

AMENDED IN SENATE JUNE 29, 2026

AMENDED IN SENATE JUNE 16, 2026

AMENDED IN ASSEMBLY MAY 18, 2026

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 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 establishes the Department of Industrial Relations, which includes the Division of Occupational Safety and Health. 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 to 5 or more employees, death, or request for prosecution by a division representative. Existing law requires the bureau to review inspection reports involving a serious violation if there have been serious injuries to one to 4 employees or a serious exposure, and authorizes the bureau to investigate 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 require the bureau to establish written policies and procedures for the process of reviewing cases and deciding whether to investigate or refer them for prosecution. The bill would also require the division to establish a routine or automated process for transmitting information to the bureau about incidents with nonfatal injuries so that the bureau can review them.

Existing law authorizes the department, upon the request of a county district attorney, to develop a protocol for the referral of cases that may involve criminal conduct to the appropriate prosecuting authority in lieu of or in cooperation with an investigation by the bureau.

This bill would require the bureau to immediately notify the appropriate prosecuting authority upon learning of an incident in which there is a serious injury to 5 or more employees, death, or request for prosecution by a division representative. The bill would delete the above-described provisions regarding developing a protocol and would instead authorize the department, upon request of an appropriate prosecuting authority, to refer cases that may involve criminal conduct to the appropriate prosecuting authority, as specified. The bill would require the bureau, in cases accepted for investigation, to cooperate with the prosecuting authority and the division.

For an incident in the County of Alameda or the County of Santa Clara resulting in a death, the bill would require the Alameda County District Attorney or the Santa Clara County District Attorney, based on the county in which the incident occurred, until January 1, 2032, to investigate and prepare cases for ~~prosecution~~, *prosecution and submit a specified report to the Legislature*, subject to an appropriation by the Legislature of sufficient funding for this purpose. The bill would also require the division to immediately notify the Alameda County District Attorney or the Santa Clara County District Attorney and provide it with certain relevant information about the incident. The bill would make other related and conforming changes to these provisions. The bill would also authorize moneys in the Occupational Safety and Health Fund or the Labor and Workforce Development Fund to be expended by the Alameda County District Attorney or the Santa Clara County District Attorney, upon appropriation, for the support of these investigatory activities. By imposing new responsibilities on local officials, 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.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Alameda and the County of Santa Clara.

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: yes.
State-mandated local program: 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.
13 (C) For the enforcement of the insurance coverage program
14 established and maintained by the Labor Commissioner pursuant
15 to Section 90.3.
16 (2) The fund shall consist of surcharges made pursuant to
17 subparagraph (A) of paragraph (1) of subdivision (f).
18 (b) (1) The Uninsured Employers Benefits Trust Fund is hereby
19 created as a special trust fund account in the State Treasury, of
20 which the director is trustee, and its sources of funds are as

1 provided in subparagraph (A) of paragraph (1) of subdivision (f).
2 Notwithstanding Section 13340 of the Government Code, the fund
3 is continuously appropriated for the payment of nonadministrative
4 expenses of the workers' compensation program for workers
5 injured while employed by uninsured employers in accordance
6 with Article 2 (commencing with Section 3710) of Chapter 4 of
7 Part 1 of Division 4, and shall not be used for any other purpose.
8 All moneys collected shall be retained in the trust fund until paid
9 as benefits to workers injured while employed by uninsured
10 employers. Nonadministrative expenses include audits and reports
11 of services prepared pursuant to subdivision (b) of Section 3716.1.
12 The surcharge amount for this fund shall be stated separately.

13 (2) Notwithstanding any other provision of law, all references
14 to the Uninsured Employers Fund shall mean the Uninsured
15 Employers Benefits Trust Fund.

16 (3) Notwithstanding paragraph (1), in the event that budgetary
17 restrictions or impasse prevent the timely payment of administrative
18 expenses from the Workers' Compensation Administration
19 Revolving Fund, those expenses shall be advanced from the
20 Uninsured Employers Benefits Trust Fund. Expense advances
21 made pursuant to this paragraph shall be reimbursed in full to the
22 Uninsured Employers Benefits Trust Fund upon enactment of the
23 annual Budget Act.

24 (4) Any moneys from penalties collected pursuant to Section
25 3722 as a result of the insurance coverage program established
26 under Section 90.3 shall be deposited in the State Treasury to the
27 credit of the Workers' Compensation Administration Revolving
28 Fund created under this section, to cover expenses incurred by the
29 director under the insurance coverage program. The amount of
30 any penalties in excess of payment of administrative expenses
31 incurred by the director for the insurance coverage program
32 established under Section 90.3 shall be deposited in the State
33 Treasury to the credit of the Uninsured Employers Benefits Trust
34 Fund for nonadministrative expenses, as prescribed in paragraph
35 (1), and notwithstanding paragraph (1), shall only be available
36 upon appropriation by the Legislature.

37 (c) (1) The Subsequent Injuries Benefits Trust Fund is hereby
38 created as a special trust fund account in the State Treasury, of
39 which the director is trustee, and its sources of funds are as
40 provided in subparagraph (A) of paragraph (1) of subdivision (f).

Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the nonadministrative expenses of the workers' compensation program for workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments, in accordance with Article 5 (commencing with Section 4751) of Chapter 2 of Part 2 of Division 4, and Section 4 of Article XIV of the California Constitution, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments. Nonadministrative expenses include audits and reports of services pursuant to subdivision (c) of Section 4755. The surcharge amount for this fund shall be stated separately.

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

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

(d) (1) The Occupational Safety and Health Fund is hereby created as a special account in the State Treasury. Moneys in the account may be expended by the department, upon appropriation by the Legislature, for support of the Division of Occupational Safety and Health, the Occupational Safety and Health Standards Board, and the Occupational Safety and Health Appeals Board, and the activities these entities perform as set forth in this division, and Division 5 (commencing with Section 6300). Moneys in the account or in the Labor and Workforce Development Fund may also be expended by the Alameda County District Attorney and the Santa Clara County District Attorney, upon appropriation by the Legislature, for support of the activities the Alameda County District Attorney and the Santa Clara County District Attorney perform as set forth in Section 6315.

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

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

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

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

(2) The surcharge levied by the director for the Occupational Safety and Health Fund, pursuant to subparagraph (A) of paragraph (1), shall not generate revenues in excess of fifty-seven million dollars (\$57,000,000) on and after the 2013–14 fiscal year, adjusted for each fiscal year 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. For the 2013–14 fiscal year only, the revenue cap established in this paragraph shall be reduced by an amount equivalent to the balance transferred from the Cal-OSHA Targeted Inspection and Consultation Fund established in Section 62.7, less 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

1 of the surcharges shall be allocated between employers in
2 proportion to payroll respectively paid in the most recent year for
3 which payroll information is available. The director shall adopt
4 reasonable regulations governing the manner of collection of the
5 surcharges. In no event shall the total amount of the surcharges
6 paid by employers exceed the amounts reasonably necessary to
7 carry out the purposes of this section.

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

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

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

21 6315. (a) There is within the division a Bureau of
22 Investigations. Except as provided in subdivision (j), the bureau
23 shall immediately investigate violations of standards, orders,
24 special orders, or Section 25910 of the Health and Safety Code,
25 in which there is a serious injury to five or more employees, death,
26 or request for prosecution by a division representative. The bureau
27 shall immediately review inspection reports involving a serious
28 violation if there have been serious injuries to one to four
29 employees or a serious exposure, and shall investigate those cases
30 in which the bureau finds criminal violations may have occurred.
31 The bureau shall prepare cases for the purpose of prosecution,
32 including evidence and findings.

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

35 (1) All initial incident reports.

36 (2) The division's inspection reports necessary for the bureau's
37 review or investigation required pursuant to subdivision (a).

38 (3) Any other documents in the possession of the division
39 requested by the bureau for its review or investigation of any case

1 or that the division determines will be helpful to the bureau in its
2 investigation of the case.

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

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

9 (e) The supervisor of the bureau and bureau representatives
10 designated by the supervisor have a right of access to all places of
11 employment necessary to the investigation, may collect any
12 evidence or samples they deem necessary to an investigation, and
13 have all of the powers enumerated in Section 6314.

14 (f) The supervisor of the bureau and bureau representatives
15 designated by the supervisor may serve all processes and notices
16 throughout the state.

17 (g) In any case in which the bureau is required to conduct an
18 investigation, and in which there is a serious injury or death, the
19 results of the investigation shall be immediately referred by the
20 bureau to the appropriate prosecuting authority having jurisdiction
21 for appropriate action, unless the bureau determines that there is
22 legally insufficient evidence of a violation of the law. If the bureau
23 determines that there is legally insufficient evidence of a violation
24 of the law, the bureau shall immediately notify the appropriate
25 prosecuting authority.

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

28 (i) The bureau shall immediately notify the appropriate
29 prosecuting authority upon learning of an incident in which there
30 is a serious injury to five or more employees, death, or request for
31 prosecution by a division representative. Upon the request of an
32 appropriate prosecuting authority, the department may refer cases
33 that may involve criminal conduct to the appropriate prosecuting
34 authority in lieu of or in cooperation with an investigation by the
35 bureau. In cases accepted for investigation by the prosecuting
36 authority, the bureau shall cooperate with the prosecuting authority
37 and the division. If a referral is declined by the prosecuting
38 authority, the bureau shall comply with subdivisions (a) to (h),
39 inclusive.

(j) (1) For any incident in the County of Alameda or the County of Santa Clara involving a violation of standards, orders, special orders, or Section 25910 of the Health and Safety Code that results in a death, the Alameda County District Attorney or the Santa Clara County District Attorney, based on the county in which the incident occurred, shall investigate and prepare cases for the purpose of prosecution. The division shall immediately notify the Alameda County District Attorney or the Santa Clara County District Attorney of that incident and shall immediately provide the Alameda County District Attorney or the Santa Clara County District Attorney with all of the following:

(A) All initial incident reports.

(B) Any inspection report for an inspection involving a serious violation where there is a death.

(C) Any other division report necessary for the Alameda County District Attorney's or the Santa Clara County District Attorney's investigation.

(D) Any other document in the possession of the division that is requested by the Alameda County District Attorney or the Santa Clara County District Attorney for its review or investigation or that the division determines will be helpful to the Alameda County District Attorney or the Santa Clara County District Attorney in its investigation of the case.

(2) The Alameda County District Attorney or the Santa Clara County District Attorney, based on the county in which the incident occurred, shall report to the incident scene within a reasonable time. The bureau is authorized to report to the incident scene but, in any case fitting the criteria of paragraph (1), the Alameda County District Attorney or the Santa Clara County District Attorney shall be responsible for directing the incident investigation.

(3) *The Alameda County District Attorney and the Santa Clara County District Attorney shall, by January 1, 2031, separately submit to the Legislature a report that includes, at a minimum, a summary of each of the investigations conducted pursuant to their authority in this subdivision, as well as information about case outcomes, including whether those cases were ultimately prosecuted. The Alameda County District Attorney and the Santa Clara County District Attorney shall file their separate reports in compliance with Section 9795 of the Government Code.*

(3)

1 (4) This subdivision shall become operative upon appropriation
2 by the Legislature of sufficient funding for this purpose.

3 ~~(4)~~

4 (5) This subdivision shall remain in effect only until January 1,
5 2032, and, as of that date, is inoperative.

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

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

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

16 6315.3. The bureau shall, not later than February 15, annually
17 submit to the division for submission to the director, and to the
18 Legislature pursuant to Section 9795 of the Government Code, a
19 report on the activities of the bureau, including, but not limited to,
20 the following:

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

23 (b) Totals of each type of case reflecting the number of
24 investigations and court cases in progress at the start of the calendar
25 year being reported, investigations completed in the calendar year,
26 cases referred to appropriate prosecuting authorities in the calendar
27 year, and investigations and court cases in progress at the end of
28 the calendar year. The types of cases shall include the following:

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

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

35 (c) A summary of the dispositions in the calendar year of cases
36 referred by the bureau to appropriate prosecuting authorities. The
37 summary shall be divided into the types of cases, as described in
38 subdivision (b), and shall show at least the violation, the statute
39 for which the case was referred for prosecution, and the dates of
40 referral to the bureau for investigation, referral from the bureau

1 for prosecution, and the final court action if the case was
2 prosecuted.

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

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

9 (f) The total number of vacancies for bureau positions, each job
10 classification in the prior fiscal year, and any additional positions
11 needed to carry out the bureau's duties.

12 SEC. 4. The Legislature finds and declares, with respect to
13 Sections 1 and 2 of this act, that a special statute is necessary and
14 that a general statute cannot be made applicable within the meaning
15 of Section 16 of Article IV of the California Constitution because
16 of the unique circumstances facing the County of Alameda and
17 the County of Santa Clara.

18 SEC. 5. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.