
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 2321 (Ortega) - Bureau of Investigations

Version: June 29, 2026

Urgency: No

Hearing Date: August 3, 2026

Policy Vote: L., P.E. & R. 4 - 1

Mandate: Yes

Consultant: Robert Ingenito

Bill Summary: AB 2321 would (1) modify case review procedures for the Division of Occupational Safety and Health (Cal/OSHA) and its Bureau of Investigations (BOI) to follow when investigating workplace injuries, and (2) create, upon Legislative appropriation, a five-year pilot program transferring investigative responsibilities from the BOI to the district attorneys in Alameda and Santa Clara counties for workplace health and safety violations that result in death in those counties.

Fiscal Impact:

- The Department of Industrial Relations (DIR) would incur one-time implementation costs of an unknown amount for Cal/OSHA and BOI to develop required case review, referral, and case transmittal procedures, and likely minor ongoing costs for the BOI to report additional staffing vacancy information (Occupational Safety and Health Fund).
- By imposing specified new duties on the District Attorneys of Santa Clara and Alameda Counties, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. The magnitude is unknown, but could exceed \$50,000 per year (General Fund).
- This bill may result potentially significant cost pressures to the courts; the magnitude is unknown (Trial Court Trust Fund (TCTF)). The specific number of new actions that could be filed under the bill also is unknown; however, it generally costs about \$10,500 per day to operate a courtroom. Courts are not funded on the basis of workload, and increased pressure on TCTF may create a need for increased funding for courts from the General Fund. The enacted 2026-27 budget includes \$70 million in ongoing support from the General Fund to continue to backfill TCTF for revenue declines.

Background: Within Cal/OSHA, BOI is responsible for investigating workplace fatalities, incidents involving serious injuries to five or more employees, and other cases referred by Cal/OSHA that may warrant criminal prosecution. BOI also reviews inspection reports involving serious injuries to one through four employees or serious workplace exposures and may conduct additional investigations when criminal violations are suspected. When sufficient evidence exists, BOI prepares cases for referral to the appropriate prosecuting authority.

In July 2025, the California State Auditor released an audit finding that Cal/OSHA's ability to protect workers has been significantly hindered by staffing shortages, outdated policies, and weaknesses in its enforcement processes. The audit found that Cal/OSHA often relied on correspondence rather than on-site inspections to investigate workplace complaints, delayed initiating inspections, inadequately documented inspections and penalty reductions, and did not consistently verify that employers corrected cited hazards. During 2023-24, Cal/OSHA classified 13 percent of complaints as invalid and investigated 82 percent of valid complaints through letters rather than on-site inspections. The audit also identified a 32 percent vacancy rate across Cal/OSHA in 2023-24, with even higher vacancy rates in certain district offices and inspector classifications.

The audit identified similar operational deficiencies within BOI. Between 2019 and 2022, BOI referred only 31 cases for criminal prosecution—approximately 1.7 percent of the roughly 1,800 cases it closed during that period. According to the Auditor, chronic understaffing resulted in BOI focusing almost exclusively on workplace fatalities, leaving many serious non-fatal injury cases without criminal review. Despite Labor Code Section 6315 requiring it to maintain sufficient staffing, BOI had only three field investigators statewide from 2020 through 2022.

The audit further found that the BOI lacks written policies governing how it reviews cases, determines whether to conduct investigations, and decides whether to refer matters for prosecution. Investigators often failed to document the rationale for referral decisions, and the bureau did not consistently receive required information from Cal/OSHA's enforcement division regarding cases involving serious non-fatal injuries. To address these deficiencies, the State Auditor recommended that the BOI establish formal case review and referral procedures, require documentation supporting investigative decisions, and implement a routine or automated process to ensure timely receipt of information from Cal/OSHA inspectors.

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

- Require BOI to establish written policies and procedures for the process of reviewing cases and deciding whether to investigate or refer them for prosecution.
- Require Cal/OSHA to establish a routine or automated process for transmitting information to BOI about accidents with nonfatal injuries for review.
- For an accident in Alameda or Santa Clara County resulting in a death or permanent total disability of one or more employees, the bill would make the Alameda County District Attorney or the Santa Clara County District Attorney, based on the county in which the accident occurred, until January 1, 2032, responsible for directing accident investigations and preparing cases for prosecution, subject to an appropriation by the Legislature of sufficient funding for this purpose.
- Require Cal/OSHA to immediately notify the Alameda County District Attorney or the Santa Clara County District Attorney and provide it with certain relevant information about the accident.

- Authorize moneys in the Occupational Safety and Health Fund or the Labor and Workforce Development Fund to be expended by the Alameda County District Attorney or the Santa Clara County District Attorney, upon appropriation, for the support of these investigatory activities.
- Modify an existing BOI report to the Legislature, as specified.

Related Legislation:

- AB 594 (Maienschein, 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, to provide grant funding to local public prosecutors to enforce existing laws related to wage theft.
- AB 2738 (L. Rivas, Chapter 969, Statutes of 2024), among other things, authorized public prosecutor enforcement for violations of existing workplace safety laws for entertainment events venues.
- SB 988 (Wiener, Chapter 870, Statutes of 2024) established the Freelance Worker Protection Act to impose minimum requirements relating to contracts between a hiring party and a freelance worker. Among other things, the measure authorized an aggrieved freelance worker or a public prosecutor to bring a civil action to enforce these provisions.

Staff Comments: The enacted 2026-27 budget provides \$19.3 million one-time and \$17.1 million annually thereafter from the Occupational Safety and Health Fund to establish a centralized complaint intake unit, expand investigations of all workplace fatalities and serious injury cases for potential criminal violations, and enhance proactive enforcement efforts addressing workplace hazards associated with emerging technologies and equipment.

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