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CONSENT

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Bill No: SB 657  
Author: Ochoa Bogh (R), et al.  
Amended: 4/22/21  
Vote: 21

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SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/5/21  
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE JUDICIARY COMMITTEE: 11-0, 4/20/21  
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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**SUBJECT:** Employment: electronic documents

**SOURCE:** Author

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**DIGEST:** This bill allows employers, in any instance the employer is required to physically post information, to additionally distribute that information to employees by email with the document or documents attached. Additionally, this bill clarifies that email distribution or relevant documents pursuant to the proposed statute does not alter the employer's obligation to physically display the required posting.

**ANALYSIS:**

Existing law:

- 1) Requires an employer to provide a notice to each current employee, by posting in the language the employer normally uses to communicate employment-related information to the employee, of any inspections of I-9 Employment Eligibility Verification forms or other employment records conducted by an immigration agency within 72 hours of receiving notice of the inspection.

Requires that written notice shall also be given within 72 hours to the employee's authorized representative, if any. (Labor Code §90.2).

- 2) Requires an employer to post a notice specifying the regular pay days and the time and place of payment. (Labor Code §207).
- 3) Requires an employer to post a notice containing pertinent information regarding safety rules and regulations. Requires that the notice contain the address and telephone number of the nearest Cal-OSHA office; a clear explanation of an employee's right to report any unsafe working conditions; the right to request a safety inspection by the division for unsafe conditions; the right to refuse to work under conditions which endanger life or health; the right to receive information under the Hazardous Substances Information and Training Act; further requires that employers post the posting and notice requirements of employers and Cal-OSHA; establishes that Cal-OSHA may require the posting of any other information Cal-OSHA deems necessary. Establishes that Cal-OSHA may further promulgate regulations on the content and the required location and number of notices which must be posted by employers. (Labor Code §6328).
- 4) Requires an employer to post and keep posted in a conspicuous location frequented by employees, and where the notice may be easily read by employees during the hours of the workday, a notice that states the name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment. Further establishes that the form and content of the required notice shall be prescribed by the administrative director of the Division of Worker's Compensation, after consultation with the Commission on Health and Safety and Workers' Compensation, and shall advise employees that all injuries should be reported to their employer. Further requires that the notice shall be easily understandable and shall include the following information:
  - a) How to get emergency medical treatment, if needed.
  - b) The kinds of events, injuries, and illnesses covered by workers' compensation.
  - c) The injured employee's right to receive medical care.
  - d) The rights of the employee to select and change the treating physician under specified conditions.

- e) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, supplemental job displacement, and death benefits, as appropriate.
  - f) To whom injuries should be reported.
  - g) The existence of time limits for the employer to be notified of an occupational injury.
  - h) The protections against retaliation for filing a claim.
  - i) The Internet Web site address and contact information that employees may use to obtain further information about the workers' compensation claims process and an injured employee's rights and obligations, including the location and telephone number of the nearest information and assistance officer.
  - j) That failure of an employer to provide the notice required by this section shall automatically permit the employee to be treated by his or her personal physician with respect to an injury occurring during that failure. (Labor Code §3550).
- 5) Requires an employer to prominently display a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline. (Labor Code §1102.8).
- 6) Requires farm labor contractors to prominently display at the site where the work is to be performed and on all vehicles used by the farm labor contractor or his or her employees or agents for the transportation of employees the rate of compensation the licensee is paying to his or her employees for their services, printed in both English and Spanish (Labor Code §1695).
- 7) Requires the awarding body of contract for public works to make available through various means of access and notification, the prevailing wage rates for relevant job classifications. (Labor Code §1773).

**This bill:**

- 1) Allows employers, in any instance the employer is required to physically post information, to additionally distribute that information to employees by email with the document or documents attached.
- 2) Establishes that email distribution pursuant to the proposed statute does not alter the employer's obligation to physically display the required posting.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: No Local: No

**SUPPORT:** (Verified 4/23/21)

Acclamation Insurance Management Services  
Allied Managed Care  
California Association for Health Services At Home  
California Chamber of Commerce  
California Food Producers  
California Hotel & Lodging Association  
California State Council of SHRM  
Carlsbad Chamber of Commerce  
Chino Valley Chamber of Commerce  
Coalition of Small and Disabled Veteran Businesses  
Family Business Association of California  
Flasher Barricade Association  
Fremont Chamber of Commerce  
Greater Coachella Valley Chamber of Commerce  
Greater High Desert Chamber of Commerce  
Housing Contractors of California  
Lodi Chamber of Commerce  
Long Beach Area Chamber of Commerce  
Murrieta Wildomar Chamber of Commerce  
National Federation of Independent Business  
New Livable California DbA Livable California  
North Orange County Chamber of Commerce  
Oceanside Chamber of Commerce  
Pleasanton Chamber of Commerce  
Rancho Cordova Chamber of Commerce  
Roseville Area Chamber of Commerce  
San Gabriel Valley Economic Partnership  
Santa Maria Valley Chamber of Commerce  
Simi Valley Chamber of Commerce  
Southwest California Legislative Council  
Torrance Area Chamber of Commerce  
Western Electrical Contractors Association

**OPPOSITION:** (Verified 4/23/21)

None received

**ARGUMENTS IN SUPPORT:** According to the California Chamber of Commerce, SB 657 will make it easier for telecommuting employees to receive required notices from their employer.

During the current COVID-19 crisis, many employers have considered offering employees the opportunity to work from home in the midst of shelter-in-place and stay-at-home orders. Where such telecommuting is possible, it allows employees to remain working and earning income, even during a pandemic or other disruption. With near-record unemployment, we should be doing everything possible to maximize opportunities for employers to allow telecommuting so that workers can continue to be employed and support themselves and their families.

These changes will be necessary even beyond the current pandemic. A recent survey of employers indicated that 52% will be offering telecommuting until the pandemic subsides, and 30% plan to allow employees to work remotely on an ongoing basis.

Unfortunately, current law has not kept pace with the flexibility and technology that allows remote work, and fails to distinguish an employee working remotely from an employee working at the employer's place of business. As a result, employers presently must meet certain requirements that were imposed without consideration of a remote workforce and cause legal uncertainties. Those uncertainties discourage employers from allowing employees to work from home because employers cannot properly assess the risks and potential liabilities associated with allowing employees to work from home. If an employer is unwilling to offer remote work (where appropriate) due to these legal uncertainties, employers are faced with the choice of either (1) instructing the employee to report to the worksite (which may raise concerns about increased exposure), or (2) lay-off the employee, neither of which are good outcomes.

Therefore, SB 657 seeks to clarify certain issues and remove barriers from employers agreeing to allow telecommuting. It clarifies that workplace notices and posters can be provided electronically to employees working from home.

Prepared by: Daniel Rounds / L., P.E. & R. / (916) 651-1556  
4/23/21 13:52:01

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