

AMENDED IN ASSEMBLY MARCH 16, 2026

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 2321

Introduced by Assembly Member Ortega
(Coauthors: Assembly Members Kalra and Lee)

February 19, 2026

An act to amend ~~Section 6315~~ Sections 62.5, 6315, and 6315.3 of the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL’S DIGEST

AB 2321, as amended, Ortega. Bureau of Investigations.

Existing law makes the Bureau of Investigations within the Division of Occupational Safety and Health responsible for directing accident investigations involving violations of laws, standards, and orders in which there is a serious injury, death, or request for prosecution by a division representative, reviewing inspection reports involving a serious violation if there have been serious injuries or a serious exposure, and preparing cases for the purpose of prosecution, as specified. Existing law requires the bureau to refer the results of investigations it is required to conduct to the appropriate prosecuting authority having jurisdiction for appropriate action unless it determines that there is legally insufficient evidence of a violation of the law.

~~This bill would make nonsubstantive changes in the provisions described above relating to the responsibilities of the Bureau of Investigations.~~

This bill would require the bureau to establish written policies and procedures for the process of reviewing cases and whether to investigate or refer them for prosecution. The bill would, upon appropriation of sufficient funding, remove the bureau’s investigation responsibility for

violations in which there is a death or permanent total disability, as defined, and would instead require the appropriate prosecuting authority to be responsible for directing those investigations, as specified. The bill would require the division to notify the prosecuting authority and provide information to the authority, as specified. The bill would authorize the Occupational Safety and Health Fund or the Labor and Workforce Development Fund to be expended by the prosecuting authorities, upon appropriation, for the support of these investigatory activities. By imposing new responsibilities on prosecuting authorities, this bill would impose a state-mandated local program.

Existing law requires the bureau to submit an annual report to the division on its activities.

This bill would additionally require the report to be submitted to the Legislature and to include information relating to job classifications and vacancies within the bureau.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 62.5 of the Labor Code is amended to
- 2 read:
- 3 62.5. (a) (1) The Workers' Compensation Administration
- 4 Revolving Fund is hereby created as a special account in the State
- 5 Treasury. Money in the fund may be expended by the department,
- 6 upon appropriation by the Legislature, for all of the following
- 7 purposes, and may not be used or borrowed for any other purpose:
- 8 (A) For the administration of the workers' compensation
- 9 program set forth in this division and Division 4 (commencing
- 10 with Section 3200), other than the activities financed pursuant to
- 11 paragraph (2) of subdivision (a) of Section 3702.5.
- 12 (B) For the Return-to-Work Program set forth in Section 139.48.

1 (C) For the enforcement of the insurance coverage program
2 established and maintained by the Labor Commissioner pursuant
3 to Section 90.3.

4 (2) The fund shall consist of surcharges made pursuant to
5 subparagraph (A) of paragraph (1) of subdivision (f).

6 (b) (1) The Uninsured Employers Benefits Trust Fund is hereby
7 created as a special trust fund account in the State Treasury, of
8 which the director is trustee, and its sources of funds are as
9 provided in subparagraph (A) of paragraph (1) of subdivision (f).
10 Notwithstanding Section 13340 of the Government Code, the fund
11 is continuously appropriated for the payment of nonadministrative
12 expenses of the workers' compensation program for workers
13 injured while employed by uninsured employers in accordance
14 with Article 2 (commencing with Section 3710) of Chapter 4 of
15 Part 1 of Division 4, and shall not be used for any other purpose.
16 All moneys collected shall be retained in the trust fund until paid
17 as benefits to workers injured while employed by uninsured
18 employers. Nonadministrative expenses include audits and reports
19 of services prepared pursuant to subdivision (b) of Section 3716.1.
20 The surcharge amount for this fund shall be stated separately.

21 (2) Notwithstanding any other provision of law, all references
22 to the Uninsured Employers Fund shall mean the Uninsured
23 Employers Benefits Trust Fund.

24 (3) Notwithstanding paragraph (1), in the event that budgetary
25 restrictions or impasse prevent the timely payment of administrative
26 expenses from the Workers' Compensation Administration
27 Revolving Fund, those expenses shall be advanced from the
28 Uninsured Employers Benefits Trust Fund. Expense advances
29 made pursuant to this paragraph shall be reimbursed in full to the
30 Uninsured Employers Benefits Trust Fund upon enactment of the
31 annual Budget Act.

32 (4) Any moneys from penalties collected pursuant to Section
33 3722 as a result of the insurance coverage program established
34 under Section 90.3 shall be deposited in the State Treasury to the
35 credit of the Workers' Compensation Administration Revolving
36 Fund created under this section, to cover expenses incurred by the
37 director under the insurance coverage program. The amount of
38 any penalties in excess of payment of administrative expenses
39 incurred by the director for the insurance coverage program
40 established under Section 90.3 shall be deposited in the State

1 Treasury to the credit of the Uninsured Employers Benefits Trust
2 Fund for nonadministrative expenses, as prescribed in paragraph
3 (1), and notwithstanding paragraph (1), shall only be available
4 upon appropriation by the Legislature.

5 (c) (1) The Subsequent Injuries Benefits Trust Fund is hereby
6 created as a special trust fund account in the State Treasury, of
7 which the director is trustee, and its sources of funds are as
8 provided in subparagraph (A) of paragraph (1) of subdivision (f).
9 Notwithstanding Section 13340 of the Government Code, the fund
10 is continuously appropriated for the nonadministrative expenses
11 of the workers' compensation program for workers who have
12 suffered serious injury and who are suffering from previous and
13 serious permanent disabilities or physical impairments, in
14 accordance with Article 5 (commencing with Section 4751) of
15 Chapter 2 of Part 2 of Division 4, and Section 4 of Article XIV of
16 the California Constitution, and shall not be used for any other
17 purpose. All moneys collected shall be retained in the trust fund
18 until paid as benefits to workers who have suffered serious injury
19 and who are suffering from previous and serious permanent
20 disabilities or physical impairments. Nonadministrative expenses
21 include audits and reports of services pursuant to subdivision (c)
22 of Section 4755. The surcharge amount for this fund shall be stated
23 separately.

24 (2) Notwithstanding any other law, all references to the
25 Subsequent Injuries Fund shall mean the Subsequent Injuries
26 Benefits Trust Fund.

27 (3) Notwithstanding paragraph (1), in the event that budgetary
28 restrictions or impasse prevent the timely payment of administrative
29 expenses from the Workers' Compensation Administration
30 Revolving Fund, those expenses shall be advanced from the
31 Subsequent Injuries Benefits Trust Fund. Expense advances made
32 pursuant to this paragraph shall be reimbursed in full to the
33 Subsequent Injuries Benefits Trust Fund upon enactment of the
34 annual Budget Act.

35 (d) (1) The Occupational Safety and Health Fund is hereby
36 created as a special account in the State Treasury. Moneys in the
37 account may be expended by the department, upon appropriation
38 by the Legislature, for support of the Division of Occupational
39 Safety and Health, the Occupational Safety and Health Standards
40 Board, and the Occupational Safety and Health Appeals Board,

1 and the activities these entities perform as set forth in this division,
2 and Division 5 (commencing with Section 6300). *Moneys in the*
3 *account or in the Labor and Workforce Development Fund may*
4 *also be expended by appropriate prosecuting authorities, upon*
5 *appropriation by the Legislature, for support of the activities these*
6 *entities perform as set forth in Section 6315.*

7 (2) On and after the effective date of the act amending this
8 section to add this paragraph in the 2013–14 Regular Session of
9 the Legislature, any moneys in the Cal-OSHA Targeted Inspection
10 and Consultation Fund and any assets, liabilities, revenues,
11 expenditures, and encumbrances of that fund, less five million
12 dollars (\$5,000,000), shall be transferred to the Occupational Safety
13 and Health Fund. On June 30, 2014, the remaining five million
14 dollars (\$5,000,000) in the Cal-OSHA Targeted Inspection and
15 Consultation Fund, or any remaining balance in that fund, shall
16 be transferred to, and become part of, the Occupational Safety and
17 Health Fund.

18 (e) The Labor Enforcement and Compliance Fund is hereby
19 created as a special account in the State Treasury. Moneys in the
20 fund may be expended by the department, upon appropriation by
21 the Legislature, for the support of the activities that the Division
22 of Labor Standards Enforcement performs pursuant to this division
23 and Division 2 (commencing with Section 200), Division 3
24 (commencing with Section 2700), and Division 4 (commencing
25 with Section 3200).

26 (f) (1) (A) Separate surcharges shall be levied by the director
27 upon all employers, as defined in Section 3300, for purposes of
28 deposit in the Workers' Compensation Administration Revolving
29 Fund, the Uninsured Employers Benefits Trust Fund, the
30 Subsequent Injuries Benefits Trust Fund, and the Occupational
31 Safety and Health Fund. The total amount of the surcharges shall
32 be allocated between self-insured employers and insured employers
33 in proportion to payroll respectively paid in the most recent year
34 for which payroll information is available. The director shall adopt
35 reasonable regulations governing the manner of collection of the
36 surcharges. The regulations shall require the surcharges to be paid
37 by self-insurers to be expressed as a percentage of indemnity paid
38 during the most recent year for which information is available,
39 and the surcharges to be paid by insured employers to be expressed
40 as a percentage of premium. In no event shall the surcharges paid

1 by insured employers be considered a premium for computation
2 of a gross premium tax or agents' commission. In no event shall
3 the total amount of the surcharges paid by insured and self-insured
4 employers exceed the amounts reasonably necessary to carry out
5 the purposes of this section.

6 (B) Assessments shall be levied by the director upon all
7 employers, as defined in Section 3300, as necessary, to collect the
8 aggregate amount determined by the Fraud Assessment
9 Commission pursuant to Section 1872.83 of the Insurance Code.
10 Revenues derived from the assessments shall be deposited in the
11 Workers' Compensation Fraud Account in the Insurance Fund and
12 shall only be expended, upon appropriation by the Legislature, for
13 the investigation and prosecution of workers' compensation fraud
14 and the willful failure to secure payment of workers' compensation,
15 as prescribed by Section 1872.83 of the Insurance Code. The total
16 amount of the assessment shall be allocated between self-insured
17 employers and insured employers in proportion to payroll
18 respectively paid in the most recent year for which payroll
19 information is available. The director shall promulgate reasonable
20 rules and regulations governing the manner of collection of the
21 assessment. The rules and regulations shall require the assessment
22 to be paid by self-insurers to be expressed as a percentage of
23 indemnity paid during the most recent year for which information
24 is available, and the assessment to be paid by insured employers
25 to be expressed as a percentage of premium. In no event shall the
26 assessment paid by insured employers be considered a premium
27 for computation of a gross premium tax or agents' commission.

28 (2) The surcharge levied by the director for the Occupational
29 Safety and Health Fund, pursuant to subparagraph (A) of paragraph
30 (1), shall not generate revenues in excess of fifty-seven million
31 dollars (\$57,000,000) on and after the 2013–14 fiscal year, adjusted
32 for each fiscal year as appropriate to fund any increases in the
33 appropriation as approved by the Legislature, and to reconcile any
34 over/under assessments from previous fiscal years pursuant to
35 Sections 15606 and 15609 of Title 8 of the California Code of
36 Regulations. For the 2013–14 fiscal year only, the revenue cap
37 established in this paragraph shall be reduced by an amount
38 equivalent to the balance transferred from the Cal-OSHA Targeted
39 Inspection and Consultation Fund established in Section 62.7, less
40 any amount of that balance loaned to the State Public Works

Enforcement Fund, to the Occupational Safety and Health Fund pursuant to subdivision (d).

(3) A separate surcharge shall be levied by the director upon all employers, as defined in Section 3300, for purposes of deposit in the Labor Enforcement and Compliance Fund. The total amount of the surcharges shall be allocated between employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall adopt reasonable regulations governing the manner of collection of the surcharges. In no event shall the total amount of the surcharges paid by employers exceed the amounts reasonably necessary to carry out the purposes of this section.

(4) The surcharge levied by the director for the Labor Enforcement and Compliance Fund shall not exceed forty-six million dollars (\$46,000,000) in the 2013–14 fiscal year, adjusted as appropriate to fund any increases in the appropriation as approved by the Legislature, and to reconcile any over/under assessments from previous fiscal years pursuant to Sections 15606 and 15609 of Title 8 of the California Code of Regulations.

(5) The regulations adopted pursuant to paragraph (1) to (4), inclusive, shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SECTION 1.

SEC. 2. Section 6315 of the Labor Code is amended to read:

6315. (a) There is within the division a Bureau of Investigations. ~~The~~ *Except as provided in subdivision (j), the* bureau is responsible for directing accident investigations involving violations of standards, orders, special orders, or Section 25910 of the Health and Safety Code, in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative. The bureau shall review inspection reports involving a serious violation if there have been serious injuries to one to four employees or a serious exposure, and may investigate those cases in which the bureau finds criminal violations may have occurred. The bureau is responsible for preparing cases for the purpose of prosecution, including evidence and findings.

(b) The division shall provide the bureau with all of the following:

1 (1) All initial accident reports.

2 (2) The division's inspection report for any inspection involving
3 ~~a serious violation if there is a fatality, and the report is reports~~
4 necessary for the bureau's review *or investigation* required pursuant
5 to subdivision (a).

6 (3) Any other documents in the possession of the division
7 requested by the bureau for its review or investigation of any case
8 or that the division determines will be helpful to the bureau in its
9 investigation of the case.

10 (c) The supervisor of the bureau is the administrative chief of
11 the bureau, and shall be an attorney.

12 (d) The bureau shall be staffed by as many attorneys and
13 investigators as are necessary to carry out the purposes of this
14 chapter. To the extent possible, the attorneys and investigators
15 shall be experienced in criminal law.

16 (e) The supervisor of the bureau and bureau representatives
17 designated by the supervisor have a right of access to all places of
18 employment necessary to the investigation, may collect any
19 evidence or samples they deem necessary to an investigation, and
20 have all of the powers enumerated in Section 6314.

21 (f) The supervisor of the bureau and bureau representatives
22 designated by the supervisor may serve all processes and notices
23 throughout the state.

24 (g) In any case in which the bureau is required to conduct an
25 investigation, and in which there is a serious injury or death, the
26 results of the investigation shall be referred in a timely manner by
27 the bureau to the appropriate prosecuting authority having
28 jurisdiction for appropriate action, unless the bureau determines
29 that there is legally insufficient evidence of a violation of the law.
30 If the bureau determines that there is legally insufficient evidence
31 of a violation of the law, the bureau shall notify the appropriate
32 prosecuting authority, if the prosecuting authority requests notice.

33 (h) The bureau may communicate with the appropriate
34 prosecuting authority at any time the bureau deems appropriate.

35 (i) Upon the request of a county district attorney, the department
36 may develop a protocol for the referral of cases that may involve
37 criminal conduct to the appropriate prosecuting authority in lieu
38 of or in cooperation with an investigation by the bureau. The
39 protocol shall provide for the voluntary acceptance of referrals
40 after a review of the case by the prosecuting authority. In cases

accepted for investigation by the prosecuting authority, the protocol shall provide for cooperation between the prosecuting authority, the division, and the bureau. If a referral is declined by the prosecuting authority, the bureau shall comply with subdivisions (a) to (h), inclusive.

(j) (1) *For any accident involving a violation of standards, orders, special orders, or Section 25910 of the Health and Safety Code that results in a death of or a permanent total disability to one or more employees, the appropriate prosecuting authority is responsible for directing accident investigations and for preparing cases for the purpose of prosecution. The division shall timely notify the appropriate prosecuting authority of that accident and shall provide the prosecuting authority with all of the following:*

(A) *All initial accident reports.*

(B) *Any inspection report for an inspection involving a serious violation where there is a fatality or that results in a permanent total disability to one or more employees.*

(C) *Any other division report necessary for the prosecuting authority's investigation.*

(D) *Any other document in the possession of the division that is requested by the prosecuting authority for its review or investigation or that the division determines will be helpful to the prosecuting authority in its investigation of the case.*

(2) *For purposes of this subdivision, "permanent total disability" has the same meaning as described in Section 4662.*

(3) *This subdivision shall become operative upon appropriation by the Legislature of sufficient funding for this purpose.*

(k) *The bureau shall establish written policies and procedures for the process of reviewing cases and deciding whether to investigate or refer them for prosecution, including, but not limited to, a requirement that the bureau documents a rationale for why it has decided not to investigate or not to refer each case.*

(l) *The division shall establish a routine or automated process for transmitting information to the bureau about accident cases with nonfatal injuries so that the bureau can review them pursuant to this section.*

SEC. 3. *Section 6315.3 of the Labor Code is amended to read:*

6315.3. *The bureau shall, not later than February 15, annually submit to the division for submission to the ~~director~~ director, and to the Legislature pursuant to Section 9795 of the Government*

1 *Code*, a report on the activities of the bureau, including, but not
2 limited to, the following:

3 (a) Totals of each type of report provided the bureau under each
4 category in subdivision (b) of Section 6315.

5 (b) Totals of each type of case reflecting the number of
6 investigations and court cases in progress at the start of the calendar
7 year being reported, investigations completed in the calendar year,
8 cases referred to appropriate prosecuting authorities in the calendar
9 year, and investigations and court cases in progress at the end of
10 the calendar year. The types of cases shall include the following:

11 (1) Those that the bureau is required to investigate, divided into
12 fatalities, serious injuries to five or more employees, and requests
13 for prosecution from a division representative.

14 (2) Those that were initiated by the bureau following the review
15 required in subdivision (a) of Section 6315, divided into serious
16 injuries to fewer than five employees and serious exposures.

17 (c) A summary of the dispositions in the calendar year of cases
18 referred by the bureau to appropriate prosecuting authorities. The
19 summary shall be divided into the types of cases, as described in
20 subdivision (b), and shall show at least the violation, the statute
21 for which the case was referred for prosecution, and the dates of
22 referral to the bureau for investigation, referral from the bureau
23 for prosecution, and the final court action if the case was
24 prosecuted.

25 (d) A summary of investigations completed in the calendar year
26 that did not result in a referral for prosecution, divided into the
27 types of cases as described in subdivision (b), showing the violation
28 and the reasons for nonreferral.

29 (e) A summary of the use of the bureau's resources in
30 accomplishing the bureau's mission.

31 (f) *The total vacancy rate for bureau positions, each job*
32 *classification in the prior fiscal year, and any additional positions*
33 *needed to carry out the bureau's duties.*

34 *SEC. 4. If the Commission on State Mandates determines that*
35 *this act contains costs mandated by the state, reimbursement to*
36 *local agencies and school districts for those costs shall be made*
37 *pursuant to Part 7 (commencing with Section 17500) of Division*
38 *4 of Title 2 of the Government Code.*

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2 REVISIONS:
3 Heading—Line 2.
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