
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 858 (Lee) - Employment: rehiring and retention: displaced workers: natural disasters

Version: June 26, 2025

Urgency: No

Hearing Date: August 18, 2025

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

Mandate: No

Consultant: Robert Ingenito

Bill Summary: AB 858 would modify the “Rights of Recall” provisions in current law for laid-off employees in the hospitality, service, and travel industries impacted by the COVID-19 pandemic by (1) adding a new recall right for workers laid off on or after January 1, 2025 for a reason related to a state of emergency, and (2) extending the sunset date on both the existing COVID-19 right to recall provisions and this bill’s proposed expansions, to December 31, 2027.

Fiscal Impact:

- The Department of Industrial Relations (DIR) indicates that it would incur first-year costs of \$361,000, and \$349,000 annually thereafter, to implement the provisions of the bill (Labor Enforcement and Compliance Fund). Workload drivers would include investigating and enforcing new complaints from hospitality employees laid-off during a state of emergency. To the extent that the frequency and extent of future states of emergency increases, DIR’s costs could be higher.
- In addition to administrative enforcement through DIR’s Division of Labor Standards Enforcement (DLSE), this bill would expand and extend the civil enforcement of employee retention rights through the courts, resulting in potentially significant cost pressures; 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 to operate a courtroom for an eight-hour day. 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 2025-26 budget includes \$38 million in ongoing support from the General Fund to continue to backfill TCTF for revenue declines.

Background: SB 93 (Committee on Budget and Fiscal Review, 2021) required, until December 31, 2024, specified employers to offer in writing all job positions that become available to qualified employees laid off during the COVID-19 pandemic, with preference given to the laid-off employee with the greatest length of service. The bill applied to any employer that owns or operates an “enterprise,” defined as a hotel, private club, event center, airport hospitality operation, airport service provider, or the provision of building service to office, retail, or other commercial buildings, as well as to any laid-off employee employed for six months or more preceding January 1, 2020, whose separation from service was due to an economic, non-disciplinary reason related to the COVID-19 pandemic.

SB 93 allowed a laid-off employee to file a complaint of a violation with DLSE, with the employee entitled to hiring and reinstatement rights, front or back pay, and benefits, and the employer subject to a civil penalty of \$100 per employee whose rights were violated and an additional sum payable as liquidated damages of \$500 per employee, per day, until the violation is cured, paid to the employee as compensatory damages. Enforcement may occur administratively or by filing a civil action in superior court. DLSE received a \$6 million appropriation through June 30, 2025, for staffing resources to implement and enforce SB 93. SB 723 (Durazo, 2023) (1) extended SB 93's provisions until December 31, 2025, and (2) added a presumption that separation was due to the pandemic, unless the employer establishes otherwise by a preponderance of the evidence.

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

- Extend and modify the existing rights of recall provisions for workers laid-off in specified hospitality, service, and travel industries impacted by the COVID-19 pandemic to also include a reason related to a declared state of emergency (as defined) or local emergency.
- Expand the definition of "laid-off employee" to include any employee who was employed by the employer for six months or more and whose most recent separation from active employment by the employer occurred on or after January 1, 2025, at a site located within the affected area defined in the proclaimed state of emergency or local emergency and was due to a reason related to that state of emergency.
- Create an additional presumption that a separation due to a lack of business, reduction in force, or other economic, nondisciplinary reason is due to a reason related to the state of emergency unless the employer establishes otherwise by a preponderance of the evidence.
- Extend the sunset date on these provisions to December 31, 2027.

Related Legislation:

- SB 723 (Durazo, Chapter 719, Statutes of 2023) extended, from December 31, 2024 to December 31, 2025, the sunset date on the "right to recall" rights for employees in the hospitality and service industry, and added to these provisions a presumption that a separation due to a lack of business, reduction in force, or other economic, nondisciplinary reason is due to a reason related to the COVID-19 pandemic, unless the employer establishes otherwise by a preponderance of the evidence.
- SB 627 (Smallwood-Cuevas, 2023) would have established the Displaced Worker Retention and Transfer Rights Act to, among other things, require a chain employer (100 or more establishments, as defined) to provide workers and their exclusive representative, if any, a displacement notice at least 60 days before the expected date of closure of a covered establishment; 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. The bill was vetoed by Governor Newsom.

- SB 725 (Smallwood-Cuevas, 2023), among other things, would have required a successor grocery employer, as specified, to provide an eligible grocery employee a payment equal to one week of pay for each full year of employment with the incumbent grocery employer, if the successor grocery employer did not hire the eligible grocery worker following a change in control or did not retain the eligible grocery worker for at least 90 days following the change in control or employment commencement date. The bill was vetoed by Governor Newsom.
- AB 1356 (Haney, 2023) would have, among other things, made changes to the California WARN Act provisions to increase the notice requirement from 60 to 75 days prior to a mass layoff and would revise the definition of “covered establishment.” The bill was vetoed by Governor Newsom.
- AB 647 (Holden, 2023, Chapter 452, Statutes of 2023) strengthened the existing recall and retention protections for grocery workers under the Grocery Worker Retention Law by, among other things, (1) adding an enforcement mechanism to hold the employer accountable for violations; (2) including distribution centers that meet specified requirements within the definition of “grocery establishment”; and (3) exempting incumbent and successor grocery employers whose sum of employees is less than 300 nationwide, as specified.
- SB 93 (Committee on Budget and Fiscal Review, Chapter 16, Statutes of 2021) was a budget trailer bill that made various statutory changes to implement rehiring rights for hospitality, airports, airport service providers and event center rehiring rights for workers who were laid off for reasons related to the COVID-19 pandemic with a December 31, 2024 sunset date.
- SB 3216 (Kalra, 2020) would have required employers that operate a hotel, private club, event center, airport hospitality and service provider, janitorial service, building maintenance or security service to recall employees previously laid-off, as specified. The bill also would have required successor employers to maintain a preferential hiring list of eligible employees identified by the incumbent employer and hire from that list for a period of six months after the change of control and to retain those employees for a 90-day transition employment period, and offer continued employment, as specified. The bill was vetoed by Governor Newsom.
- AB 1669 (Hernandez, Chapter 874, Statutes of 2016) extended an existing bid preference for public transit contractors who agree to retain employees to also include contracts for the collection and transportation of solid waste, as specified.

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