Date of Hearing: September 10, 2025

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT
Liz Ortega, Chair
AB 1136 (Ortega) – As Amended August 19, 2025

SUBJECT: Employment: immigration and work authorization

SUMMARY: Provides, until July 1, 2029, 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 employees to their former job classification without loss of seniority upon their return, as specified. Specifically, **this bill**:

1) Requires, upon request, each employee to be released by their employer for up to five unpaid working days within a 12-month period, which may be either consecutive or nonconsecutive working days, 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 an employer to require an employee to use earned, unused vacation or paid time off leave before the employee uses this benefit.

2) Requires a postintroductory employee 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 of prior seniority, provided the employee produces proper work authorization within 12 months of the date of termination.

    a. Provides that an employee shall not accrue vacation or other benefits based upon particular employment plan policies during those absences.

    b. Requires, if there is no position in the employee's former job classification available at the time the employee produces proper work authorization, an employer to offer the employee in writing all job positions for which the employee is qualified that thereafter become available within 12 months of the date of termination.

    c. Requires, if more than one employee is entitled to preference for a position, the employer to 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. Provides that, 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, 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. Requires, if this occurs, the employee to 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 from detainment or incarceration and not to exceed 12 months.

    a. Requires, upon the employee's release and once the employee provides the employer with the appropriate work authorization documentation, the employer to 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.

            1. Requires, if more than one employee is entitled to preference for a position, the employer to offer the position to the terminated employee with the greatest length of service based on the employee's date of hire. Requires that the employee receive their prior pay rate and seniority.

            2. Provides that, 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.

        iii. Provides that an employee on a leave of absence pursuant to these provisions shall not accrue vacation or other benefits during the leave of absence.

    b. Provides that these provisions shall not be construed as requiring the employer to employ an individual if doing so would be a violation of state or federal law or regulations.

5) Applies the above provisions to a private or public employer, but exempts a public or private employer with 25 or fewer employees.

6) Prohibits each 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.

7) 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.

8) Provides that (6) and (7) above shall not be construed to require leave in addition to the leave required pursuant to (1)-(5) above.

9) Provides that the provisions of this bill 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 the provisions of this bill shall not supersede the seniority provisions of a collective bargaining agreement or a memorandum of understanding.

11) Requires the Labor Commissioner (LC) to enforce the bill.

12) Provides that the bill becomes inoperative on July 1, 2029, and, as of January 1, 2030, is repealed.

13) Contains a severability clause.

14) Defines "postintroductory employee" to mean an employee who has successfully completed their probation period of employment, if applicable.

15) Defines "public employer" to mean the state, political subdivisions of the state, counties, municipalities, and the Regents of the University of California.

EXISTING FEDERAL LAW:

1) Makes it unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien, as defined, with respect to such employment, or without complying with specified employment eligibility verification procedures. 8 U.S.C. §1324a(a).

2) Makes it unlawful for a person or other entity, after hiring an alien for employment in accordance with (1) above to continue to employ the alien in the United States knowing the alien is or has become an unauthorized alien with respect to such employment. 8 U.S.C. §1324a(a)(2).

3) Requires an employer to verify, through examination of specified documents, whether or not an individual is authorized to work in the United States and attest thereto under penalty of perjury by completing *Form I-9 Employment Eligibility Verification*; 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. The worker must also attest, under penalty of perjury, that they are legally authorized to work in the United States. 8 U.S.C. § 1324a(b).

4) Subjects employers who knowingly hire an unauthorized individual to work in violation of federal immigration laws to specified penalties and civil actions. 8 U.S.C. § 1324a(e)-(f).

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; or (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) Establishes the Division of Labor Standards Enforcement within the Department of Industrial Relations (DIR) under the direction of the LC, to enforce, among other things, wage and hour law, anti-retaliation provisions, and employer notice requirements. Labor Code § 79 et seq.

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, threatening to file or filing a false report or complaint with any state or federal agency, or threatening to contact or contacting immigration authorities. Labor Code § 1019(b).

4) Authorizes 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(d)(1).

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 re-verify an incumbent employee's authorization to work using an unfair immigration-related practice. Provides for a penalty imposed by the LC and liability for equitable relief. Labor Code § 1019.1.

6) Prohibits, except as otherwise required by federal law, 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 (see (3) above in federal law). An employer who violates this provision is subject to a civil penalty up to $10,000, recoverable by the LC, except as specified. Labor Code § 1019.2.

7) 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. Labor Code § 1171.5(a).

8) Provides that, for purposes of enforcing state labor, employment, civil rights, consumer protection, and housing laws, 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 unless 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(b).

FISCAL EFFECT: 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).

COMMENTS: The Trump Administration's focus on immigration enforcement has heavily targeted California and is expected to expand significantly, after Congress in July 2025 approved a $170 billion budget over four years for border and immigration enforcement. News reports and eyewitness accounts have accused federal agents of engaging in racial profiling when making immigration arrests, leading to residents with lawful immigration status and even some US citizens being detained.

For example, in August 2025, the Los Angeles Times reported that "American citizens have been increasingly caught up in the immigration crackdown: a 4-year-old boy with cancer deported to Honduras, a doctoral student filming a raid in Hollywood detained for 25 hours, and Illinois man held for 10 hours in detention."[1]

According to the author, "While ICE claims they are targeting individuals who have criminal convictions and are in the country illegally, the reality on the ground has been that federal agents are indiscriminately arresting people of color with no warrants or probable cause other than the color of their skin. According to government data provided by ICE to the Deportation Data Project and analyzed by the Cato Institute, ICE has been arresting thousands of individuals with no prior contact with law enforcement in what they deem "general" areas – which is "the telltale sign of illegal profiling." Looking at the over 16,000 street arrests of immigrants with no criminal convictions between January and July, 90% of the individuals arrested were immigrants from Latin America."

The author states that "AB 1136 focuses on the innocent California workers caught up in these raids, ensuring that they can return to their jobs and support their families. Using decades-long collective bargaining agreement language used around the country – including in the Trump Las

[1] Uranga, Rachel. (August 2025) "As more citizens are swept up in immigration raids, Democrats demand answers." Los Angeles Times. https://www.latimes.com/california/story/2025-08-08/how-many-citizens-have-been-arrested-in-immigration-crackdown

Vegas Casino – AB 1136 provides reasonable protections and remedies that are above the noise. This bill allows Californians who are mistakenly caught up in overzealous immigration enforcement a necessary and humane grace period to organize their affairs and return to their jobs, without putting employers at either legal or financial risk."

California labor laws protect workers regardless of immigration status. Workers who file claims or complaints, or exercise other rights under California labor laws are not required to disclose their immigration status to the DIR or its entities, nor do those entities inquire about immigration status. The only limits to this are those established under federal law (see existing law).

Arguments in Support

The California Federation of Labor Unions is in support and states that, "with increased workplace enforcement, it is important to protect workers who are updating paperwork, attending citizenship meetings, or otherwise trying to comply with the law. AB 1136 takes a series of reasonable steps to guarantee that these workers are able to return to their job without losing job seniority. It allows unpaid time off for workers to attend citizenship proceedings and creates an orderly process for reinstatement when appropriate documentation is provided. This bill will protect workers and help employers who depend on experienced workers being able to show up every day. It will also increase economic stability in communities that are currently seeing significant disruptions due to workplace raids."

Arguments in Opposition

A coalition of employer and business organizations, including the California Chamber of Commerce, are opposed unless amended and state that "our outstanding requested amendment is the period of time during which an employer is required to rehire a former employee. Proposed subdivision (b) of Section 1019.6 would require employers to rehire employees for up to two years after they were terminated for not having documentation of proper work authorization. While we encourage our members to hold positions open or rehire employees 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. Subdivision (c) similarly requires a rehire period of 12 months for any employee that is detained or incarcerated as a result of pending immigration or deportation proceedings. Again, we are concerned that twelve months is a significant period of time."

Prior and Related Legislation

AB 858 (Lee) of 2025 would extend the sunset date of the recall and reinstatement rights for employees laid off as a result of the COVID-19 pandemic to January 1, 2027. Pending on the Senate Floor.

SB 723 (Durazo), Chapter 719, Statutes of 2023, among other things, extended, from December 31, 2024, to December 31, 2025, the sunset date on the existing "right to recall" rights for employees in the hospitality and service industry laid off as a result of the COVID-19 pandemic.

AB 647 (Holden), Chapter 452, Statutes of 2023 revised recall rights for grocery workers when there is a change of control in a grocery establishment to: 1) cover workers of a grocery distribution center; and 2) create a private right of action with an opportunity for an employer to cure and an administrative complaint process for violations of recall provisions.

SB 627 (Smallwood-Cuevas) of 2023 would have established the Displaced Worker Retention and Transfer Rights Act to, among other things, require a chain employer to provide workers the opportunity to transfer to a location of the chain within 25 miles of the closing establishment; and require chain employers to maintain a preferential transfer list and make job offers based on length of service. Vetoed by Governor Newsom.

SB 93 (Committee on Budget and Fiscal Review) Chapter 16, Statutes of 2021 required hospitality and service industry employers, as specified, to offer to rehire qualified former employees who were laid off due to the COVID-19 pandemic.

AB 3216 (Kalra) of 2020, among other things, would have required employers that operate a hotel, private club, event center, airport hospitality operation, airport service provider, janitorial service, building maintenance or security service to recall employees previously laid-off, as specified. Vetoed by Governor Newsom.

AB 359 (Gonzalez) Chapter 212, Statutes of 2015 requires, among other things, that a successor grocery employer retain their current workforce for a minimum of 90 days after a change in ownership.

SB 20 (Alarcon) Chapter 795, Statutes of 2001 established the Displaced Janitor Opportunity Act and requires a contractor who enters into a contract for janitorial and building maintenance services at a job site to retain the employees of a former contractor providing such services at the job site during a 60-day transition employment period.

REGISTERED SUPPORT / OPPOSITION:

Support

AFSCME Local 3299
California Federation of Labor Unions, AFL-CIO
California Immigrant Policy Center
California League of United Latin American Citizens
California Nurses Association
California School Employees Association
California State Council of Laborers
CFT - A Union of Educators & Classified Professionals, AFT, AFL-CIO
Los Angeles Worker Center Network
Pilipino Workers Center
SEIU California
UAW Local 4811 (UNREG)
United Domestic Workers/AFSCME Local 3930
United Farm Workers

Oppose Unless Amended

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 (CALSHRM)
Coalition of Small and Disabled Veteran Businesses
Flasher Barricade Association
Housing Contractors of California
LeadingAge California
National Federation of Independent Business
Western Growers Association

Analysis Prepared by: Erin Hickey / L. & E. /