SENATE COMMITTEE ON APPROPRIATIONS
Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1136 (Ortega) - Employment: immigration and work authorization

Version: August 19, 2025
Policy Vote: L., P.E. & R. 4 - 1, JUD. 11 - 2
Urgency: No
Mandate: No
Hearing Date: August 25, 2025
Consultant: Robert Ingenito

Bill Summary: AB 1136 would provide job protections to workers who are detained or need to take time off from work to resolve immigration matters.

Fiscal Impact:

- The Department of Industrial Relations (DIR) indicates that it would incur annual costs in the millions of dollars to implement the provisions of the bill. (Labor Enforcement and Compliance Fund).

- This bill would result in administrative costs to the State as a direct employer. The total cost across all departments and agencies is unknown, and could reach the tens of millions of dollars annually. As an example, the University of California (UC) indicates that the bill would result in first-year costs of $10 million, and $8.6 million annually thereafter (General Fund).

Background: As summarized by the Senate Judiciary Committee, immigrant advocates and civil rights lawyers say evidence is mounting that immigration agents carrying out the current federal administration's deportation crackdown in Southern California are engaging in widespread racial profiling.

They've raided known hubs for Latino workers almost daily – hardware store parking lots, car washes, and street vendor corners. Videos of many of those operations, filmed by bystanders and posted to social media, have shown agents arresting people who appear to be Latino as they stand on sidewalks or wait at bus stops.

In broad strokes, current law behind establishing eligibility to work operates as follows. All employers are required to verify that new hires are authorized to work in the United States. To do so, they must have the employee fill out Section 1 of an I-9 form, providing basic information about their identity and attested to their citizenship or immigration status in the United States. This step is supposed to happen after a job offer has been accepted, but before the employee completes the employee's first day of work.

Within three business days of starting work, the new hire must present evidence, in the form of one or a combination of specified documents, that the new hire is eligible to work in the United States. As the employer is not expected to be a forensic expert or to act as an immigration authority, the employer must simply confirm that the documents presented appear, on their face, reasonably genuine and relate to the person who is presenting them. The employer makes notes about the documents reviewed in Section

2 of the I-9 form, may take copies of the documents if the employer chooses to do so, and then the process is done. Employers must keep I-9 forms on file for three years after the person is hired or one year after the person is terminated, whichever is later.

As a default matter, once an employer has verified an employee's eligibility to work at the time of hire, there is no need to re-verify that eligibility ever. Re-verification is only necessary in certain specific circumstances, such as when the employee initially establishes eligibility using a document that only confers temporary eligibility to work, such as an H1-B visa, for example. In that case, the employer should re-verify the employee's eligibility to work prior to the expiration of the temporary document by going through the I-9 process again.

Federal and state law prohibit the improper use of the I-9 work eligibility process. Among the abuses forbidden are discriminatory application of the process (demanding more, or particular, documentation of people from certain countries, for instance) and retaliatory use of the I-9 process (suddenly re-verifying the eligibility of an employee who has expressed concern about safety at the worksite, for example). State law prohibits employers from using the eligibility verification process in a discriminatory or retaliatory fashion.

Proposed Law: This bill, among other things would do the following:

- Require each employee, upon request, to be released by their employer for up to 5 unpaid working days within a 12-month period in order to attend appointments, interviews, adjudications, legal proceedings, detainment, or any other meeting at which the employee's presence is required concerning the employee's immigration status, work authorization, visa status, or any other immigration-related matter, as specified.

- Require a postintroductory employee, as defined, whose employment has been terminated due to an inability to provide documentation of proper work authorization, to be immediately reinstated to their former classification without loss in seniority, subject to producing proper work authorization, except as provided.

- Require an employer, if the employee demonstrates a need for additional time, to rehire the employee into the next available opening in the employee's former classification, as a new hire without retaining seniority, subject to the employee providing proper work authorization and meeting certain other conditions.

- Require an employer that is notified that an employee has been detained or incarcerated as a result of pending immigration or deportation proceedings, to place the employee on an unpaid leave of absence for a period pending the employee's release from detainment or incarceration and not to exceed 12 months. If the employee is released and provides appropriate work authorization documentation within the period of the authorized unpaid leave of absence, the bill would require the employer to return the employee to their former job classification without loss of seniority, except as specified.

- Apply the above requirements to a public or private employer, but would exempt a public or private employer with 25 or fewer employees.

- Prohibit each public or private employer from disciplining, discharging, or discriminating against an employee because of national origin or immigration status, or solely because the employee is subject to immigration or deportation proceedings, except as required to comply with the law. The bill would prohibit an employee subject to immigration or deportation proceedings from being discharged solely because of those proceedings, so long as the employee is authorized to work in the United States.

- Provide that its provisions do not invalidate a collective bargaining agreement or a memorandum of understanding that contains a provision addressing rehire or reinstatement rights or leave rights regarding employees who are subject to immigration proceedings, nor does it supersede the seniority provisions of a collective bargaining agreement or a memorandum of understanding.

- Require the Labor Commissioner to enforce the bill's provisions.

- Make its provisions inoperative on July 1, 2029, and would repeal them on January 1, 2030.

Related Legislation:

- SB 54 (De Leon, Chapter 495, Statutes of 2017) limited the involvement of state and local law enforcement agencies in federal immigration enforcement.

- AB 450 (Chiu, Chapter 492, Statutes of 2017) prohibited an employer from providing access to a federal government immigration enforcement agent to any non-public areas of a place of labor if the agent does not have a warrant.

- SB 1001 (Mitchell, Chapter 782, Statutes of 2016) prohibited, among other things, any attempt to reinvestigate or reverify an incumbent employee's authorization to work using an unfair immigration-related practice.

- AB 622 (Hernandez, Chapter 732, Statutes of 2015) expanded the definition of an unlawful employment practice to prohibit the use of the E-Verify system at a time or in a manner not required by federal law to check the employment authorization status of an existing employee or an applicant for employment.

- AB 263 (Hernandez, Chapter 732, Statutes of 2013) expanded the scope of employment-based retaliation to include immigration-related practices and provided a civil cause of action for employees who are subject to such practices.

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