
THIRD READING

Bill No: AB 858
Author: Lee (D), et al.
Amended: 8/29/25 in Senate
Vote: 21

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

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

ASSEMBLY FLOOR: 52-19, 6/3/25 - See last page for vote

SUBJECT: Employment: rehiring and retention: displaced workers

SOURCE: California Federation of Labor Unions, AFL-CIO
UNITE HERE International Union, AFL-CIO
UNITE HERE Local 11

DIGEST: This bill extends the sunset date on the “Rights of Recall” provisions in existing law for laid-off employees in the hospitality, service, and travel industries impacted by the COVID-19 pandemic to January 1, 2027.

ANALYSIS:

Existing law:

- 1) 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 (LAB) §56)

- 2) Requires certain hospitality and service industry employers to offer to rehire qualified former employees who were laid off due to the COVID-19 pandemic, including a public health directive, government shutdown order, lack of business, a reduction in force, or other economic, nondisciplinary reason due to the pandemic. (LAB §2810.8)
- 3) Among other things, under these “Right to Recall” provisions:
 - a) Requires employers to notify covered employees of specified enterprises of job openings for the same or similar positions as the ones they last held.
 - b) Covered workers include employees at hotels or private clubs with 50 or more guest rooms, airports, airport service providers, or other provision of building services to office, retail, or commercial buildings and event centers.
 - c) Requires employers to retain specified records of employees for a period of at least three years including, among other things, the employee’s date of hire, their last known address, email, and telephone number, and all records of communications concerning offers of employment made pursuant to these rights.
 - d) Within five business days of establishing a position, an employer shall offer its laid-off employees in writing, either by hand or sent to their last known physical address, or by email and text message (to the extent the employer possesses this information) all job positions that become available, with priority based on length of service, before new employees can be hired.
 - e) Qualified laid-off employees must respond to notices within five days, as specified.
 - f) Prohibits employers from refusing to employ, terminate, reduce in compensation, or otherwise take any adverse action against any laid-off employee for seeking to enforce these rights.
 - g) Authorizes an employer to make simultaneous, conditional offers of employment to laid-off employees, with a final offer provided to the employee with the greatest length of service with the employer.
 - h) Creates 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.

- i) Prohibits an employer from refusing to employ, terminating, reducing compensation, or taking other adverse action against a laid-off employee for seeking to enforce their recall and reinstatement rights, as specified.
- j) Directs the DLSE to enforce these provisions and authorizes a laid-off employee to file a complaint with the DLSE for violations and entitles them to hiring and reinstatement rights, front and back pay, as specified, and the value of benefits the employee would have received under the employer's benefit plan.
- k) Subjects employers guilty of a violation to specified civil penalties and employees will be entitled to liquidated damages of \$500 per employee, per day of violation and will be awarded damages for each day of violation until cured, as specified.
- l) These recall rights are *effective only until December 31, 2025*, and as of that date are repealed. (LAB §2810.8)

This bill:

- 1) Extends the sunset date on the existing rights of recall provisions for workers laid-off in specified hospitality, service, and travel industries impacted by the COVID-19 pandemic to January 1, 2027.
- 2) Specifies that notwithstanding the sunset date specified above, a violation of these provisions occurring on or before December 31, 2026, shall continue to be enforceable by the DLSE pursuant to existing enforcement provisions.

Background

Since the adoption of the "Right to Recall" law, the Labor Commissioner (LC) has cited numerous employers for violating these requirements and protections. Some examples include:

- In 2022, the LC cited the Terranea Resort \$3.3 million for not offering reinstatement to 53 laid-off workers when the resort reopened. The affected

workers included housekeepers, banquet servers, bartenders, junior sous chefs, and massage therapists.¹

- In 2023, the LC cited the Hyatt Regency Long Beach nearly \$4.8 million for violating the recall and reinstatement rights of 25 employees, including restaurant servers, event servers, bartenders, housepersons, turndown attendants, cashiers, and stewards.²
- In 2023, the LC cited Flying Food Group more than \$1.2 million for failing to timely rehire 21 employees at its sites at LAX and SFO airports.³

Related/Prior Legislation

SB 723 (Durazo, Chapter 719, Statutes of 2023) extended, from December 31, 2024 to December 31, 2025, the sunset date on the COVID-19 “right to recall” rights.

SB 93 (Committee on Budget and Fiscal Review, Chapter 16, Statutes of 2021) was a trailer bill that enacted the original “right of recall” due to COVID-19 reasons with a December 31, 2024 sunset date.

AB 3216 (Kalra, 2020, Vetoed) 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 was vetoed by Governor Newsom.

[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) would likely incur annual costs in the low hundreds of thousands of dollars to implement the provisions of the bill (Labor Enforcement and Compliance Fund).

¹ <https://www.dir.ca.gov/DIRNews/2022/2022-23.html>

² <https://www.dir.ca.gov/DIRNews/2023/2023-76.html>

³ <https://www.dir.ca.gov/DIRNews/2023/2023-60.html>

SUPPORT: (Verified 8/29/25)

California Federation of Labor Unions, AFL-CIO (co-source)
Unite Here International Union, AFL-CIO (co-source)
Unite Here Local 11 (co-source)
California Acupuncture Coalition
California Association of Psychiatric Technicians
California School Employees Association

OPPOSITION: (Verified 8/29/25)

Acclamation Insurance Management Services
Allied Managed Care
American Petroleum and Convenience Store Association
Anaheim Chamber of Commerce
Brea Chamber of Commerce
California Apartment Association
California Association of Boutique and Breakfast Inns
California Attractions and Parks Association
California Chamber of Commerce
California Hotel & Lodging Association
California Lodging Industry Association
California Restaurant Association
California Retailers Association
California Travel Association
California Trucking Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce
Corona Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Flasher Barricade Association
Folsom Chamber of Commerce
Gateway Chambers Alliance
Glendora Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce

LA Canada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Lincoln Chamber of Commerce
Long Beach Area Chamber of Commerce
Mission Viejo Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
National Association of Theatre Owners of California
Newport Beach Area Chamber of Commerce
Newport Beach Chamber of Commerce
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange Chamber of Commerce
Orange County Business Council
Pacific Association of Building Service Contractors
Paso Robles Templeton Chamber of Commerce
Rancho Cordova Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Rancho Mirage Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Shingle Springs/Cameron Park Chamber of Commerce
SHRM California
Simi Valley Chamber of Commerce
Southwest California Legislative Council
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
United Chamber Advocacy Network
Valley Industry and Commerce Association
West Ventura County Business Alliance
Yuba Sutter Chamber of Commerce

ARGUMENTS IN SUPPORT: According to UNITE HERE! Local 11 and UNITE HERE! International Union: “SB 93 and SB 723 are two of the most successful pieces of jobs legislation in the history of California. Around 90% of housekeepers, servers, bartenders, cooks and cashiers at hotels, airports and event centers were laid off during the COVID-19 crisis, which is hundreds of thousands of workers. Today the vast majority of those workers have been offered a return to those same jobs in an orderly transition as businesses reopened.”

ARGUMENTS IN OPPOSITION: A coalition of employer organization, including the California Hotel & Lodging Association and the California Travel Association, are opposed to the measure and write: “Enforcement data surrounding the statutes indicates that unintentional violations of the statute can result in penalties in the millions of dollars. A number of hotels continue to hover on the edge of delinquency and a judgment against a hotel, even for minor violations, could make a significant impact on the hotel’s ability to remain solvent. Penalties for violation of the statute, regardless of knowledge of violation, are \$500 per day until the violation is cured and civil penalties against the employer of \$100 for each employee whose rights are violated. Any employee suffering unlawful retaliation for asserting recall rights may also be awarded back pay, front pay benefits and reinstatement. The records we have seen indicate that, historically, complaints to the Labor Commissioner appear to only come from one local labor group against specific non-unionized properties whose employees have rejected unionization attempts.”

ASSEMBLY FLOOR: 52-19, 6/3/25

AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Pellerin, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NOES: Alanis, Castillo, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Irwin, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis

NO VOTE RECORDED: Bauer-Kahan, Chen, Nguyen, Patel, Petrie-Norris, Quirk-Silva, Ramos, Blanca Rubio

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