the direct contractor and the subcontractor that employed the wage claimant. The bill would require these notices, including those sent by a joint labor-management cooperation committee, to be sent to the Contractors' State License Board (Board) and would require, among other things, the Board to note the failure to pay wages or benefits on the original employer's license. The bill would require a direct contractor and subcontractor who receive a notice to take reasonable steps to abate any alleged violations, and would limit, except as provided, the liability of a direct contractor, as specified, if the direct contractor can provide evidence of substantial compliance with any applicable payroll requirements and can demonstrate that the violations alleged in the notice have been fully abated. The~~

This bill would, for contracts entered into on or after January 1, 2022, require the notice to include the project name and name of the employer and provide that any liquidated damages awarded by the Labor Commissioner or the court shall be payable to the aggrieved employee. The bill would make conforming changes.

Arguments in support:

According to the author, "wage theft" in the California construction economy has been described as "rampant" by the California Bureau of Field Enforcement at the California Department of Industrial Relations. The author attributes this to the fact that there is little incentive for direct contractors to address wage theft in the construction industry because the "current liability fails to serve as sufficient deterrence to continued cheating. Some opportunistic contractors—operating in the underground economy with dishonest subcontractors— SB 727 Page 4 unfortunately keep conducting business as usual." The author believes that this bill will provide "necessary enforcement tools to effectively deter continued wage theft [and thereby ensure] that direct contractors no longer ignore the violations of the subcontractors they hire to build their projects."

The State Building and Construction Trades Council of California writes in support: "When unscrupulous subcontractors engage in the wage theft, tax fraud, and workers' compensation fraud that the Department of Industrial Relations describes as "rampant" in the construction industry, they take opportunities for fairly paid work away from apprentices and qualified journeymen and women, exploit and steal from workers, and deprive Californians of high-quality craftsmanship. SB 727 seeks to engage general contractors in this pressing issue by making them jointly liable with the subcontractors they hire for employee contributions, deductions, and withholdings."

Arguments in opposition:

Opponents, mostly building contractor and employer associations, contend that AB 1701 is working well. For example, the California Building Industry Association (CBIA), claims that, "in the three years since AB 1701 took effect, there has only been one case identified in which a subcontractor underpaid its employees. In that case, AB 1701 worked to ensure that the general contractor paid the subcontractor's workers what was due to them. That is exactly how it was intended to work, and there is no evidence that AB 1701's remedies are insufficient." Indeed, CBIA claims that many labor leaders, who, after all, sponsored AB 1701, "have frequently . . . praised AB 1701 as having solved the problem of wage theft in the construction sector." Opponents also argue that AB 1701 appropriately and expressly limited the direct contractor's liability to the actual damages of unpaid wages and interest, because civil penalties and liquidated damages are punitive and, therefore, should be borne by the subcontractor that engaged in the wrongdoing. CBIA and its allies conclude

that "during a housing crisis, adding more risk, uncertainty, costs and delays to home production is misguided. We have seen no evidence that the remedies provided by AB 1701 are insufficient. Even construction labor leaders have claimed that these problems were solved by AB 1701. We believe that this measure is a solution in search of a problem."

The Northern California Allied Trades write in opposition: "The proposed requirement under SB 727 that joins a subcontractor's liability for UI and WC obligations to the direct contractor on the project, also triggers Labor Code §218.7 (h). That section of law authorizes a direct contractor to withhold as "disputed" all sums owed a subcontractor if a subcontractor does not timely provide the information requested under Labor Code §218.7 paragraphs (1) and (2) of subdivision (f), until that information is SB 727 (Leyva) Page 5 of 6 provided. This would include proof, up to the same pay period that the subcontractor is requesting payment, that the subcontractor has fully paid their WC and UI obligations for employees on the project. Unfortunately, subcontractors do not pay WC and UI monthly like payroll and trust obligations. WC is paid intermittently depending on company size, history and other factors and the formula is based on total payroll (per $100), multiplied by classification rate, multiplied by experience modifier and then equaling the premium. It would be procedurally impossible for a subcontractor to prove they were up-to-date on their WC for specific construction projects and employees. In addition, in California, UI tax returns and payments are combined with other payroll tax reports and payments. The returns and payments are due a month after the close of each calendar quarter, looking back. Due to this established procedure for paying UI tax, subcontractors would always be 3-4 months behind their current progress payment requests. As such, SB 727 would place subcontractors in the impossible position of not being able to provide proof of up-to-date WC and UI payments while being subject to the provisions of Labor Code §218.7 (h). The real-world result would be catastrophic."

Support: (Verified 8/10/2021)

California Conference of Carpenters (Sponsor) Carpenters/contractors Cooperation Northern California Carpenters Regional Council Southwest Regional Council of Carpenters State Building and Construction Trades Council of CA

Opposition: (Verified 8/10/2021)

American Subcontractors Association of California Associated General Contractors Associated General Contractors of California Brea Chamber of Commerce Building Industry Association of Fresno and Madera Counties Building Industry Association of Southern California, INC. Building Industry Association of the Greater Valley California Apartment Association California Builders Alliance California Building Industry Association California Business Properties Association California Chamber of Commerce California Forestry Association California Landscape Contractors Association California Landscape Contractors Association California Legislative Conference of Plumbing, Heating & Piping Industry California Retailers Association Carlsbad Chamber of Commerce Casita Coalition Contractors Association of Truckee Tahoe Garden Grove Chamber of Commerce Greater High Desert Chamber of Commerce Lodi Chamber of Commerce National Electrical Contractors Association Nevada County Contractors Association North Coast Builders Exchange North Orange County Chamber North Orange County Chamber of Commerce North State Building Industry Association Northern California Allied Trades Oceanside Chamber of Commerce Painting & Decorating Contractors Association of Sacramento Pleasanton Chamber of Commerce Rancho Cordova Area Chamber of Commerce Redondo Beach Chamber of Commerce Sacramento Regional Builders Exchange Santa Barbara Contractors Association Santa Barbara South Coast Chamber of Commerce Santa Rosa Metro Chamber Santa Rosa Metro Chamber of Commerce Shasta Builders Exchange Simi Valley Chamber of Commerce South Bay Association of Chambers of Commerce Southern California Glass

Management Association (SCGMA) Southwest California Legislative Council TMG Partners Torrance Area Chamber of Commerce SB 727 Page 8 Tulare Chamber of Commerce Valley Contractors Exchange Ventura County Contractors Association Wall and Ceiling Alliance Western Wall and Ceiling Contractors Association Wilmington Chamber of Commerce

Status: Assembly Appropriations

Votes (preliminary)**: YES:** Roth **No**: Jones, Melendez, Ochoa-Bogh,

Legislative Item #12 **Action**

18. AB 857, as introduced, Kalra. Employers: Labor Commissioner: required disclosures.

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Required Disclosures and New Travel Time Requirements. Establishes new unnecessary and burdensome requirements on all employers to provide information to employees, and imposes duplicative and unnecessary disclosure requirements for employers of H-2A employees. Modifies existing law regarding when employee travel time must be compensated.

Requires H-2A visa employers to provide notice of specified state and federal employment rights in Spanish, and if requested, in English, to all H-2A farm workers on their first day of work or when they are transferred to another employer

This bill: (1) requires agricultural employers to provide farmworkers brought to California from abroad under the federal H-2A program with a notice summarizing their workplace rights under state law; (2) directs the Labor Commissioner to develop a template that agricultural employers could use to fulfill this requirement; (3) codifies the circumstances when H-2A farm workers must be paid for time spent traveling to work.

Background:

Farmworkers, whose labor is essential to the production of food for California and the nation, perform some of the most physically demanding work in the state under difficult conditions. Each year, thousands of foreign workers are brought to California under the federal "H-2A" guestworker program to undertake this labor. All California employees are entitled to receive some information about their legal rights. None of the existing notices comprehensively informs H2-A guestworkers about key workplace protections afforded to them, however. As a result, H2-A workers may not know the full extent of their rights and can be more easily exploited by unscrupulous employers. In response, this bill would require California employers with H2-A workers to provide those workers with a summary of their specific workplace rights under state law. To make the requirement easy for employers to fulfill, the bill directs the Labor Commissioner to develop a standard template for the notice. The bill also sets forth the circumstances under which H-2A farmworkers must be compensated for the time they expend traveling between their housing and the worksite. The bill is sponsored by California Rural Legal Assistance Foundation. Support is from organized labor generally, and farmworker

advocates specifically. Opposition is from large agricultural employers who assert that the disclosure requirement represents a duplicative and unnecessary burden and that the travel-time compensation provisions misstate the existing law.

Description:

Existing law requires an employer to provide an employee, at the time of hiring, a written notice including specified information in the language the employer normally uses to communicate employment-related information to the employee. Existing law requires the Labor Commissioner to prepare a template that includes the specified information mentioned above and to make the template available to employers in the manner as determined by the commissioner.

This bill would require an employer to include in their written notice to all employees, specified information required in the event of a federal or state declared disaster or applicable to the county or counties in which the employee will be employed. The bill would prohibit an employer from retaliating against an H-2A employee for raising questions about the declarations' requirements or recommendations that relate to employment, housing, or working conditions. This bill would additionally require an employer to provide an H-2A employee, as described, on the day the employee begins work in the state, or begins work for another employer after being transferred, a written notice in Spanish and, if requested by the employee, in English, containing specified information relative to an H-2A employee's rights pursuant to federal and state law. The bill would also require the commissioner to create a template, as specified, by either creating a new template or combining these requirements with an existing notification template for purposes of carrying out this requirement, including a separate section of the template listing key legal rights of H-2A workers under California Law, and to make the template available to employers in the manner as determined by the commissioner by January 2, 2022. The bill would also make conforming changes.

Existing law requires an employer to provide, among other things, compensation for travel time from an employee housing facility to the worksite, bathroom access, meal and rest break areas to its employees, and to provide protections for those employees from high heat, pesticide exposure, and other safety measures.

This bill would require an employer to provide its H-2A employees, under specified circumstances, with compensation at their regular rate of pay for time spent while being transported by the employer or its agents to or from the housing provided by the employer or its agents to or from the employer's or agent's worksite, as well as specified night work equipment, and specified worksite layout information. This bill would also exempt employers from providing compensation for travel between housing facilities and the worksite if the employers are covered by a collective bargaining agreement that meets specified criteria.

Arguments in support:

A coalition of worker advocates, including the California Rural Legal Assistance Foundation, argues in support, "The purpose of AB 857 is to provide these vulnerable farm workers with a timely, informative notice that allows them to independently determine whether their employer is complying with applicable California laws. For example, nothing in the federal H-2A contract given to workers by their employer requires this specific state law information to be disclosed in writing on their first day of work in California:

--Whether a national or state emergency or disaster has been declared in the county where they will work; --How to determine, every year between now and 2025, the proper phase-in overtime rate they're entitled to receive each year, for H-2A employees of both small and large employers; --That they are entitled to a paid rest period of 10 minutes for each 4 hours worked; --That they may not be charged for meals not taken; --That they're entitled to travel time compensation at their regular rate of pay for time spent while being transported by the employer or its agents from the housing provided by the employer to the employer's worksite(s) when the H-2A workers i) have no personal vehicle; ii) cannot take public transportation; and iii) have no real other

option than to take the employer's transportation; --That they have rights as tenants while residing in the employer's housing, and can receive guests of their choosing, and shall not be subjected to unannounced searches of their homes; --That they are entitled to receive training in sexual harassment prevention and how to report it; --That they have the right to toilets, hand washing facilities and cool, potable water at each work site; --That they are entitled to be trained in recognizing and preventing heat illness during high heat work periods; --That if they are exposed to pesticides they have to be promptly transported to a medical facility; --That if they work between sunset and sunrise, they have the right to headlamps, reflective garments or to be provided other lighting, as well as have a daily briefing at each worksite and, --That if injured they have a right to be given a workers' compensation claim form within one day."

Arguments in opposition:

A coalition of agricultural employers, including the Western Growers Association, argues in opposition, "Agriculture in California is a diverse industry that provides food and fiber to our state, nation, and the world. Our employees are the heart of our industry and their workplace safety and health is our top concern. Unfortunately, the reality of continued rising employer costs has made competing with other states and nations even more challenging for our industry. California's ongoing increases to the minimum wage, overtime rules, nitrate/irrigated land program mandates, loss of crop protection tools, and regulatory restrictions on water supply threaten the survival of our family farms. The COVID-19 pandemic has further compounded the challenges that we face as an industry and has caused economic devastation for far too many. At a time when the industry is struggling most, AB 857 proposes unnecessary and costly changes in law. Travel Time: AB 857 changes law and creates a right that is contrary to long established judicial precedence. AB 857 falsely states that it is 'is declaratory of existing law.' In reality, this bill attempts to change the law by expanding the definition of 'voluntary' and 'mandated' travel time, as decided by the California Supreme Court in Morillion v. Royal Packing (2000). Therefore, AB 857 adds new situations whereby travel time would be required to be paid to H2A employees. Additionally, this bill goes well beyond existing court decisions by requiring that the travel time be paid at the regular rate of pay. This is not a notice of existing rights since current law requires that travel time pay be compensated at no less than the minimum wage, which for H-2A workers is $16.05 per hour in 2021. For H-2A employees earning on a piece rate basis, the regular rate of pay could easily exceed $16.05 per hour – for voluntarily sitting on a bus."

At a time when the industry is struggling most, AB 857 proposes unnecessary and costly changes in law. […] AB 857 falsely states that it "is declaratory of existing law." In reality, this bill attempts AB 857 (Kalra) Page 11 of 12 to change the law by expanding the definition of "voluntary" and "mandated" travel time, as decided by the California Supreme Court in Morillion v. Royal Packing (2000). Therefore, AB 857 adds new situations whereby travel time would be required to be paid to H-2A employees. Additionally, this bill goes well beyond existing court decisions by requiring that the travel time be paid at the regular rate of pay. […] More broadly, AB 857 would also require California employers to furnish yet another disclosure to their H-2A employees regarding their employment rights under California law. This is simply unnecessary and burdensome because H-2A employees are already afforded the same rights and protections under state and federal law as domestic employees. Employers are already required to provide H-2A employees with a written copy of the H-2A contract, in their native language, by the first day of work.

Support: (Verified 8/10/2021)

California Rural Legal Assistance Foundation, INC. (Sponsor) California Alliance for Retired Americans California Employment Lawyers Association California Immigrant Policy Center California Labor Federation California Teamsters Public Affairs Council Central Coast Alliance United for a Sustainable Economy Centro de los Derechos del Migrante Coalition to Abolish Slavery & Trafficking Consumer Attorneys of CA Equal Rights Advocates Farmworker Justice United Farm Workers Worksafe

Opposition: (Verified 8/10/2021)
Agricultural Council of California California Association of Winegrape Growers California Chamber of Commerce California Citrus Mutual California Farm Bureau Federation California Fresh Fruit Association California Food Producers California Women for Agriculture Family Winemakers of California Ventura County Agricultural Association Western Growers Association

Status: Assembly Appropriations (suspense)

Votes (preliminary)**: AYE:** Cervantes, Medina **No**: Seyarto, Waldron

SWCLC Southwest California Legislative Council

2021 Meeting Schedule
w/ Guest speakers

~~**1/25 Open**~~

~~**2/20 Open**~~

~~**3/15 Open**~~

~~**4/19 Open – DA Mike Hestrin**~~

~~**5/17 Open – Juan Perez, Sonia Perez (Fr. Valley tower), Bill Blankenship (redistricting)**~~

~~**6/21 Open**~~

~~**7/19 Open - Matt Jennings, RivCo Treasurer/Tax Collector**~~

8/16 Open

9/20 Dark

10/18 Open – Congressman Ken Calvert

11/15 Closed

12/16 Dark