



April 12, 2021

The Honorable Nancy Skinner
Chair, Senate Budget and Fiscal Review
State Capitol, Room 5094
Sacramento, CA 95814

The Honorable Jim Nielsen
Vice Chair, Senate Budget and Fiscal Review
State Capitol, Room 5064
Sacramento, CA 95814

The Honorable Phil Ting
Chair, Assembly Budget Committee
State Capitol, Room 6026
Sacramento, CA 95814

The Honorable Vince Fong
Vice Chair, Assembly Budget Committee
State Capitol, Room 2002
Sacramento, CA 95814

Sent via email

**SUBJECT: AB 84/SB 93 (CMTE. ON BUDGET) EMPLOYMENT: REHIRING AND RETENTION:
DISPLACED WORKERS
OPPOSE**

Dear Members:

The California Chamber of Commerce respectfully **OPPOSES AB 84/SB 93** which imposes a “right of recall” provision for specified industries that will interfere with and delay covered businesses’ ability to reopen during and after this pandemic. The targeted industries in **AB 84/SB 93**, are primarily in the hospitality industry, which has been the hardest hit as a result of the pandemic. Visit California has recently reported that tourism spending in California was only 41% of the 2019 amount. And, the Employment Development Department reported that the Leisure and Hospitality industry lost 24% of its workforce in 2020, which was the highest job loss percent/per industry.

Despite the significant harm suffered, **AB 84/SB 93** places additional onerous burdens on the industry as it struggles to reopen, that will ultimately slow down rehiring and their recovery.

AB 84/SB 93 is an Unnecessary Mandate:

AB 84/SB 93 establishes a new “right of recall” requirement that applies to small and large hotels, event centers, airport hospitality operations, or the provision of building services to office, retail, or other commercial buildings. Based on the broad language in the bill, it also applies to any restaurant or store that has a location inside a hotel or event center. These rights further apply when an employer goes out of business and there is a change in control or ownership.

This bill is completely unnecessary. The employers targeted under this bill are already bringing back employees who were laid off, as those employees are already trained and familiar with the operations. In fact, our impacted members who are operating under local right to recall ordinances have indicated they can’t find enough workers to fill available positions. It is common sense and smart business practice to rehire known, trained, and former employees who were terminated as a result of the state shutdown.

AB 84/SB 93 completely slows down employers’ ability to rehire employees as quickly as possible, by the burdensome provisions in the bill, as set forth below.

AB 84/SB 93 Provisions Will Slow Down the Rehiring Process and Fail to Consider Basic Management of a Business:

AB 84/SB 93 seeks to micromanage the rehire process for the targeted industries. Several of the provisions, or lack thereof, will only delay rehiring and increase costs on employers. Specifically:

- **AB 84/SB 93** forces an employer to repeatedly offer newly available positions to qualified employees, no matter how many times they have turned offers down, failed to respond to previous job offers, or explicitly declined previous offers to return to work.
- **AB 84/SB 93** forces an employer to recall all qualified employees who were laid off, even those who were provided severance agreements as a part of the layoff and agreed to the termination of the employment relationship in exchange for a payment. It makes no sense to mandate an employer offer these individuals available positions
- **AB 84/SB 93** forces an employer to send notices to all eligible, qualified employees for an available position and then wait five business days before moving on to other employees. The occupancy rate at a hotel can change dramatically from a Monday to a Thursday. These quick changes force employers to also make quick employment decisions, including whether they need to hire additional staff. Under the provisions of **AB 84/SB 93**, employers would not be able to react to these changes because of the five day waiting period.
- **AB 84/SB 93** requires employers to provide detailed notices to all qualified employees that were not rehired, further increasing the administrative burden on employers and costs.

AB 84/SB 93 Overrides Local Authority and Creates Inconsistency for Compliance:

Six jurisdictions have adopted right to recall ordinances. These local governments have differing standards as to whom the ordinance applies and different size employers. Some of the local governments specifically excluded employers with less than 25 employees or hotels with less than 200 rooms. San Diego limited the time for an employee to respond to only 3 days, allowing an employer the ability to hire employees back on a faster basis.

Additionally, out of the six local governments that have adopted their own right to recall ordinances, half of them included a 15-day right to cure provision, allowing employers to resolve any notice defects before penalties or enforcement.

AB 84/SB 93 would override these local decisions and impose a statewide mandate that includes employers that the local jurisdictions chose to exclude and eliminate any right to cure.

AB 84/SB 93 Is An Abuse of the Budget Process:

Despite the nominal appropriation included in **AB 84/SB 93**, these right of recall provisions have nothing to do with implementing the state budget. This is a complete abuse of the process by pushing a policy change through the budget on an expedited basis in an effort to evade public discussion and forcing it to go into effect immediately, providing no notice to impacted employers, no time to adjust, and no opportunity to comply. This proposal should go through the normal legislative process, just like it did last year through AB 3216, which was ultimately vetoed by the Governor.

Sincerely,



Jennifer Barrera
Executive Vice President
California Chamber of Commerce

cc: Members, Senate Budget & Fiscal Review Committee
Members, Assembly Budget Committee
Members, California State Legislature
Stuart Thompson, Office of the Governor
Angie Wei, Office of the Governor
Joe Stephenshaw, State Director, Senate Budget and Fiscal Review Committee
Christian Griffith, Chief Consultant, Assembly Budget Committee

JB:ll