SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
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Consultant:	Alma Perez-Schwab		

SUBJECT: Employment: automated decision systems

KEY ISSUES

This bill 1) requires an employer, or a vendor engaged by the employer, to provide a written notice that an automated decision system (ADS) is in use at the workplace to all workers that will be directly or indirectly affected by the ADS, as specified; 2) prohibits an employer or vendor from using an ADS that does certain functions and would limit the purposes and manner in which an ADS may be used to make employment-related decisions; 3) grants a worker access to data collected or used by an ADS and to correct errors; 4) requires an employer or vendor to provide a written notice to a worker that has been affected by an employment-related decision made by an ADS, and grants the worker the right to appeal the decision; 5) requires an employer or vendor to respond to an appeal, and to review and rectify the decision if found necessary; 6) includes worker anti-retaliation provisions for exercising these rights; 7) requires the Labor Commissioner (LC) to enforce these provisions; 8) authorizes the LC, a public prosecutor, or any worker who has suffered a violation, or their representative, to bring a civil action; and 9) includes specified penalties and relief for violations.

ANALYSIS

Existing law:

1) Establishes the Department of Technology, within the Government Operations Agency, and tasks it with, among other things, advising the Governor on the strategic management and direction of the state's information technology resources. (Government Code §11545 et seq.)

2) Requires the Department of Technology to conduct, in coordination with other interagency bodies, as it deems appropriate, a comprehensive inventory of all high-risk automated decision systems (ADS) that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, any state agency. As part of this review, requires the analysis to include descriptions of any alternatives to its use, the categories of data and personal information the ADS uses to make decisions, and measures that are in place to mitigate the risks of its use, including cybersecurity risk and the risk of inaccurate, unfairly discriminatory, or biased decisions of the ADS. (Government Code §11546.45.5)

3) Defines the following terms:

    a. "Artificial intelligence" means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

b. "Automated decision system" means a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. "Automated decision system" does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data.
(Government Code §11546.45.5)

4) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civil Code §1798.100 et seq.)

5) Establishes the Consumer Privacy Rights Act (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civil Code §1798.100 et seq.; Proposition 24 (2020))

6) Requires the Attorney General to adopt regulations governing access and opt-out rights with respect to businesses' use of automated decisionmaking technology, including profiling and requiring businesses' response to access requests to include meaningful information about the logic involved in those decisionmaking processes, as well as a description of the likely outcome of the process with respect to the consumer. (Civil Code §1798.185)

7) Establishes the Department of Industrial Relations (DIR) in the Labor and Workforce Development Agency (LWDA), and vests it with various powers and duties to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment. (Labor Code §50.5)

8) Establishes within the DIR, various entities including the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC with ensuring a just day's pay in every workplace and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)

9) Requires employers to provide to each employee, upon hire, a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota. (Labor Code §2101)

10) Prohibits an employer from requiring an employee to meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, including reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the Labor Code or division standards. Additionally, prohibits an employer from taking adverse employment actions against an employee for failure to meet a quota that does not allow a worker to comply with meal and rest periods, or occupational health and safety laws in the Labor Code

or division standards, or for failure to meet a quota that has not been disclosed to the employee pursuant to Labor Code Section 2101. (Labor Code §2101)

This bill:

1) Defines, among others, the following terms:

   a. "Automated decision system" or "ADS" means any computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. An automated decision system does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data.
   b. "ADS output" means any information, data, assumptions, predictions, scoring, recommendations, decisions, or conclusions generated by an ADS.
   c. "Employer" means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours, working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker. This shall include all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof. "Employer" includes a labor contractor of a person defined as an employer.
   d. "Employment-related decision" means any decision by an employer that impacts wages, wage setting, benefits, compensation, work hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job tasks, skill requirements, work responsibilities, assignment of work, access to work and training opportunities, productivity requirements, workplace health and safety, and any other terms or conditions of employment.
   e. "Predictive behavior analysis" means any system or tool that predicts or infers a worker's behavior, beliefs, intentions, personality, emotional state, or other characteristics or behavior.
   f. "Vendor" means a third party, subcontractor, or entity engaged by an employer or an employer's labor contractors to provide software, technology, or a related service that is used to collect, store, analyze, or interpret worker data or worker information.
   g. "Worker" means any natural person who is a job applicant to, an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in any workplace.
   h. "Worker data" means any information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with, a worker, regardless of how the information is collected, inferred, or obtained.

ADS Pre-Use Worker Notification

2) Requires an employer, or a vendor engaged by the employer, to provide a written notice that an ADS, for the purpose of making employment-related decisions, is in use at the workplace to a worker who will be directly or indirectly affected by the ADS, or their authorized representative, according to the following:

a. At least 30 days before the introduction of the ADS.
b. No later than February 1, 2026 (if an ADS is already in use at the time these provisions take effect).
c. To a new worker within 30 days of hiring if an existing ADS is in place.
d. Within 30 days of any significant updates or changes to the ADS, or a significant change in how the employer is using ADS.

3) Requires the written notice to be all of the following:

a. In plain language as a separate, stand-alone communication.
b. In the language in which routine communications and other information are provided.
c. Provided via a simple and easy-to-use method, as specified.

4) Requires the written notice to contain the following information:

a. An explanation of the nature, purpose, and scope of the decisions for which the ADS will be used, including the specific employment-related decisions potentially affected.
b. The specific category and sources of worker input data that the ADS will use and how that data will be collected.
c. The logic used in the ADS, including the key parameters that affect the output of the ADS, and the type of outputs the ADS will produce.
d. The individuals, vendors, and entities that created the ADS and the individuals, vendors, and entities that will run, manage, or interpret the results of the ADS output.
e. For each performance metric, quota, or other related measure, a description of how the performance standard is measured, how data is collected, and any adverse consequences or incentives associated with the performance standard.
f. A description of the worker's right to access information about the employer's use of ADS to make an employment-related decision.
g. A description of the worker's rights to appeal a decision for which the ADS was used and to correct data used by the ADS.
h. That the employer is prohibited from retaliating against workers for exercising these rights.
i. An updated list of all ADS currently in use by the employer, as specified.

Prohibitions and Requirements

5) Prohibits an employer, or a vendor engaged by the employer, from using an ADS that does any of the following:

a. Prevents compliance with or results in a violation of any federal, state, or local labor, occupational health and safety, employment, or civil rights laws or regulations.
b. Obtains or infers a worker's immigration status, veteran status, ancestral, history, religious or political beliefs, health or reproductive status, history, or plan, emotional or psychological state, neural data, sexual or gender orientation, disability, criminal record, credit history, or statuses protected under Section 12940 of the Government Code.
c. Conducts predictive behavior analysis.
d. Identifies, profiles, predicts, or takes adverse action against a worker for exercising their legal rights, including, but not limited to, rights guaranteed by state and federal employment and labor law.

e. Uses or relies on individualized worker data as inputs or outputs to inform compensation, unless the employer can clearly demonstrate that any differences in compensation for substantially similar or comparable work assignments are based on cost differentials in performing the tasks involved, or that the data was directly related to the tasks the worker was hired to perform.

6) Prohibits an employer, or a vendor engaged by the employer, from using an ADS to collect data for a purpose not previously disclosed in the required written notice specified above.

7) Prohibits an employer, or a vendor engaged by the employer, from relying primarily on an ADS when making hiring, promotion, discipline, or termination decisions and instead requires a human reviewer to conduct its own investigation and compile corroborating or supporting information for the decision. This information may include, but is not limited to, any of the following:

a. Supervisory or managerial evaluations.
b. Personnel files.
c. Employee work products.
d. Peer reviews.

8) Prohibits an employer or vendor from using customer ratings as the only or primary input data for an ADS to make employment-related decisions.

9) Requires an employer to allow a worker to access worker data collected or used by an ADS and correct errors in any input or output data used by or produced by the ADS or used as corroborating evidence by a human reviewer.

10) Requires an employer to allow a worker to appeal an employment-related decision for which the ADS was used, as specified below.

ADS Post-Use Notification

11) Requires an employer or vendor that has used an ADS to make an employment-related decision to provide the affected worker with a written notice, as specified, at the time the employer informs the worker of the decision.

12) Requires the notice to contain the following information:

a. The human to contact for more information, including corroborating evidence found by a human reviewer, for access to data used to make the decision, or to appeal the decision.
b. That the employer or vendor used an ADS to make one or more employment-related decisions with respect to the worker.
c. That the worker has the right to appeal the decision pursuant to Chapter 5 (commencing with Section 1532).
d. That the worker has the right to correct errors in any input or output data used by or produced by the ADS or used as corroborating evidence by the human reviewer.
e. A form or a link to an electronic form for the worker to file an appeal or request more information on the data used in the decision.
f. That the employer is prohibited from retaliating against the worker for exercising their rights under this part.

Right to Appeal ADS Assisted Employment-Related Decisions

13) Requires an employer or vendor, that uses an ADS to make an employment-related decision, to provide affected workers with the right to appeal that decision within 30 days from the date that the worker was given written notice, per the above requirements.

14) Requires the employer to provide workers with an appeal form, or a link to an electronic form, that includes all of the following:

    a. The option to request access to the data used as input to or as output from the ADS.
    b. The option to request access to any corroborating or supporting evidence provided by a human reviewer to verify output from the ADS.
    c. The worker's reason or justification for an appeal and any supporting evidence.
    d. Designation of an authorized representative that can also access the data.

15) Requires the employer or vendor to respond to an appeal within 14 business days and specifies the following:

    a. Requires the employer or vendor to designate a human reviewer who is required to objectively evaluate all evidence, has sufficient authority, discretion, and resources to evaluate the decision, and has the authority to overturn the decision.
        i. The employer or vendor shall not designate a person who was involved in the decision that the worker is appealing.
    b. The response provided to the worker shall be a clear, written document describing the result of the appeal and the reasons for that result.
    c. If the human reviewer determines that the employment-related decision should be overturned, the employer or vendor shall rectify the decision within 21 business days.

Enforcement Provisions

16) Prohibits an employer from discharging, threatening to discharge, demoting, suspending, or in any manner discriminating or retaliating against any worker for using or attempting to use their rights under these provisions, filing a complaint with the Labor Commissioner, alleging a violation of these rights, cooperating in an investigation or prosecution of an alleged violation, or any action taken by the worker to invoke or assist in any manner the enforcement of this part, or for exercising or attempting to exercise any right protected under this part.

17) Requires the Labor Commissioner to enforce these provisions, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing, pursuant to existing Labor Code provisions, including issuing a citation against an employer who violates these provisions and filing a civil action.

18) Specifies that if a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the LC shall be the same as those set out in Section 98.74 or 1197.1, as applicable.

19) Authorizes any worker, or their exclusive representative, who has suffered a violation of these provisions to, alternatively to enforcement by the LC, bring a civil action in a court of competent jurisdiction for damages caused by that adverse action, including punitive damages.

20) Alternatively, to enforcement by the LC or bringing a civil action, authorizes public prosecutors to enforce these provisions pursuant to existing Labor Code Chapter 8 (commencing with Section 180) of Division 1.

21) Specifies that in any action brought to enforce these provisions in superior court in any county wherein the violation in question is alleged to have occurred, or wherein the person resides or transacts business, the petitioner may seek appropriate temporary or preliminary injunctive relief, including punitive damages, and reasonable attorney's fees and costs as part of the costs of any such action for damages.

22) Subjects an employer who violates these provisions to a civil penalty of five hundred dollars ($500) per violation.

23) Provides that these provisions do not preempt any city, county, or city and county ordinance that provides equal or greater protection to workers who are covered by this part.

24) Provides that these provisions are severable and if any provision or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

COMMENTS

1. Background:

Artificial Intelligence and Automated Decision Systems

With technological advancements happening faster than humans can react, we often miss opportunities to pause and evaluate its impact. Until recently, advancements in technology often automated physical tasks, such as those performed on factory floors or self-checkouts, but artificial intelligence (AI) functions more like human brainpower. AI can use algorithms to accomplish tasks faster and sometimes at a lower cost than human workers can. As this technology develops, so do fears of worker displacement in more areas and industries.

According to the Pew Research Center, in 2022, 19 percent of American workers were in jobs in which the most important activities may be either replaced or assisted by AI.[1] Because technology can be used to either replace or complement the work of employees, it is difficult to identify which industries or occupations will be most impacted. What's worse, recent trends on the use of AI in employment has been reminiscent of a Hollywood movie – both fantastical and horrifying.

[1] "Which U.S. Workers Are More Exposed to AI on Their Jobs?" Pew Research Center, Washington, D.C. (July 26, 2023) https://www.pewresearch.org/social-trends/2023/07/26/which-u-s-workers-are-more-exposed-to-ai-on-their-jobs/

Bill Gates himself has warned that over the next decade, advances in artificial intelligence will mean that humans will no longer be needed "for most things" in the world.[2] Given these realities, what does the future of AI and its capabilities mean for workers? As we speak, employers are deploying AI-powered tools that monitor and manage workers, including by tracking their locations, activities, and productivity. Even more alarmingly, we are seeing employers use AI powered systems to make decisions on workers' schedules, tasks, compensation, promotions, and even disciplinary actions.

In February of 2019, Data & Society, an independent non-profit research institute, published a study evaluating the impact of algorithmic management on the workforce. The study highlights several examples where algorithmic management is becoming more common. In the delivery industry, companies from UPS to Amazon to grocery chains are using automated systems to optimize delivery workers' daily routes. In other industries, trends show an increase in remote tracking and managing using AI software. In retail and service jobs, automated scheduling is replacing managers' discretion over employee schedules, while the work of evaluating employees is being transferred to consumer-sourced rating systems.[3]

At least, these examples appear to complement the tasks of workers. Below are several other examples highlighted in a 2021 UC Berkeley study that should make us pause[4]:

- Hiring software by the company HireVue generates scores of job applicants based on their tone of voice and word choices captured during video interviews.
- Algorithms are being used to predict whether workers will quit, become pregnant, or try to organize a union, which influence employers' decisions about job assignment and promotion.
- Call center technologies are analyzing customer calls and nudging workers in real time to adjust their behavior, like coaching them to express more empathy, pace the call more efficiently, or exude more confidence and professionalism.
- Grocery platforms like Instacart are monitoring workers and calculating metrics on their speed as they fill shopping lists.
- Robots, like, for example, "smart cart" service robots in health care, are being used to transport materials (e.g., linens, meals, lab specimens) to other workers. Meanwhile, floor cleaning robots vacuum or scrub floors along a preset route programmed by workers, who also monitor and support their operation.
- In remote workers' homes, AI software is being used to track computer keystrokes.

The growing use of these AI tools raises several questions:

- Can AI tools ensure worker safety or do they push workers to work at a dangerous pace?
- Should workers know about AI powered tools monitoring their work?
- Do these AI tools protect against bias and discrimination?
- Should these AI tools be allowed to manage and fire a worker?

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[2] Huddleston, T. Jr. "Bill Gates: Within 10 years, AI will replace many doctors and teachers – humans won't be needed 'for most things.''(March 26, 2025) https://www.cnbc.com/2025/03/26/bill-gates-on-ai-humans-wont-be-needed-for-most-things.html

[3] Alexandra Mateescu, Aiha Nguyen, 2019. Data & Society. "Explainer: Algorithmic Management in the Workplace." https://datasociety.net/wp-content/uploads/2019/02/DS_Algorithmic_Management_Explainer.pdf

[4] Annette Bernhardt, Lisa Kresge, Reem Suleiman, 2021. UC Berkeley Labor Center. "Data and Algorithms at Work: The Case for Worker Technology Rights." https://laborcenter.berkeley.edu/data-algorithms-at-work/

- Who or how are AI decisions monitored and evaluated?
- Do our current regulatory and legal structures protect workers exposed to decisions made by AI tools?
- How much should government regulate the use of these tools?

Now is the time to ensure that as AI enters our workforce, it is used to complement the tasks of a worker – rather than replacing them – without sacrificing worker safety, living wages, and protections against discrimination and abuse.

As noted in the UC Berkeley report, "technology is not inherently bad, but neither is it neutral: the role of workplace regulation is to ensure that technologies serve and respond to workers' interests and to prevent negative impacts. Regulation is all the more important because employers themselves often do not understand the systems they are using. What we need, then, is a new set of 21st century labor standards establishing worker rights and employer responsibilities for the data-driven workplace."[5]

Recent Efforts to Regulate AI and ADSs

Over the last several years, the Legislature has considered a multitude of bills aimed at regulating AI and its use to ensure that the privacy rights of Californians continue to be protected. AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) was a crucial first step in regulating this technology. AB 2885 established key definitions, including a uniform definition for "artificial intelligence," "automated decision system," and "high-risk automated decision system."

Other efforts attempted to regulate the industry by establishing requirements on the use of AI. AB 2930 (Bauer-Kahan, 2024), which died on the Senate inactive file, for example, would have established the right of individuals to know when an ADS is being used, the right to opt out of its use, and an explanation of how it is used. Specifically, the bill would have:

- Required a developer and deployer of such a system that makes or uses these tools to make "consequential decisions" to conduct impact assessments before the system is first deployed and annually thereafter.
- Required the impact assessment to include, among other things, a statement of the purpose of the ADS and its intended benefits, uses, and deployment contexts.
- Required a deployer, prior to an ADS making a consequential decision or being a substantial factor in making a consequential decision, to notify any natural person that is subject to the consequential decision that an ADS is being used and to provide that person with specified information.
- Required a deployer of an ADS used to make a consequential decision concerning a natural person, to provide that person, among other things, with an opportunity to correct any incorrect personal data.

There were several other attempts to regulate the use of AI in 2024, although the focus has mostly been on consumers and their technology rights, whether it be the data social media companies collect and sell or the manipulation of elections news via fake postings. In the area of private sector labor and employment specifically, only one bill has attempted to regulate the use of AI.

[5] Ibid.

SB 1446 (Smallwood-Cuevas, 2024) attempted to address the issue by requiring, among other things, that a grocery retail store or retail drug establishment that intended to implement a consequential workplace technology, as defined, notify workers, their collective bargaining representatives, and the public at least 60 days in advance of the implementation of the technology with a general description of the technology and the intended purpose of the technology, as specified. SB 1446 was held in the Assembly Rules Committee.

This bill [SB 7] would be the first attempt at regulating the use of ADS in the workplace in such a comprehensive way. Several other bills regulating AI are pending this year, including AB 1018 (Bauer-Kahan, 2025) which would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined. Similar to this bill, AB 1018 would require certain notifications to a subject of a consequential decision made or facilitated by a covered ADS, as well as provide the subject with an opportunity to opt out of its use and ability to appeal its outcome.

AB 1221 (Bryan, 2025) would require an employer, at least 30 days before introducing a workplace surveillance tool, as defined, to provide a worker who will be affected with a written notice that includes, among other things, a description of the worker data to be collected, the intended purpose of the workplace surveillance tool, and how this form of worker surveillance is necessary to meet that purpose. Additionally, the bill would prohibit an employer from using certain workplace surveillance tools, including a workplace surveillance tool that incorporates facial, gait, or emotion recognition technology.

Finally, AB 1331 (Elhawary, 2025) would limit the use of workplace surveillance tools, as defined, by employers, including by prohibiting an employer from monitoring or surveilling workers in private, off-duty areas, as specified, and requiring workplace surveillance tools to be disabled during off-duty hours, as specified.

2. Need for this bill?

According to the author:

"Employers are increasingly using automated decision-making systems to surveil, manage, and replace workers in pursuit of maximizing productivity and reducing costs. While the passage of AB 701 (Chapter 197, Statutes of 2021) has prohibited employers from setting productivity demands at the expense of health and safety, "robo-bosses" continue to pose a threat to workers. Unregulated employer use of ADS leaves workers vulnerable to discrimination, lower pay, dangerous working conditions, and high risk of unjust termination.

SB 7 ensures human oversight of automated decision-making systems when making decisions that impact workers' working conditions and livelihoods and increases transparency for workers of the automated systems that are managing their work and making decisions about their employment. SB 7 will prevent the outsourcing of decisions that impact workers' lives to machines. It allows for the use of technology and tools to make workplaces more productive and efficient but ensures human oversight to prevent abuse and mistakes."

3. Proponent Arguments:

According to the sponsors of the measure, the California Federation of Labor Unions:

"Employer use of ADS in the workplace is widespread. One report from a national survey in 2024 found that 40 percent of workers experience some form of automated task management. However, Black and Latino workers report higher rates of automated management technologies in their workplace, with 63 percent of Black and 52 percent of Latino workers versus only 35 percent of White workers subject to automated management.

The pursuit of efficiency by a machine can do serious harm to workers. Eliminating routine tasks and increasing work speeds can lead to fatigue, burn-out, excessive injuries, and other harm, as seen in Amazon warehouses. Amazon uses surveillance and algorithmic management to push workers to work harder, faster, and longer—often automatically firing them if they violate set rules.

In addition to swiftly firing a worker, ADS can also include bias and potentially discriminate based on the pre-set rules that are deemed proprietary to conduct predictive behavior analysis to prevent 'undesirable worker outcomes.' For example, Teramind offers employers with advisory service algorithms to detect potential employee fraud by analyzing information such as a worker's debt history or their spending habits in order to flag a worker as being susceptible to committing fraud and stealing from the company.

In order to protect workers from automated discrimination, SB 7, the No Robot Bosses Act, will ensure human oversight of automated decision-making systems when making decisions affecting a worker's livelihood. SB 7 puts in place pre- and post-use notification to workers of the use of ADS to increase transparency. When an ADS is used to make an employment related decision, the bill establishes a process for workers to appeal the decision and to correct any erroneous data used as input. The bill also prohibits employers from uses of ADS that are potentially discriminatory, invasive, or unproven.

Lastly, SB 7 requires human oversight of decisions made by an ADS to prevent the emergence of Robo-bosses. It requires employers to provide independent, corroborating evidence when employers use an ADS for hiring, firing, promotions, or discipline decisions––those decisions that most impact a worker's life and livelihood.

Technology can be a powerful tool to support and assist workers and managers when proper guardrails are in place. This bill balances innovation with human oversight to identify potential bias, errors, and to prevent management that requires workers to perform like machines."

4. Opponent Arguments:

A coalition of employer organization, including the California Chamber of Commerce, are opposed to the measure arguing:

"The bill broadly targets businesses of all sizes, across every industry, and regulates even low-risk applications of automated decision systems (ADS) or where there is human involvement in a decision in addition to the ADS. Many of the bill's requirements are onerous and impractical, especially when it comes to the use of ADS in hiring. SB 7 would impose significant compliance burdens and any misstep would lead to costly litigation for even the smallest of employers. While we appreciate concerns over employees being disciplined or terminated solely based on automated tools, SB 7 is not tailored to those

scenarios and does not consider the benefits of ADS technology. Unfortunately, we believe SB 7 will have an undesired chilling effect on the technology and make it that much harder to develop the very tools that can help combat bias in decision making."

Below is a summary of the oppositions specific arguments to various provisions of the bill:

- Proposed Section 1527(c)(1) effectively bans any sort of resume filtering software. They argue that these tools increase efficiency, allows them to reduce the time it takes to fill open positions, reduces potential bias and allows them to identify more diverse, underrepresented candidates.
- Under SB 7, a "job applicant" would have the same rights and receive the same notices as current employees. This raises significant concerns including:
  - *Notices:* SB 7 would require employers to send disclosures to every job seeker. A 30-day pre-use notice would be impractical because that effectively creates a one-month waiting period before the company can even run a resume through an ADS, plus it captures every single applicant, of which there may be thousands…. Regarding the post-use notices, that means the employer would be required to send every applicant who did not receive the job a notice which is impractical.
  - *Appeals:* Allowing a right to appeal in the hiring context obviates the usefulness. For example, medium-sized company receives 100 resumes for one position. It is likely that company has only one, maybe two human resources professionals. That person would have to issue individualized notices to all 100 applicants. After the position is filled, they would be required to issue 99 more notices including a 30-day right to appeal a decision about a job *that is now being performed by another person*.
- Proposed Section 1526(a) provides that ADS cannot be used to obtain or infer a variety of information about employees, such as religious or political beliefs, veteran status, health status, and more. Practically speaking, this is not possible. For example, job applicants will have volunteer work, military service, or prior jobs on their resume that will include information about these topics…The Fair Employment and Housing Act (FEHA) very clearly outlines which classes of people are protected from discrimination. If the use of ADS results in unlawful discrimination, employees already have the right to bring a claim under FEHA.
- As a general matter, they do not object to the concept of disclosing information about the use of ADS when that ADS can result in employee discipline or termination. However, they argue that the "indirectly" language implies that the bill also applies to secondary or downstream impacts.
  - They argue that the required notices should be limited to consequential, high-risk decisions such as termination or discipline that directly impact the employee.
- Regarding the information on who developed the ADS, they argue that an employer may not know all of the information required, for example, they may not know what logic is used in the ADS or the names of all individuals, vendors, or entities that created the ADS unless that information is provided by the developer.
- Proposed Section 1527(c)(1) provides that an employer cannot make hiring, promotion, discipline, or termination decisions that rely "primarily" on ADS.
  - They argue that unless a supervisor is micro-managing every one of their employees, many workplaces will rely "primarily" on productivity-type tracking that may fall under the definition of ADS. There are scenarios where a manager is not always present with an employee and therefore must primarily rely on data like consumer ratings or reviews. Relying "primarily" on such data does not mean

there is no human review component to that decision and it should not be treated as such.

- Further, there is concern about a complete ban of the use of ADS to predict behaviors. For example, financial institutions sometimes use ADS for predictive purposes for assessing risk of fraud or other unlawful activities.
- Regarding the use of data for compensation, they want to ensure, for example, that it would not prohibit situations like rewarding top performers based on productivity (although (c)(1) does appear to prohibit this). To the extent this is related to paying workers less based on ADS outputs unrelated to their job performance, existing laws already cover discrimination of this type, such as FEHA or the Equal Pay Act.
- Regarding SB 7's right of access, they argue that given the breadth of the definitions in the bill, the access requirement could result in a high volume of documents and may include information about other employees and/or confidential, proprietary, or privileged information. It is also unclear what it means to "correct" information...the CCPA and accompanying regulations include exceptions as well as make clear that data should only be provided "upon receipt of a verifiable consumer request from the consumer" to prevent bad actors from obtaining private data. They argue that this is also a reason why an "authorized representative" should not be in the definition of "worker" and given this right to access other people's information.
- Regarding SB 7's right of appeal, they argue it just does not make sense given the breadth of circumstances to which SB 7 applies. Every single scheduling decision, for example, would require a post-use notice and could be appealed under this 65-day appeals process. This would grind workplaces to a halt and create unnecessary hurdles to everyday decisions.
    - Even in scenarios where a right for the worker to challenge the decision may be appropriate, it is unrealistic that small businesses can have someone who was not involved at all in the original decision evaluate the appeal. Under SB 7, they would have to contract out with someone to review the appeal, which would be a significant cost.
- The bill's definition of "worker" includes independent contractors, which should be removed from the bill. Contractors are often limited-term workers who are performing a specific job for a company. Their contract will dictate the terms of that job, under what circumstances the relationship may be terminated, and more. They do not need to receive disclosures or have a lengthy appeals process as outlined in SB 7.
- Proposed section 1536(d) describes where a civil action under SB 7 may be brought. It includes a provision that states the civil action may be filed "wherein the *person* resides or transacts business." It is unclear who a "person" is under this subdivision and appears to be more broad than existing California Code of Civil Procedure Section 395 regarding proper venue. We want to ensure that this provision does not broaden the scope of where civil actions can be filed beyond existing venue rules so as not to encourage forum shopping.

5. Staff Comments:

As noted above, AI is being used in new ways not previously contemplated in current law. This bill attempts to curve that use by imposing various requirements and prohibitions on employers' use of an ADS to make employment-related decisions. As previously mentioned, this bill is the first attempt at regulating the use of AI in the workplace. Although this bill includes many provisions, some posing more challenges than others, the reality is that it

starts a conversation around an issue in desperate need of regulation. It is imperative, for the sake of our workers and their livelihoods, that the Legislature take a proactive and measured approach to address the issue.

As conversations on this bill continue, the author and sponsors may wish to consider the following:

- The opposition points out that the use of ADS in hiring can help human resources professionals filter through hundreds or thousands of applications at much faster rates than human workers may be able to. Opposition notes that it would be impractical to require notification of the use of an ADS to all job applicants prior to use and then after use if they were not selected for the position. Furthermore, they argue that the appeal process would also pose a challenge as an applicant would have the opportunity to appeal a decision, correct errors, enlist another individual to review and potentially overturn a decision, in which case the solution may be displacing the person already hired for that position.

  Should the provisions of this bill apply to both current employees and job applicants? Should there be a different process specific to job applicants that takes into account these challenges, specifically around the appeals process?
  Should the notification requirements be limited to only certain employment-related activities, like discipline or termination?

- If the appeal finds that a hiring decision made by an ADS was discriminatory, the bill requires the employer or vendor to rescind the decision, but it does not direct the employer or vendor to stop use of the ADS, or switch to a different ADS.

  Should the bill include direction for employers to stop the use of ADS software if its algorithm is found to be discriminatory?

- With regards to the appeals process, the bill requires the employer or vendor to designate a human reviewer who is required to objectively evaluate all evidence, has sufficient authority, discretion, and resources to evaluate the decision, and has the authority to overturn the decision. The employer cannot designate a person who was involved in the decision that the worker is appealing.

  Should there be an exemption from these requirements for small businesses who may not have multiple HR specialists to do these reviews and would be forced to contract this out to a third party evaluator?

  Regarding the information that a worker can ask to see in order to correct mistakes, should there be special considerations for confidential, proprietary, or privileged information that could be released?

- Regarding the information required to be included in the notices, the bill requires it include the logic used in the ADS, including key parameters that affect the output of the ADS, as well as the names of the individuals, vendors, and entities that created the ADS and the individuals, vendors, and entities that will run, manage, or interpret the results of the ADS.

Should employers be required to include this kind of detail – especially when they may simply be buying a program or contracting for a service, but they may not know which individuals specifically created the ADS?

6. Double Referral:

This bill has been double referred and if approved by this Committee today, will be sent to Senate Judiciary Committee for a hearing.

7. Prior/Related Legislation:

SB 53 (Wiener, 2025) establishes a consortium tasked with developing a framework for a public cloud computing cluster that advances the ethical development and deployment of AI that is safe, ethical, equitable, and sustainable. This bill creates protections for whistleblowers working with specified AI models when reporting on "critical risks" and requires developers to provide processes for anonymous reporting of activities posing such risks. *SB 53 is pending in the Senate Judiciary Committee.*

SB 503 (Weber Pierson, 2025) would require the Department of Health Care Access and Information and the Department of Technology to establish an advisory board related to the use of AI in health care services. Specifically, the bill would require the advisory board to perform specified duties, including, but not limited to, developing a standardized testing system with criteria for developers to test AI models or AI systems for biased impacts. *SB 503 is pending in the Senate Health Committee.*

AB 1018 (Bauer-Kahan, 2025) would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined. Among other things, this bill would require a developer of a covered ADS to conduct performance evaluations of the ADS, require a deployer to provide certain disclosures to a subject of a consequential decision made or facilitated by the ADS, provide the subject an opportunity to opt out of the use of the ADS, provide the subject with an opportunity to appeal the outcome of the consequential decision, and submit the covered ADS to third-party audits, as prescribed. *AB 1018 is pending in the Assembly Privacy and Consumer Protection Committee.*

AB 1221 (Bryan, 2025) would require an employer, at least 30 days before introducing a workplace surveillance tool, as defined, to provide a worker who will be affected with a written notice that includes, among other things, a description of the data to be collected, the intended purpose, and how this form of worker surveillance is necessary to meet that purpose. The bill would prohibit an employer from using certain workplace surveillance tools, including one that incorporates facial, gait, or emotion recognition technology. The bill would require the Labor Commissioner to enforce these provisions, authorize an employee to bring a civil action for violations, and authorize a public prosecutor to enforce the provisions. *AB 1221 is pending in the Assembly Privacy and Consumer Protection Committee.*

AB 1331 (Elhawary, 2025) would limit the use of workplace surveillance tools, as defined, by employers, including by prohibiting an employer from monitoring or surveilling workers in private, off-duty areas, as specified, and requiring workplace surveillance tools to be

disabled during off-duty hours, as specified, and subjects violators to specified penalties. *AB 1331 is pending in the Assembly Privacy and Consumer Protection Committee.*

SB 442 (Smallwood-Cuevas, 2025) would prohibit a grocery retail store or retail drug establishment from providing a self-service checkout option for customers unless specified conditions are met, including that at least one manual checkout station be staffed by an employee. This bill includes specified civil penalties for violations of these provisions and authorizes enforcement by the Division of Labor Standards Enforcement and public prosecutors. *SB 442 is pending in the Senate Judiciary Committee.*

AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) established a uniform definition for "artificial intelligence," "automated decision system," and "high-risk automated decision system" in California law.

AB 2930 (Bauer-Kahan, 2024) would have regulated the use of ADSs in order to prevent "algorithmic discrimination." This includes requirements on developers and deployers that make and use these tools to make "consequential decisions" to perform impact assessments on ADSs. This bill establishes the right of individuals to know when an ADS is being used, the right to opt out of its use, and an explanation of how it is used. *AB 2930 died on the Senate inactive file.*

SB 1446 (Smallwood-Cuevas, 2024) would have prohibited a grocery or retail drug establishment from providing a self-service checkout option for customers unless specified conditions are met. SB 1446 also included a requirement that a grocery retail store or retail drug establishment that intended to implement a consequential workplace technology, as defined, must notify workers, their collective bargaining representatives, and the public at least 60 days in advance of the implementation of the technology with a general description of the technology and the intended purpose of the technology, as specified. SB 1446 also included remedies and penalties for a violation of the bill's provisions, including a civil penalty of $100 for each day in violation, not to exceed an aggregate penalty of $10,000. *SB 1446 was held in the Assembly Rules Committee*.

Several other bills in 2024 addressed related AI issues including: SB 892 (Padilla), SB 893 (Padilla), SB 896 (Dodd), SB 942 (Becker), SB 1047 (Wiener), and AB 2013 (Irwin).

AB 331 (Bauer-Kahan, 2023) would have prohibit "algorithmic discrimination," that is, use of an automated decision tool to contribute to unjustified differential treatment or outcomes that may have a significant effect on a person's life. AB 331 was held under submission in Assembly Appropriations Committee. *AB 331 was held under submission in the Assembly Appropriations Committee.*

AB 302 (Ward, Ch. 800, Stats. 2023) required the California Department of Technology (CDT), in coordination with other interagency bodies, to conduct a comprehensive inventory of all high-risk automated decision systems (ADS) used by state agencies on or before September 1, 2024, and report the findings to the Legislature by January 1, 2025, and annually thereafter, as specified.

AB 701 (Gonzalez, Chapter 197, Statutes of 2021) proposed a series of provisions designed to ensure that the use of job performance quotas at large warehouse facilities do not penalize workers for complying with health and safety standards or taking meal and rest breaks.

Among other things, this bill (1) required warehouse employers to disclose quotas and pace-of-work standards to workers, (2) prohibited employers from counting time that workers spend complying with health and safety laws as "time off task," and (3) required the Labor Commissioner to enforce these provisions.

AB 13 (Chau, 2021) would have established the Automated Decision Systems Accountability Act, which would have promoted oversight over ADS that pose a high risk of adverse impacts on individual rights. *This bill was eventually gutted and amended to address a different topic.*

AB 1576 (Calderon, 2019) would have required the Secretary of Government Operations to appoint participants to an AI working group to evaluate the uses, risks, benefits, and legal implications associated with the development and deployment of AI by California-based businesses. *The bill was held under submission in the Senate Appropriations Committee.*

SUPPORT

California Federation of Labor Unions, AFL-CIO (Sponsor)
American Federation of State, County, & Municipal Employees California
California Alliance for Retired Americans
California Coalition for Worker Power
California Conference Board of The Amalgamated Transit Union
California Conference of Machinists
California Employment Lawyers Association
California Federation of Teachers
California Immigrant Policy Center
California Nurses Association/National Nurses United
California Professional Firefighters
California School Employees Association
California State Legislative Board of The Sheet Metal, Air, Rail and Transportation Workers - Transportation Division (SMART-TD)
California Teamsters Public Affairs Council
Coalition for Humane Immigrant Rights (CHIRLA)
Communications Workers of America, District 9
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
National Union of Healthcare Workers
Northern CA District Council of the International Longshore and Warehouse Union
Service Employees International Union, California State Council
Surveillance Resistance Lab
TechEquity Action
UNITE HERE, AFL-CIO
UNITE HERE, Local 11
United Food and Commercial Workers, Western States Council
Utility Workers Union of America
Worksafe

OPPOSITION

Acclamation Insurance Management Services
Allied Managed Care
Associated General Contractors of California
Associated General Contractors - San Diego Chapter
California Apartment Association
California Association of Winegrape Growers
California Chamber of Commerce
California Credit Union League
California Grocers Association
California Hospital Association
California League of Food Producers
California Retailers Association
Carlsbad Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Corona Chamber of Commerce
Flasher Barricade Association
Gilroy Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Insights Association
Lake Elsinore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Mission Viejo Chamber of Commerce
Oceanside Chamber of Commerce
Public Risk Innovation, Solutions, and Management (PRISM)
Roseville Area Chamber of Commerce
San Diego Regional Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Security Industry Association
TechNet
Valley Industry and Commerce Association

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