Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1136
Author: Ortega (D), et al.
Amended: 8/19/25 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/9/25
AYES: Smallwood-Cuevas, Cortese, Durazo, Laird
NOES: Strickland

SENATE JUDICIARY COMMITTEE: 11-2, 7/15/25
AYES: Umberg, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Wahab, Weber Pierson, Wiener
NOES: Niello, Valladares

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/29/25
AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 68-2, 6/3/25 - See last page for vote

SUBJECT: Employment: immigration and work authorization

SOURCE: Author

DIGEST: This bill, until July 1, 2029, provides job protections to workers who are detained or need to take time off from work to resolve immigration-related matters including requiring employers to reinstate the employee to their former job classification without loss of seniority upon their return, as specified.

ANALYSIS:

Existing federal law:

1) Under the Immigration and Nationality Act (INA), requires an employer to verify, through examination of specified documents, whether or not an individual is authorized to work in the United States. Specifies that if the document is presented and reasonably appears on its face to be genuine, then the employer has complied with this requirement and is not required to solicit or demand any other document. (8 United States (U.S.) Code §1324a)

2) Requires every employer to attest, under penalty of perjury, and verify every new hire's employment eligibility by completing *Form I-9 Employment Eligibility Verification* within three business days of the employee's first day of work for pay. The worker must also attest, under penalty of perjury, that they are legally authorized to work in the United States. If an employer complies with the verification requirements when hiring an individual but later discovers that the employee isn't authorized to work in the United States, the employer is prohibited from employing that person. Similarly, it is unlawful to contract an undocumented worker for labor knowing that the individual is unauthorized to work in the United States. (8 U.S. Code §1324a)

3) Employers who knowingly hire an unauthorized individual to work in violation of federal immigration laws may be subject to civil penalties for each violation and, depending on the seriousness of the violation, civil actions in the appropriate U.S. District Court requesting relief, including a permanent or temporary injunction, restraining order, or other order against the employer and their business. Additionally, a pattern or practice of engaging in regular, repeated, and intentional violations may be subject to imprisonment. (8 U.S. Code §1324a)

4) Requires that employers retain a copy of the attestations discussed above and make them available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and for three years or one year after a worker's termination, whichever is later. (8 U.S. Code §1324a)

5) Makes it an unfair immigration-related employment practice for any person or entity to do any of the following:

    a) Discriminate against any individual, except as provided, with respect to the hiring, recruitment, or referral of the individual for employment or the

discharging of the individual from employment because of the individual's origin or citizenship.

b) Request, with the intent of discriminating against an individual, more or different documents than are required under law or refuse to honor documents tendered which, on their face, reasonably appear to be genuine. (8 U.S.C. §1324b(a)(1)-(6))

Existing state law:

1) Provides that all protections, rights, and remedies available under state law, except any reinstatement remedy prohibited by federal law, are available to all individuals regardless of immigration status who have applied for employment, or who are or who have been employed, in this state. For purposes of enforcing state labor and employment laws, existing law provides that a person's immigration status is irrelevant to the issue of liability, and in proceedings or discovery undertaken to enforce those state laws, no inquiry shall be permitted into a person's immigration status except where the person seeking to make this inquiry has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law. (Labor Code §1171.5; Civil Code §3339; Government Code §7285; Health & Safety Code §24000)

2) Prohibits an employer or any other person or entity from engaging in, or directing another person or entity to engage in, an *unfair immigration-related practice*, as defined, against any person for the purpose of retaliating against that person for exercising his or her rights under state or local labor law. (Labor Code §1019)

3) Defines "unfair immigration-related practice," for purposes of state law, to mean any of the following practices when undertaken for retaliatory purposes, and not at the direction or request of the federal government:

   a) Requesting more or different documents than are required by federal law or refusing to honor required documents that on their face appear to be genuine.
   b) Using the federal E-Verify system to check the employment authorization status of a person at a time or in a manner not required or authorized by federal law.
   c) Threatening to file or filing of a false police report, or threatening to file or filing a false report or complaint with any state or federal agency.

d) Threatening to contact or contacting immigration authorities. (Labor Code §1019)

4) Permits an employee or any other person who is subject to an unfair immigration-related practice, where the unfair practice is retaliatory in nature, to bring a civil action for equitable relief and any applicable damages or penalties, and specifies that an employee or other person who prevails shall recover his or her reasonable attorney's fees. (Labor Code §1019)

5) Prohibits an employer, in the course of satisfying federal immigration law, from requesting more or different documents than are required under federal immigration law; refusing to honor valid documents, as specified; or attempting to reinvestigate or reverify an incumbent employee's authorization to work using an unfair immigration-related practice. Violation of these provisions is subject to penalties imposed by the Labor Commissioner, up to $10,000 per violation, and equitable relief. (Labor Code §1019.1)

6) Except as otherwise required by federal law, prohibits a public or private employer, or a person acting on behalf of a public or private employer, from reverifying the employment eligibility of a current employee at a time or in a manner not required by Section 1324a(b) of Title 8 of the United States Code. Violations of these provisions are subject to a civil penalty of up to ten thousand dollars ($10,000) recoverable by the Labor Commissioner. (Labor Code §1019.2)

7) Except as otherwise required by federal law, requires an employer to provide a notice to each employee, by posting in the workplace and containing specified information, 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. Written notice shall also be given within 72 hours to the employee’s authorized representative, if any. Violations of these provisions are subject to civil penalties of two to ten thousand dollars, as specified. (Labor Code §90.2)

8) Except as otherwise required by federal law, prohibits an employer, or a person acting on behalf of the employer, from providing voluntary consent to an immigration enforcement agent to enter any nonpublic areas of a place of labor. This section does not apply if the immigration enforcement agent provides a judicial warrant. Violations of these provisions are subject to civil penalties of two to ten thousand dollars, as specified. (Government Code §7285.1)

9) Except as otherwise required by federal law, prohibits an employer, or a person acting on behalf of the employer, from providing voluntary consent to an immigration enforcement agent to access, review, or obtain the employer's employee records without a subpoena or judicial warrant. These provisions do not apply to I-9 Employment Eligibility Verification forms and other documents for which a Notice of Inspection has been provided to the employer. Violations of these provisions are subject to civil penalties of two to ten thousand dollars, as specified. (Government Code §7285.2)

10) Establishes within the Department of Industrial Relations (DIR) and under the direction of the Labor Commissioner, the Division of Labor Standards Enforcement (DLSE) tasked with administering and enforcing labor code provisions concerning wages, hours and working conditions. (Labor Code §56)

This bill:

1) Requires employers, upon request, to release employees for up to five unpaid working days within a 12-month period, as specified, 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.

    a) Authorizes the employer to require employees to use earned, unused vacation or paid time off leave before they can use the above benefit.

2) Requires 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 by an employer to their former classification without loss of prior seniority provided the employee produces proper work authorization within 12 months of the date of termination. Specifies the following for these circumstances:

    a) Provides that an employee shall not accrue vacation or other benefits based upon particular employment plan policies during those absences.
    b) If there is no position in the employee's former job classification available at the time the employee produces proper work authorization, requires an employer to offer the employee in writing all job positions that thereafter

become available within 12 months of the date of termination for which the employee is qualified.

c) If more than one employee is entitled to preference for a position, the employer shall offer the position to the terminated employee with the greatest length of service based on the employee's date of hire.
d) Requires the employee to receive their prior pay rate and seniority.
e) If the employee communicates to the employer that they are no longer interested in working for that employer, the employer is not obligated to offer any further job positions that become available.

3) Requires, if the employee demonstrates a need for additional time (past the first 12 months), the employer to rehire the employee into the next available opening in the employee's former classification, as a new hire without retaining seniority, upon the former employee providing proper work authorization within a maximum of 12 additional months from the date the employee notifies the employer that they need additional time. If this occurs, the employee shall be subject to an introductory period upon rehire.

4) Requires, if the employer is notified that an employee has been detained or incarcerated as a result of pending immigration or deportation proceedings, the employer to place the employee on an unpaid leave of absence for a period pending the employee's release and not to exceed 12 months. Specifies the following for these circumstances:

   a) Upon the employee's release and once the employee provides the employer with the appropriate work authorization documentation, the employer shall do either of the following:
      i) Return the employee to their former job classification without loss of seniority.
      ii) If a position in the employee's former job classification is not available at the time the employee produces proper work authorization upon release, the employer shall offer the employee in writing all job positions that become available within 12 months for which the employee is qualified.
      iii) If more than one employee is entitled to preference for a position, the employer shall offer the position to the terminated employee with the greatest length of service based on the employee's date of hire.
   b) Requires the employee to receive their prior pay rate and seniority.
   c) An employee on a leave of absence pursuant to these provisions shall not accrue vacation or other benefits during the leave of absence.

d) If the employee communicates to the employer that they are no longer interested in working for that employer, the employer is not obligated to offer any further job positions that become available.

5) Provides that nothing in these provisions shall be construed as requiring the employer to employ an individual if doing so would be a violation of state or federal law or regulations.

6) Specifies that the above requirements apply to both private and public employers, but would exempt a public or private employer with 25 or fewer employees.

7) Prohibits a public or private employer from disciplining, discharging, or discriminating against any 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.

8) Prohibits an employee subject to immigration or deportation proceedings from being discharged solely because of pending immigration or deportation proceedings, so long as the employee is authorized to work in the United States.

9) Provides that these provisions shall not invalidate a collective bargaining agreement or memorandum of understanding that contains a provision addressing rehire or reinstatement rights or leave rights regarding employees who are subject to immigration proceedings.

10) Provides that these provisions shall not supersede the seniority provisions of a collective bargaining agreement or a memorandum of understanding.

11) Requires the Labor Commissioner to enforce these provisions.

12) Defines the following terms:

a) "Postintroductory employee" means an employee who has successfully completed their probation period of employment, if applicable.
b) "Public employer" means the state, political subdivisions of the state, counties, municipalities, and the Regents of the University of California.

13) Makes the provisions of this bill severable and if any provision or its application is held invalid, that invalidity shall not affect other provisions or

applications that can be given effect without the invalid provision or application.

14) Makes the provisions of this bill inoperative on July 1, 2029, and, as of January 1, 2030, are repealed.

Background

Need for this bill? According to the author: "In California and across the country, multiple examples have come to light of individuals not just being detained but deported unjustly...These individuals should not be subject to losing their job, their seniority, or facing any other punishment for being wrongly detained or picked up in an immigration sweep. AB 1136 gives Californians who are wrongly detained by immigration enforcement a grace period to return to work."

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information and information on prior and related legislation.]

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

According to the Senate Appropriations Committee:

- 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).

SUPPORT: (Verified 8/29/25)

AFSCME Local 3299
California Federation of Labor Unions
California Federation of Teachers
California Immigrant Policy Center
California League of United Latin American Citizens
California Nurses Association

California School Employees Association
California State Council of Laborers
Los Angeles Worker Center Network
Pilipino Workers Center
SEIU California
United Autoworkers Local 4811
United Domestic Workers/AFSCME Local 3930
United Farm Workers

OPPOSITION: (Verified 8/29/25)

Acclamation Insurance Management Services
Agricultural Council of California
Alameda County Office of Education
Allied Managed Care
Associated Equipment Distributors
Association of California School Administrators
California Alliance of Family-Owned Businesses
California Association of Winegrape Growers
California Chamber of Commerce
California Farm Bureau
California Farm Labor Contractor Association
California State Council of SHRM
Coalition of Small and Disabled Veteran Businesses
Flasher Barricade Association
Housing Contractors of California
LeadingAge California
National Federation of Independent Business
Western Growers Association

ARGUMENTS IN SUPPORT:

According to proponents, including the California Immigrant Policy Center: "AB 1136 takes a series of reasonable steps to guarantee that workers who need to tend to their immigration status or who are caught up in the inevitable erroneous deportation proceedings can get their job back without losing job seniority… AB 1136 creates reasonable protections and remedies that are above the noise of the federal government's mass deportation agenda. This bill gives Californians who are mistakenly caught up in overzealous immigration enforcement a necessary and humane grace period to prove their immigration status and return to their jobs."

ARGUMENTS IN OPPOSITION:

A coalition of employer organizations are opposed unless amended to address concerns. Among other things, they write: "While we encourage our members to hold positions open for a reasonable period of time where an employee is trying to renew an expired work authorization, two years is a significant period of time to hold a position open, by far surpassing other available leaves. Subdivision (c) also provides that an employer must provide up to one year of unpaid leave for any employee that is detained or incarcerated as a result of pending immigration or deportation proceedings. Similar to (b), we are concerned that twelve months is a significant period of time."

Additional opposition from the Association of California School Administrators and the Alameda County Office of Education notes, "Regrettably, AB 1136 still creates processes that are likely better suited for private labor practices and does not fully consider local educational agencies (LEA) serving TK-12 grade levels. Even with the recent amendments, AB 1136 would create a bifurcated system of rehire practices that adds additional cost and resources constraints for LEAs. Further, it will likely bump other school employees from their return-to-work rehiring rights by undermining existing collectively bargained agreements and practices conforming with California Education Code statutes. We believe the intended goals of AB 1136 are achievable by adding individuals who lose employment eligibility due to documentation issues to the well-established rehire list process LEAs currently use."

ASSEMBLY FLOOR: 68-2, 6/3/25
AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Davies, Dixon, Elhawary, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NOES: DeMaio, Flora
NO VOTE RECORDED: Castillo, Ellis, Gallagher, Hadwick, Lackey, Macedo, Patterson, Sanchez, Tangipa

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/30/25 15:24:46

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