

## CONCURRENCE IN SENATE AMENDMENTS

AB 858 (Lee)

As Amended August 29, 2025

Majority vote

**SUMMARY**

Extends the sunset date of the recall and reinstatement rights for employees laid off as a result of the COVID-19 pandemic, as specified, until January 1, 2027.

**Senate Amendments**

- 1) Delete the new recall right for workers laid off on or after January 1, 2025 for a reason related to a state of emergency, and all related provisions.
- 2) Change the extended sunset date of the recall and reinstatement rights for employees laid off as a result of the COVID-19 pandemic from December 31, 2027 to January 1, 2027.
- 3) Specify that, notwithstanding the sunset date in (2) above, a violation occurring on or before December 31, 2026, shall continue to be enforceable by the Division of Labor Standards Enforcement (DLSE) pursuant to existing enforcement provisions.

**COMMENTS**

In 2021, the Legislature passed and governor signed SB 93 (Committee on Budget and Fiscal Review), requiring employers in hospitality, service, and travel industries to offer new positions for similar work to employees laid off due to the COVID-19 pandemic within five days of creating a position until December 31, 2024. In cases in which more than one laid-off employee qualifies for a position, the employer is required to offer the position to the worker with the longest tenure. SB 93 appropriated \$6 million made available through June 30, 2025, from the Labor and Workforce Development Fund to the Labor Commissioner (LC) for staffing resources to implement and enforce the provisions.

In 2023, the Legislature passed and governor signed SB 723 (Durazo), which, in part, extended the recall and reinstatement provisions until December 31, 2025 and added 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.

The LC has cited numerous employers for violating these recall and reinstatement rights, showing the impact and importance of this law for workers in these industries. Examples include:

- 1) 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.<sup>1</sup>

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

- 2) 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.<sup>2</sup>
- 3) 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.<sup>3</sup>

### **According to the Author**

"AB 858 ensures that hospitality and service workers who were laid off during the COVID-19 pandemic will continue to have rehiring protections, which are currently set to expire this year. This bill extends the sunset date to December 31, 2026 and strengthens these protections by specifying that violations shall remain enforceable after the sunset date."

### **Arguments in Support**

UNITE HERE International Union states in support that "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 organizations, including the California Hotel plus Lodging Association, are opposed and state that "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."

## **FISCAL COMMENTS**

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).

## **VOTES:**

### **ASM LABOR AND EMPLOYMENT: 5-1-1**

**YES:** Ortega, Elhawary, Kalra, Lee, Ward

**NO:** Flora

**ABS, ABST OR NV:** Chen

### **ASM APPROPRIATIONS: 10-3-2**

**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pellerin, Solache

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

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

**NO:** Dixon, Ta, Tangipa

**ABS, ABST OR NV:** Sanchez, Pacheco

**ASSEMBLY FLOOR: 52-19-8**

**YES:** 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

**NO:** Alanis, Castillo, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Irwin, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis

**ABS, ABST OR NV:** Bauer-Kahan, Chen, Nguyen, Patel, Petrie-Norris, Quirk-Silva, Ramos, Blanca Rubio

**UPDATED**

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