

Date of Hearing: April 8, 2026

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

AB 2321 (Ortega) – As Amended March 16, 2026

SUBJECT: Bureau of Investigations

SUMMARY: Removes, upon appropriation, the investigation responsibility of the Bureau of Investigations (BOI) within the Division of Occupational Safety and Health (Cal/OSHA) for violations in which there is a death or permanent total disability, and instead makes the appropriate prosecuting authority responsible for directing those investigations, as specified; requires the BOI and Cal/OSHA to implement specified processes and procedures; and requires the BOI to submit its annual report to the Legislature and include specified information about staffing. Specifically, **this bill:**

- 1) Removes, upon appropriation of sufficient funding, the BOI’s investigation responsibility for violations in which there is a death or permanent total disability, as defined, and instead requires the appropriate prosecuting authority to be responsible for directing those investigations and preparing cases for the purpose of prosecution.
 - a. Requires Cal/OSHA to timely notify the appropriate prosecuting authority of an accident in which there is a death or permanent total disability, and provide the prosecuting authority with all of the following:
 - i. All initial accident reports.
 - ii. Any inspection report for an inspection involving a serious violation where there is a fatality or that results in a permanent total disability to one or more employees.
 - iii. Any other Cal/OSHA report necessary for the prosecuting authority’s investigation.
 - iv. Any other document in the possession of the Cal/OSHA that is requested by the prosecuting authority for its review or investigation or that the Cal/OSHA determines will be helpful to the prosecuting authority in its investigation of the case.
- 2) Authorizes the Occupational Safety and Health Fund or the Labor and Workforce Development Fund to be expended by the prosecuting authorities, upon appropriation, for the support of these investigatory activities.
- 3) Defines “permanent total disability” to have the same meaning as in Labor Code Section 4662. (See (8) below in existing law.)
- 4) Requires the BOI to establish written policies and procedures for the process of reviewing cases and deciding whether to investigate or refer them for prosecution, including, but not limited to, a requirement that the BOI document a rationale for why it has decided not to investigate or not to refer each case within its jurisdiction.

- 5) Requires Cal/OSHA to establish a routine or automated process for transmitting information to the BOI about accident cases with nonfatal injuries so that the BOI can review them as required.
- 6) Requires the BOI's annual report to additionally be submitted to the Legislature and to include information relating to job classifications and vacancies within the BOI.

EXISTING LAW:

- 1) Establishes Cal/OSHA within the Department of Industrial Relations (DIR) to, among other things, propose, administer, and enforce occupational safety and health standards. Labor Code § 6300 et seq.
- 2) Establishes the BOI within Cal/OSHA and makes it responsible for directing accident investigations involving violations of laws, standards, and orders in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative; reviewing inspection reports involving a serious violation if there have been serious injuries to one to four employees or a serious exposure; and preparing cases for the purpose of prosecution, as specified. Labor Code § 6315(a).
- 3) Requires Cal/OSHA to provide the BOI with all initial accident reports, the Cal/OSHA inspection report for any inspection involving a serious violation if there is a fatality and it is necessary for the BOI's review, and any other documents in Cal/OSHA's possession that are helpful to the investigation. Labor Code § 6315(b).
- 4) Requires the BOI to refer the results of investigations it is required to conduct to the appropriate prosecuting authority having jurisdiction for appropriate action unless it determines that there is legally insufficient evidence of a violation of the law. Labor Code § 6315(g).
- 5) Authorizes the DIR, upon the request of a county district attorney, to develop a protocol for the referral of cases that may involve criminal conduct to the appropriate prosecuting authority in lieu of or in cooperation with an investigation by the BOI, as specified. Labor Code § 6315(i).
- 6) Requires the BOI to submit an annual report to Cal/OSHA on its activities, as specified. Labor Code § 6315.3.
- 7) Establishes the Occupational Safety and Health Fund as a special account within the State Treasury and authorizes moneys in the account to be expended by the DIR, in support of Cal/OSHA, the Occupational Safety and Health Standards Board, and the Occupational Safety and Health Appeals Board, and the activities these entities perform. Labor Code § 62.5(d)(1).
- 8) Provides that any of the following permanent disabilities shall be conclusively presumed to be total in character: a) loss of both eyes or the sight thereof; b) loss of both hands or the use thereof; 3) an injury resulting in a practically total paralysis; 4) an injury to the brain resulting in permanent mental incapacity. In all other cases, permanent total disability shall be determined in accordance with the fact. Labor Code § 4662.

FISCAL EFFECT: Unknown

COMMENTS: In 2024, Assemblymember Ortega requested an audit of Cal/OSHA, which was completed in July 2025.¹ The audit found numerous operational issues at the division, stemming largely from understaffing and antiquated processes. Among the audit's findings were:

- 82 percent of complaints were inspected via letter, without real consequences for uncompliant employers.
- When Cal/OSHA did conduct on-site inspections, its inspectors did not consistently document effective reviews of employers' injury and illness prevention programs.
- When Cal/OSHA identified hazards and cited employers, it did not always document whether those employers had abated the hazards.
- Cal/OSHA often assessed employers less than the violations warranted, and often did not document a clear rationale for further reducing fines in post-citation negotiations with employers.
- Key Cal/OSHA policy documents have not been revised in years, and the division relies on paper-based case files.

With regards to the BOI, the auditor found that understaffing and process deficiencies are hindering the bureau's ability to review and investigate cases that may involve criminal conduct and prepare them for prosecution. Between 2019 and 2022, the BOI referred just 1.7 percent of cases in its jurisdiction for criminal prosecution. The auditor further reported that, due to understaffing, the BOI is essentially only investigating fatalities, leaving other cases of serious workplace injuries and safety issues unaddressed.

The audit further found that the BOI lacks written policies and procedures for reviewing cases and deciding whether to investigate or refer them for prosecution. The auditor provided numerous examples of cases it reviewed in which BOI investigators did not adequately document their rationale for referring, or not referring, a case to prosecutors. Furthermore, the BOI does not routinely receive necessary information from Cal/OSHA inspectors about cases that the bureau is required to review for possible criminal conduct.

Public prosecutors as alternative enforcement

In recent years, the Legislature has leaned on public prosecutors to enhance the work of the DIR and its divisions. For example, AB 102 (Ting, 2023) provided \$18 million to create the Workers' Rights Enforcement Grant Program administered by the Labor Commissioner's Office (LCO). This program provides grant funding that enables local public prosecutors to enforce existing laws related to wage theft and thereby supplement the LCO's work.

Funding targeted in this bill

¹ The Division of Occupational Safety and Health: Process Deficiencies and Staffing Shortages Limit Its Ability to Protect Workers. California State Auditor. <https://www.auditor.ca.gov/wp-content/uploads/2025/07/2024-115-Report.pdf>

The audit also looked at where Cal/OSHA’s vacancy-related savings go. According to the auditor, “Cal/OSHA receives its funding mainly from special funds rather than from the State’s General Fund, and the vacancy-related savings are likely split across several special funds, making them more difficult to track. Even so, we found indications that a significant portion of the vacancy-related savings may have simply added to unspent reserves in certain funds. For example, the largest of the special funds from which Cal/OSHA derives its revenue is the Occupational Safety and Health Fund. Upon appropriation by the Legislature, Cal/OSHA can use this fund for any activities that support its work, and unspent funding adds to the fund balance. Cal/OSHA significantly underspent its budgeted appropriations for the Occupational Safety and Health Fund during our audit period, and the balance in this fund had grown to about \$201 million at the end of fiscal year 2023–24.”²

This bill would open up the Occupational Safety and Health Fund, or the Labor and Workforce Development Fund, upon appropriation from the Legislature, to support public prosecutors in their investigative activities. The author indicates that she has a parallel budget request to redirect funding from these two sources to public prosecutors to do the work described in this bill.

Author’s Statements:

According to the author, “This Legislature has worked tirelessly to pass some of the strongest worker protections in the country. However, these laws are meaningless if not enforced. California continues to have a higher-than-average rate of workplace injuries and Cal/OSHA is ill-equipped to keep up the pace. AB 2321 will make important reforms to the BOI’s processes, as well as deputize public prosecutors to alleviate some of the BOI’s workload to ensure criminally-liable employers are held accountable and future criminal conduct is deterred.”

The author adds that the measure supports equity, per HR 39 (Gipson, 2021), in that “workplace injuries and fatalities in California disproportionately impact low-income, immigrant, and minority workers. According to the US Bureau of Labor Statistics, Hispanic and Latino workers make up half of workplace fatalities in the state (48-51 percent in recent years) despite not representing half of the total workforce.³ Additionally, immigrant and other vulnerable workers are less likely to report illnesses or injuries due to fear of employer reprisal. Without effective enforcement of our health and safety laws, bad employers are essentially operating with impunity. This must end.”

Arguments in Support

None on file.

Arguments in Opposition

The California Chamber of Commerce is opposed and states that “First and foremost: prosecutors are not workplace safety experts, so forcing them into the driver’s seat for

² Cal/OSHA Audit, pp. 47-48

³ Fatal Work Injuries in California — 2023 : Western Information Office : U.S. Bureau of Labor Statistics. https://www.bls.gov/regions/west/news-release/2025/fatalworkinjuries_california_20250304.htm; Fatal occupational injuries in California in 2024 : U.S. Bureau of Labor Statistics. <https://www.bls.gov/iif/state-data/fatal-occupational-injuries-in-california-2024.htm>

investigations of all total disability or fatality cases will not improve the quality of that investigation or case preparation. These cases are best handled by the Division’s inspectors – who are more knowledgeable about workplace safety law – and employers’ representatives – who are also knowledgeable about workplace safety.”

Prior and Related Legislation

AB 594 (Kalra), Chapter 659, Statutes of 2023, authorized public prosecutors to enforce labor code violations within their jurisdiction, including minimum wage, overtime, and meal/rest break violations.

AB 102 (Ting), Chapter 38, Statutes of 2023, appropriated \$18 million to create the Workers’ Rights Enforcement Grant Program administered by the Labor Commissioner. The program provides grant funding to local public prosecutors to enforce existing laws related to wage theft.

AB 2738 (Luz Rivas), Chapter 969, Statutes of 2024, clarified that the training certification requirements of entertainment events employees may be alternatively enforced by a public prosecutor.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File.

Opposition

California Chamber of Commerce

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