

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 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~~, *injury to 5 or more employees*, death, or request for prosecution by a division ~~representative~~, *reviewing 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 preparing 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, 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~~ would also require the division to establish a routine or automated process for transmitting information to the bureau about accidents with nonfatal injuries so that the bureau can review them.

For an accident in the County of Alameda or the County of Santa Clara resulting in a death or permanent total disability of one or more employees, the bill would make the Alameda County District Attorney or the Santa Clara County District Attorney, based on the county in which the accident occurred, until January 1, 2032, responsible for directing accident investigations and preparing cases for prosecution, subject to an appropriation by the Legislature of sufficient funding for this purpose. The bill would also require the division to immediately notify the prosecuting authority and provide information to the authority, ~~as specified. Alameda County District Attorney or the Santa Clara County District Attorney and provide it with certain relevant information about the accident.~~ The bill would authorize moneys in the Occupational Safety and Health Fund or the Labor and Workforce Development Fund to be expended by the ~~prosecuting authorities, 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 ~~prosecuting authorities, 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
21 provided in subparagraph (A) of paragraph (1) of subdivision (f).
22 Notwithstanding Section 13340 of the Government Code, the fund
23 is continuously appropriated for the payment of nonadministrative
24 expenses of the workers' compensation program for workers
25 injured while employed by uninsured employers in accordance
26 with Article 2 (commencing with Section 3710) of Chapter 4 of
27 Part 1 of Division 4, and shall not be used for any other purpose.
28 All moneys collected shall be retained in the trust fund until paid
29 as benefits to workers injured while employed by uninsured
30 employers. Nonadministrative expenses include audits and reports
31 of services prepared pursuant to subdivision (b) of Section 3716.1.
32 The surcharge amount for this fund shall be stated separately.

(2) Notwithstanding any other provision of law, all references to the Uninsured Employers Fund shall mean the Uninsured Employers 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 Uninsured Employers Benefits Trust Fund. Expense advances made pursuant to this paragraph shall be reimbursed in full to the Uninsured Employers Benefits Trust Fund upon enactment of the annual Budget Act.

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

(c) (1) The Subsequent Injuries Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as 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

1 include audits and reports of services pursuant to subdivision (c)
2 of Section 4755. The surcharge amount for this fund shall be stated
3 separately.

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

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

15 (d) (1) The Occupational Safety and Health Fund is hereby
16 created as a special account in the State Treasury. Moneys in the
17 account may be expended by the department, upon appropriation
18 by the Legislature, for support of the Division of Occupational
19 Safety and Health, the Occupational Safety and Health Standards
20 Board, and the Occupational Safety and Health Appeals Board,
21 and the activities these entities perform as set forth in this division,
22 and Division 5 (commencing with Section 6300). Moneys in the
23 account or in the Labor and Workforce Development Fund may
24 also be expended by ~~appropriate prosecuting authorities, the~~
25 *Alameda County District Attorney and the Santa Clara County*
26 *District Attorney*, upon appropriation by the Legislature, for support
27 of the activities ~~these entities perform the Alameda County District~~
28 *Attorney and the Santa Clara County District Attorney perform*
29 as set forth in Section 6315.

30 (2) On and after the effective date of the act amending this
31 section to add this paragraph in the 2013–14 Regular Session of
32 the Legislature, any moneys in the Cal-OSHA Targeted Inspection
33 and Consultation Fund and any assets, liabilities, revenues,
34 expenditures, and encumbrances of that fund, less five million
35 dollars (\$5,000,000), shall be transferred to the Occupational Safety
36 and Health Fund. On June 30, 2014, the remaining five million
37 dollars (\$5,000,000) in the Cal-OSHA Targeted Inspection and
38 Consultation Fund, or any remaining balance in that fund, shall
39 be transferred to, and become part of, the Occupational Safety and
40 Health Fund.

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

(f) (1) (A) Separate surcharges shall be levied by the director upon all employers, as defined in Section 3300, for purposes of deposit in the Workers' Compensation Administration Revolving Fund, the Uninsured Employers Benefits Trust Fund, the Subsequent Injuries Benefits Trust Fund, and the Occupational Safety and Health Fund. The total amount of the surcharges 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 adopt reasonable regulations governing the manner of collection of the surcharges. The regulations shall require the surcharges 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 surcharges to be paid by insured employers to be expressed as a percentage of premium. In no event shall the surcharges paid by insured employers be considered a premium for computation of a gross premium tax or agents' commission. In no event shall the total amount of the surcharges paid by insured and self-insured employers exceed the amounts reasonably necessary to carry out 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

1 respectively paid in the most recent year for which payroll
2 information is available. The director shall promulgate reasonable
3 rules and regulations governing the manner of collection of the
4 assessment. The rules and regulations shall require the assessment
5 to be paid by self-insurers to be expressed as a percentage of
6 indemnity paid during the most recent year for which information
7 is available, and the assessment to be paid by insured employers
8 to be expressed as a percentage of premium. In no event shall the
9 assessment paid by insured employers be considered a premium
10 for computation of a gross premium tax or agents' commission.

11 (2) The surcharge levied by the director for the Occupational
12 Safety and Health Fund, pursuant to subparagraph (A) of paragraph
13 (1), shall not generate revenues in excess of fifty-seven million
14 dollars (\$57,000,000) on and after the 2013–14 fiscal year, adjusted
15 for each fiscal year as appropriate to fund any increases in the
16 appropriation as approved by the Legislature, and to reconcile any
17 over/under assessments from previous fiscal years pursuant to
18 Sections 15606 and 15609 of Title 8 of the California Code of
19 Regulations. For the 2013–14 fiscal year only, the revenue cap
20 established in this paragraph shall be reduced by an amount
21 equivalent to the balance transferred from the Cal-OSHA Targeted
22 Inspection and Consultation Fund established in Section 62.7, less
23 any amount of that balance loaned to the State Public Works
24 Enforcement Fund, to the Occupational Safety and Health Fund
25 pursuant to subdivision (d).

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

36 (4) The surcharge levied by the director for the Labor
37 Enforcement and Compliance Fund shall not exceed forty-six
38 million dollars (\$46,000,000) in the 2013–14 fiscal year, adjusted
39 as appropriate to fund any increases in the appropriation as
40 approved by the Legislature, and to reconcile any over/under

1 assessments from previous fiscal years pursuant to Sections 15606
2 and 15609 of Title 8 of the California Code of Regulations.

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

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

9 6315. (a) There is within the division a Bureau of
10 Investigations. Except as provided in subdivision (j), the bureau
11 is responsible for directing accident investigations involving
12 violations of standards, orders, special orders, or Section 25910
13 of the Health and Safety Code, in which there is a serious injury
14 to five or more employees, death, or request for prosecution by a
15 division representative. The bureau shall review inspection reports
16 involving a serious violation if there have been serious injuries to
17 one to four employees or a serious exposure, and may investigate
18 those cases in which the bureau finds criminal violations may have
19 occurred. The bureau is responsible for preparing cases for the
20 purpose of prosecution, including evidence and findings.

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

23 (1) All initial accident reports.

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

26 (3) Any other documents in the possession of the division
27 requested by the bureau for its review or investigation of any case
28 or that the division determines will be helpful to the bureau in its
29 investigation of the case.

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

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

36 (e) The supervisor of the bureau and bureau representatives
37 designated by the supervisor have a right of access to all places of
38 employment necessary to the investigation, may collect any
39 evidence or samples they deem necessary to an investigation, and
40 have all of the powers enumerated in Section 6314.

1 (f) The supervisor of the bureau and bureau representatives
2 designated by the supervisor may serve all processes and notices
3 throughout the state.

4 (g) In any case in which the bureau is required to conduct an
5 investigation, and in which there is a serious injury or death, the
6 results of the investigation shall be *immediately* referred ~~in a timely~~
7 ~~manner~~ by the bureau to the appropriate prosecuting authority
8 having jurisdiction for appropriate action, unless the bureau
9 determines that there is legally insufficient evidence of a violation
10 of the law. If the bureau determines that there is legally insufficient
11 evidence of a violation of the law, the bureau shall *immediately*
12 notify the appropriate prosecuting authority, ~~if the prosecuting~~
13 ~~authority requests notice.~~ *authority.*

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

16 (i) Upon the request of a county district attorney, the department
17 may develop a protocol for the referral of cases that may involve
18 criminal conduct to the appropriate prosecuting authority in lieu
19 of or in cooperation with an investigation by the bureau. The
20 protocol shall provide for the voluntary acceptance of referrals
21 after a review of the case by the prosecuting authority. In cases
22 accepted for investigation by the prosecuting authority, the protocol
23 shall provide for cooperation between the prosecuting authority,
24 the division, and the bureau. If a referral is declined by the
25 prosecuting authority, the bureau shall comply with subdivisions
26 (a) to (h), inclusive.

27 (j) (1) For any accident *in the County of Alameda or the County*
28 *of Santa Clara* involving a violation of standards, orders, special
29 orders, or Section 25910 of the Health and Safety Code that results
30 in a death of or a permanent total disability to one or more
31 employees, ~~the appropriate prosecuting authority~~ *Alameda County*
32 *District Attorney or the Santa Clara County District Attorney,*
33 *based on the county in which the accident occurred,* is responsible
34 for directing accident investigations and for preparing cases for
35 the purpose of prosecution. The division shall ~~timely~~ *immediately*
36 notify ~~the appropriate prosecuting authority~~ *Alameda County*
37 *District Attorney or the Santa Clara County District Attorney* of
38 that accident and shall *immediately* provide ~~the prosecuting~~
39 ~~authority~~ *Alameda County District Attorney or the Santa Clara*
40 *County District Attorney* with all of the following:

1 (A) All initial accident reports.

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

5 (C) Any other division report necessary for the ~~prosecuting~~
6 ~~authority's~~ *Alameda County District Attorney's or the Santa Clara*
7 *County District Attorney's* investigation.

8 (D) Any other document in the possession of the division that
9 is requested by the ~~prosecuting authority~~ *Alameda County District*
10 *Attorney or the Santa Clara County District Attorney* for its review
11 or investigation or that the division determines will be helpful to
12 the ~~prosecuting authority~~ *Alameda County District Attorney or the*
13 *Santa Clara County District Attorney* in its investigation of the
14 case.

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

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

19 (4) *This subdivision shall remain in effect only until January 1,*
20 *2032, and, as of that date, is inoperative.*

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

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

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

31 6315.3. The bureau shall, not later than February 15, annually
32 submit to the division for submission to the director, and to the
33 Legislature pursuant to Section 9795 of the Government Code, a
34 report on the activities of the bureau, including, but not limited to,
35 the following:

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

38 (b) Totals of each type of case reflecting the number of
39 investigations and court cases in progress at the start of the calendar
40 year being reported, investigations completed in the calendar year,

1 cases referred to appropriate prosecuting authorities in the calendar
2 year, and investigations and court cases in progress at the end of
3 the calendar year. The types of cases shall include the following:

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

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

10 (c) A summary of the dispositions in the calendar year of cases
11 referred by the bureau to appropriate prosecuting authorities. The
12 summary shall be divided into the types of cases, as described in
13 subdivision (b), and shall show at least the violation, the statute
14 for which the case was referred for prosecution, and the dates of
15 referral to the bureau for investigation, referral from the bureau
16 for prosecution, and the final court action if the case was
17 prosecuted.

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

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

24 (f) The total ~~vacancy rate~~ *number of vacancies* for bureau
25 positions, each job classification in the prior fiscal year, and any
26 additional positions needed to carry out the bureau's duties.

27 *SEC. 4. The Legislature finds and declares, with respect to*
28 *Sections 1 and 2 of this act, that a special statute is necessary and*
29 *that a general statute cannot be made applicable within the*
30 *meaning of Section 16 of Article IV of the California Constitution*
31 *because of the unique circumstances facing the County of Alameda*
32 *and the County of Santa Clara.*

33 ~~SEC. 4.~~

34 *SEC. 5.* 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.

O