



STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0124
(916) 319-2800

CHIEF ADMINISTRATIVE OFFICER
LIA LOPEZ

Assembly
California Legislature
Committee on Rules

BLANCA PACHECO
CHAIR

VICE CHAIR
MATHIS, DEVON J.

MEMBERS
CERVANTES, SABRINA
FLORA, HEATH
FRIEDMAN, LAURA
HOLDEN, CHRIS R.
JONES-SAWYER, SR., REGINALD B.
LOW, EVAN
MAIENSCHNEIN, BRIAN
TING, PHILIP Y.
WALDRON, MARIE

ARAMBULA, JOAQUIN (D-ALT)
DIXON, DIANE (R-ALT)

Monday, June 24, 2024
10 minutes prior to Session
State Capitol, Room 126

CONSENT AGENDA

BILL REFERRALS

1. Bill Referrals

[Page 2](#)

RESOLUTIONS

2. HR-108 (Schiavo) The 4th of July.
3. SCR-150 (Ochoa Bogh) Flag Day.
4. SCR-152 (Bradford) Juneteenth.

[Page 4](#)

[Page 10](#)

[Page 15](#)

REQUESTS TO ADD URGENCY CLAUSE

5. SB 92 (Umberg) Labor Code Private Attorneys General Act of 2004
6. SB 867 (Allen) Drought, Flood, and Water Resilience, Wildfire and Forest Resilience, Coastal Resilience, Extreme Heat Mitigation, Biodiversity and Nature-Based Climate Solutions, Climate Smart Agriculture, Park Creation and Outdoor Access, and Clean Energy Bond Act of 2024

[Page 21](#)

[Page 57](#)



STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0124
(916) 319-2800
FAX (916) 319-2810

CHIEF ADMINISTRATIVE OFFICER
LIA LOPEZ



VICE CHAIR
DEVON J. MATHIS

MEMBERS
SABRINA CERVANTES
HEATH FLORA
LAURA FRIEDMAN
CHRIS R. HOLDEN
REGINALD B. JONES-SAWYER, SR.
EVAN LOW
BRIAN MAIENSCHIN
PHILIP Y. TING
MARIE WALDRON
JOAQUIN ARAMBULA (D-ALT.)
DIANE B. DIXON (R-ALT.)

Memo

To: Rules Committee Members
From: Michael Erke, Bill Referral Consultant
Date: 6/21/2024
Re: Consent Bill Referrals

Since you received your preliminary list of bill referrals, there have been no changes.

REFERRAL OF BILLS TO COMMITTEE

06/24/2024

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly Bill No.	Committee:
<u>ACR 219</u>	P. & C.P.
<u>HR 110</u>	TRANS.
<u>SJR 12</u>	NAT. RES.
<u>SJR 16</u>	W., P., & W.

House Resolution

No. 108

Introduced by Assembly Member Schiavo

June 18, 2024

House Resolution No. 108—Relative to the 4th of July.

1 WHEREAS, July 4, 2024, marks the 248th anniversary of the
2 signing of the Declaration of Independence, and by the adoption
3 of that document—formally entitled, “The unanimous Declaration
4 of the thirteen United States of America”—the nation we today
5 know as the United States of America officially came into being,
6 an occasion forever memorialized by President Abraham Lincoln
7 in the words of his Gettysburg Address as when “... our fathers
8 brought forth upon this continent a new nation, conceived in liberty,
9 and dedicated to the proposition that all men are created equal”;
10 and

11 WHEREAS, On June 7, 1776, in Philadelphia, Pennsylvania,
12 at a location today known as Independence Hall, Virginia delegate
13 Richard Henry Lee brought the following resolution before the
14 Second Continental Congress of the United Colonies: “Resolved,
15 That these United Colonies are, and of right ought to be, free and
16 independent states, that they are absolved from all allegiance to
17 the British Crown, and that all political connection between them
18 and the state of Great Britain is, and ought to be, totally dissolved
19”; and

20 WHEREAS, On June 8, 1776, Lee’s resolution was referred to
21 a committee of the whole of the Continental Congress, at which
22 time they spent most of that day, as well as June 10, debating
23 independence; and

1 WHEREAS, On June 11, 1776, a “Committee of Five”—with
2 Thomas Jefferson of Virginia being picked unanimously as its first
3 member, and also including John Adams of Massachusetts,
4 Benjamin Franklin of Pennsylvania, Robert R. Livingston of New
5 York, and Roger Sherman of Connecticut—was charged with
6 drafting a declaration of independence for consideration by the
7 Continental Congress; and

8 WHEREAS, The members of the Committee of Five assigned
9 Jefferson the task of producing a draft declaration, and on June
10 28, 1776, he produced a draft that, with minor changes by the
11 committee members, was forwarded to the Congress for its further
12 consideration; and

13 WHEREAS, On July 2, 1776, the Second Continental Congress
14 adopted the Lee resolution upon the affirmative vote of 12 of the
15 13 colonial delegations, an occasion that delegate and future
16 President John Adams detailed to his wife Abigail in a letter written
17 July 3, 1776, as follows: “Yesterday the greatest Question was
18 decided, which ever was debated in America, and a greater perhaps,
19 never was or will be decided among Men”; and

20 WHEREAS, On July 4, 1776, after further debate and changes
21 to the committee document, the Continental Congress adopted the
22 Declaration of Independence establishing the United States of
23 America, to which John Hancock that day affixed his signature,
24 with 55 other delegates representing the 13 colonies—now states
25 of the newly created nation— signing the declaration within the
26 next several weeks; and

27 WHEREAS, July 4 is a day unlike any other—in the history of
28 the United States of America, and indeed, the world—in that not
29 only is it the day that an infant nation formally defied the most
30 powerful empire on earth in a quest for freedom, liberty, and
31 independence, but even more importantly because on that day this
32 new nation declared as a “self-evident truth”—known and
33 knowable to all persons at all times in all places throughout the
34 world—the radical notion that “all men are created equal ...
35 endowed by their Creator with certain unalienable rights, that
36 among these are life, liberty and the pursuit of happiness”; and

37 WHEREAS, Since its adoption and bold pronouncement more
38 than two centuries ago, the Declaration of Independence and the
39 principles which animate that timeless document have inspired
40 literally billions of persons around the world to pursue freedom in

1 their own nations, for themselves and their own loved ones, and
2 for their fellow men and women, and remain today an imperfectly
3 unrealized goal to which all Americans and all who cherish liberty
4 must rededicate themselves, just as the drafters and signers of the
5 Declaration of Independence did by declaring: “with a firm reliance
6 on the protection of divine Providence, we mutually pledge to each
7 other our Lives, our Fortunes and our sacred Honor”; and

8 WHEREAS, On each July Fourth, it is both proper and fitting
9 that the institutions of California government, and indeed all
10 Californians, express heartfelt gratitude and indebtedness to those
11 individuals who have served in the Armed Forces of the United
12 States, and in particular to those who have suffered the injuries of
13 battle and who have made the ultimate sacrifice in protecting
14 freedom and liberty around the world, recalling the words of
15 President Abraham Lincoln that, as a result of their profound
16 sacrifice, “... this nation, under God, shall have a new birth of
17 freedom—and that government of the people, by the people, for
18 the people, shall not perish from the earth”; now, therefore, be it

19 *Resolved by the Assembly of the State of California*, That the
20 Assembly of the State of California does—and intends to every
21 year immediately preceding the 4th of July—take this opportunity
22 to recognize and celebrate July 4, 2024, as the 248th anniversary
23 of the birth of our great nation, and the signing of the Declaration
24 of Independence that this day represents; and be it further

25 *Resolved*, That the Assembly of the State of California calls
26 upon all the people of the great State of California, and the United
27 States of America, to take the opportunity of the 4th of July holiday
28 to obtain a greater knowledge and understanding of the facts and
29 circumstances that compelled the 13 original colonies to declare
30 their independence, and of the timeless principles of liberty,
31 equality, and self-determination that rest at the heart of the
32 Declaration of Independence; and be it further

33 *Resolved*, That the Assembly of the State of California, on behalf
34 of a grateful citizenry, hereby expresses its heartfelt thanks,
35 appreciation, and prayers to all who have served—and who
36 currently serve—in the Armed Forces of the United States, in
37 recognition of the countless sacrifices and the indispensable role
38 these brave individuals have played even before the founding of
39 our nation on July 4, 1776, in preserving, protecting, and defending

1 the freedoms and liberties of all Americans, and expanding freedom
2 throughout the world; and be it further
3 *Resolved*, That the Chief Clerk of the Assembly shall make
4 available suitable copies of this resolution for distribution by
5 Members of the Assembly of the State of California.

O

Date of Hearing: June 24, 2024

ASSEMBLY COMMITTEE ON RULES
Blanca Pacheco, Chair
HR 108 (Schiavo) – As Introduced June 18, 2024

SUBJECT: The 4th of July.

SUMMARY: Recognizes and celebrates July 4, 2024, as the 248th anniversary of the birth of our great nation, and the signing of the Declaration of Independence. Specifically, **this resolution** makes the following legislative findings:

- 1) July 4, 2024, marks the 248th anniversary of the signing of the Declaration of Independence, and by the adoption of that document formally titled, “The unanimous Declaration of the thirteen United States of America”, the nation we today know as the United States of America officially came into being, an occasion forever memorialized by President Abraham Lincoln in the words of his Gettysburg Address as when “...our fathers brought forth upon this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal.”
- 2) On June 7, 1776, Richard Henry Lee brought forth a resolution, which resolved that the colonies should be “free and independent states...and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved....” On June 8, 1776, Lee’s resolution was referred to a committee of the whole of the Continental Congress, at which time they spent most of that day, as well as June 10, debating independence.
- 3) After several days of debate, a "Committee of Five," which included Thomas Jefferson of Virginia, John Adams of Massachusetts, Benjamin Franklin of Pennsylvania, Robert R. Livingston of New York, and Roger Sherman of Connecticut, was charged with drafting a declaration of independence for consideration by the Continental Congress.
- 4) On July 4, 1776, after further debate and changes to the committee document, the Continental Congress adopted the Declaration of Independence establishing the United States of America; and, John Hancock that day affixed his signature, with 55 other delegates representing the 13 colonies – now states of the newly created nation – signing the declaration within the next several weeks.
- 5) Since its adoption and bold pronouncement more than two centuries ago, the Declaration of Independence has inspired literally billions of persons around the world to pursue freedom in their own nations, for themselves, and their loved ones. Americans must rededicate themselves just as the drafters and signers of the Declaration of Independence did more than two centuries ago.
- 6) On each July Fourth, it is both proper and fitting that the institutions of California government, and all Californians, express heartfelt gratitude and indebtedness to those who have served in the Armed Forces of the United States, and in particular, to those who have suffered the injuries of battle and who have made the ultimate sacrifice in protecting freedom and liberty around the world.

FISCAL EFFECT: This resolution is keyed non-fiscal by Legislative Counsel.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Michael Erke / RLS. / (916) 319-2800

AMENDED IN SENATE MAY 21, 2024

Senate Concurrent Resolution

No. 150

Introduced by Senator Ochoa Bogh

(Coauthors: Senators Archuleta, Dahle, Dodd, Grove, Hurtado, Jones, Menjivar, Newman, Nguyen, Niello, Roth, Rubio, Seyarto, and Wilk)

(Coauthors: Assembly Members Essayli, Gallagher, Hoover, Lackey, Mathis, Joe Patterson, Waldron, and Weber)

May 16, 2024

Senate Concurrent Resolution No. 150—Relative to Flag Day.

LEGISLATIVE COUNSEL'S DIGEST

SCR 150, as amended, Ochoa Bogh. Flag Day.

This measure would recognize June 14, 2024, as Flag Day in California.

Fiscal committee: no.

- 1 WHEREAS, For more than two centuries, the American flag
2 has been a banner of hope for generations of Americans and those
3 seeking freedom around the world; and
4 WHEREAS, The American flag is a symbol of a country that
5 has grown from 13 colonies to a united nation of 50 sovereign
6 states; a symbol of many units becoming one, true to our nation's
7 traditional motto, e pluribus unum, "out of many, one"; and
8 WHEREAS, The first flag of the United States was authorized
9 by congressional resolution on June 14, 1777, resolving that it
10 carry 13 stripes, the colors representing hardiness and valor (red),
11 purity and innocence (white), and that it contain a constellation of

1 13 white stars on a field of blue to represent justice, vigilance, and
2 perseverance; and
3 WHEREAS, Since the first American flag, several congressional
4 acts and presidential executive orders have altered the shape,
5 design, and arrangement of the flag, and allowed for additional
6 stars and stripes to reflect the admission of new states; and
7 WHEREAS, In 1794, Congress passed an act changing the
8 American flag so that it contained 15 stripes and 15 stars; and
9 WHEREAS, In 1818, President Monroe signed legislation
10 requiring that the American flag have 13 stripes and a star for each
11 state in the union, with stars for newly added states applied to the
12 flag on July 4 of the following year; and
13 WHEREAS, Flagmakers were able to use imaginative designs
14 to accommodate new stars on the flag until 1912, when President
15 Taft issued an executive order that established rows of stars as the
16 standard design; and
17 WHEREAS, The 48-star American flag, represented by the
18 traditional 13 stripes and six rows of eight stars, was the official
19 flag from 1912 until 1959; and
20 WHEREAS, On January 3, 1959, Alaska was formally granted
21 statehood and the 49-star American flag, represented by the
22 traditional 13 stripes and seven rows of seven stars, became the
23 official flag when it was first officially raised over Fort McHenry
24 National Historic Site in Baltimore, Maryland on July 4, 1959;
25 and
26 WHEREAS, President Eisenhower issued Executive Order No.
27 10834 establishing the design of the new 50-star American flag
28 on August 21, 1959, the same day that Hawaii became the 50th
29 state; and
30 WHEREAS, The 50-star American flag, the current Stars and
31 Stripes, became the official American flag on July 4, 1960, with
32 a design of 13 stripes and 50 stars, represented by five rows of six
33 stars alternating with four rows of five stars; and
34 WHEREAS, On May 30, 1916, President Wilson issued a
35 proclamation calling for the first nationwide observance of Flag
36 Day; and
37 WHEREAS, In 1949, President Truman signed an Act of
38 Congress designating the 14th day of June every year as National
39 Flag Day; and

1 WHEREAS, Despite the numerous designs of the American
2 flag, they have all stood for the United States Constitution, the
3 American way of life, our collective past achievements, and our
4 dreams for the future; and

5 WHEREAS, The United States Flag Code, as adopted by
6 Congress, states, “the flag represents a living country and is itself
7 considered a living thing,” and this is why we should give the flag
8 our full respect; and

9 WHEREAS, Redlands Elementary School teacher Miss Mary
10 ~~Fackley~~ *Fackler* is attributed with starting the tradition of saying
11 the Pledge of Allegiance in schools when she had her students
12 regularly recite the first iteration of the Pledge written by Francis
13 Bellamy that read: “I pledge allegiance to my Flag and to the
14 Republic for which it stands: one Nation indivisible with Liberty
15 and Justice for all”; and

16 WHEREAS, By Act of Congress, dated June 20, 1985, Public
17 Law 99-54 was passed to recognize the “pause for the Pledge of
18 Allegiance” as part of the celebration of National Flag Day
19 throughout the nation; and

20 WHEREAS, Flag Day celebrates our nation’s symbol of unity,
21 a representative democracy in a republic, and stands for our
22 country’s devotion to freedom, the rule of law, and equal rights;
23 and

24 WHEREAS, The American flag has been immortalized in song,
25 including “The Stars and Stripes Forever” by John Philip Sousa,
26 “You’re a Grand Old Flag” by George M. Cohan, and our national
27 anthem, “Star-Spangled Banner,” by Francis Scott Key; and

28 WHEREAS, Since the founding of our nation, the American
29 flag has held a unique place in the hearts of those brave men and
30 women who have served in our nation’s Armed Forces, whereby
31 in each of our nation’s wars, examples may be found of soldiers
32 offering their lives not only in defense of our nation, but also in
33 honor of our flag and the principles it embodies; and

34 WHEREAS, In 2024, the 50-star American flag celebrates its
35 64th anniversary as the official Stars and Stripes, representing the
36 longest period that any fixed American flag design has been used;
37 now, therefore, be it

38 *Resolved by the Senate of the State of California, the Assembly*
39 *thereof concurring*, That the Legislature recognizes June 14, 2024,
40 as Flag Day in California and encourages the citizens of the state

SCR 150

— 4 —

- 1 to celebrate the symbol of our freedom and remember the hard
- 2 work and sacrifices that so many made to ensure that freedom;
- 3 and be it further
- 4 *Resolved*, That the Secretary of the Senate transmit copies of
- 5 this resolution to the author for appropriate distribution.

O

98

Date of Hearing: June 24, 2024

ASSEMBLY COMMITTEE ON RULES
Blanca Pacheco, Chair
SCR 150 (Ochoa Bogh) – As Amended May 21, 2024

SENATE VOTE: 39-0

SUBJECT: Flag Day.

SUMMARY: Recognizes June 14, 2024, as Flag Day in California, and encourages the citizens of the state to celebrate the symbol of our freedom and remember the hard work and sacrifices that so many made to ensure that freedom. Specifically, **this resolution** makes the following legislative findings:

- 1) For more than two centuries, the American flag has been a banner of hope for generations of Americans and those seeking freedom around the world. The American flag is a symbol of a country that has grown from 13 colonies to a united nation of 50 sovereign states.
- 2) The first flag of the United States was authorized by congressional resolution on June 14, 1777, resolving that it carry 13 stripes, the colors representing hardiness and valor (red), purity and innocence (white), and that it contain a constellation of 13 white stars on a field of blue to represent justice, vigilance, and perseverance.
- 3) Since the first American flag, several congressional acts and presidential executive orders have altered the shape, design, and arrangement of the flag, and allowed for additional stars and stripes to reflect the admission of new states.
- 4) The 50-star American flag, the current Stars and Stripes, became the official American flag on July 4, 1960, with a design of 13 stripes and 50 stars, represented by five rows of six stars alternating with four rows of five stars.
- 5) Flag Day celebrates our nation’s symbol of unity, a representative democracy in a republic, and stands for our country’s devotion to freedom, the rule of law, and equal rights.
- 6) In 2024, the 50-star American flag celebrates its 64th anniversary as the official Stars and Stripes, representing the longest period that any fixed American flag design has been used.

FISCAL EFFECT: This resolution is keyed non-fiscal by Legislative Counsel.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Michael Erke / RLS. / (916) 319-2800

Introduced by Senator Bradford

(Coauthor: Senator Smallwood-Cuevas)

(Coauthors: Assembly Members Bonta, Bryan, Gipson, Holden, Jackson, Jones-Sawyer, McCarty, McKinnor, Weber, and Wilson)

May 20, 2024

Senate Concurrent Resolution No. 152—Relative to Juneteenth.

LEGISLATIVE COUNSEL’S DIGEST

SCR 152, as introduced, Bradford. Juneteenth.

This measure would recognize June 19, 2024, as Juneteenth and would urge the people of California to join in celebrating Juneteenth as a day to honor and reflect on the significant role that African Americans have played in the history of the United States and how they have enriched society through their steadfast commitment to promoting unity and equality.

Fiscal committee: no.

- 1 WHEREAS, Juneteenth, also known as “Juneteenth
2 Independence Day,” “Emancipation Day,” “Emancipation
3 Celebration,” and “Freedom Day,” is the oldest African American
4 holiday observance in the United States; and
5 WHEREAS, Juneteenth, or June 19, 1865, is considered the
6 date when the last slaves in America were freed when General
7 Gordon Granger rode into the City of Galveston, Texas, and issued
8 General Order No. 3, almost two and one-half years after President
9 Lincoln issued the Emancipation Proclamation; and
10 WHEREAS, 2024 marks 159 years of freedom celebrations;
11 and

1 WHEREAS, Juneteenth commemorates the strong survival
2 instinct of African Americans who were first brought to this
3 country stacked and shackled in the bottom of slave ships in a
4 monthlong journey across the Atlantic Ocean known as the “Middle
5 Passage”; and

6 WHEREAS, August 2019 marked 400 years since the first
7 arrival of Africans to colonial America, and the United States
8 Congress has established the 400 Years of African-American
9 History Commission to commemorate the historic heritage and
10 contributions that Americans of African descent have made to help
11 shape the cultural, academic, social, economic, and moral attributes
12 of this nation; and

13 WHEREAS, In August 1619, the first documented Africans
14 arrived in the English colony of Virginia. The group, recorded
15 upon arrival as “20 and odd Negros,” was part of a larger group
16 of West Africans enslaved by Portuguese slave traders. They were
17 on their way to the City of Veracruz, Mexico, aboard a Spanish
18 ship when they were captured off the coast of Mexico by an English
19 privateer ship and transported to Virginia, where they were put
20 ashore at what is now the City of Hampton, Virginia, and sold as
21 involuntary laborers or indentured servants; and

22 WHEREAS, Slavery had not yet been institutionalized, so the
23 Africans were informed they would work under contract for a
24 certain period of time before being granted freedom and the rights
25 afforded other settlers. However, while European indentured
26 servants were listed along with their year of expected freedom, no
27 such information accompanied the names of the African indentured
28 servants; and

29 WHEREAS, On September 22, 1862, President Lincoln issued
30 the celebrated Emancipation Proclamation, warning the rebellious
31 Confederate States that he would declare their slaves “forever free”
32 if those states did not return to the Union by January 1, 1863.
33 Enforcement of the Emancipation Proclamation occurred only in
34 Confederate States that were under Union Army control; and

35 WHEREAS, Even after the lapse of California’s Fugitive Slave
36 Law in 1855, masters informally held enslaved people in California
37 until 1864, and it was not until June 28, 1864, that all fugitive slave
38 laws were officially repealed; and

39 WHEREAS, Prior to the end of the Civil War, on January 31,
40 1865, Congress passed the Thirteenth Amendment to the United

1 States Constitution, which abolished slavery throughout the United
2 States and its territories. Spontaneous celebrations erupted
3 throughout the country when African Americans learned of their
4 freedom; and

5 WHEREAS, Texas, as a part of the Confederacy, was resistant
6 to the Emancipation Proclamation. But on June 18, 1865, Union
7 troops arrived in the City of Galveston, Texas, to take possession
8 of the state and enforce the emancipation of its slaves. Former
9 slaves in Galveston rejoiced in the streets with jubilant celebrations.
10 The following day, June 19, became known as “Juneteenth,” a
11 name derived from a portmanteau of the words “June” and
12 “nineteenth.” Juneteenth celebrations began in Texas the following
13 year; and

14 WHEREAS, Juneteenth education and celebrations declined in
15 America in the early part of the 20th century. But the Civil Rights
16 Movement of the 1950s and 1960s saw a resurgence of interest in
17 Juneteenth, along with renewed community celebrations of the
18 day; and

19 WHEREAS, On January 1, 1980, Juneteenth became an official
20 state holiday in Texas through the efforts of Al Edwards, an African
21 American state legislator. The successful passage of this bill
22 marked Juneteenth as the first emancipation celebration granted
23 official state recognition; and

24 WHEREAS, As of 2022, all 50 states in the country recognize
25 Juneteenth as an official state holiday or day of observance; and

26 WHEREAS, In June of 2020, after the brutal murder of George
27 Floyd, several prominent companies, including Nike, the National
28 Football League, X, and Square, announced plans to offer
29 Juneteenth as a paid holiday to their employees. Further, several
30 financial institutions, including JPMorgan Chase, Northern Trust,
31 Fifth Third Bank, PNC Bank, and Capital One, also announced
32 that they will be closing all or parts of their business early on June
33 19 while paying employees for the full day; and

34 WHEREAS, On June 17, 2021, President Biden signed the
35 Juneteenth National Independence Day Act into law, establishing
36 June 19 as a federal holiday and making it the first federal holiday
37 since the establishment of Martin Luther King Jr. Day in 1983;
38 and

39 WHEREAS, A growing number of American and African
40 American cultural institutions have sponsored Juneteenth cultural

1 events designed to make all Americans aware of this celebration,
2 including the Smithsonian Institution’s National Museum of
3 American History in Washington, D.C., the Chicago Historical
4 Society, the Black Archives of Mid-America in Kansas City, Inc.
5 in the City of Kansas City, Missouri, the California African
6 American Museum in the City of Los Angeles, California, the
7 Henry Ford Museum and Greenfield Village in the City of
8 Dearborn, Michigan, the African American Museum in the City
9 of Dallas, Texas, and the National Juneteenth Observance
10 Foundation. Juneteenth celebrations are a tribute to those African
11 Americans who fought so long for freedom and worked so hard
12 to make the dream of equality a reality; and

13 WHEREAS, California law requires the Governor to proclaim
14 the third Saturday in June of each year to be known as “Juneteenth
15 National Freedom Day: A day of observance” to urge all
16 Californians in celebrating this day to honor and reflect on the
17 significant roles that African Americans have played in the history
18 of the United States and how African Americans have enriched
19 society through their steadfast commitment to promoting freedom,
20 brotherhood, and equality; and

21 WHEREAS, Juneteenth commemorates African American
22 freedom and emphasizes education and achievement. It is a day,
23 a week, and in some areas, a month marked with celebrations,
24 guest speakers, picnics, and family gatherings. It is a time for
25 reflection and rejoicing. It is a time for assessment,
26 self-improvement, and for planning the future; now, therefore, be
27 it

28 *Resolved by the Senate of the State of California, the Assembly*
29 *thereof concurring*, That the Legislature of the State of California
30 hereby recognizes June 19, 2024, as Juneteenth; and be it further

31 *Resolved*, That the Legislature urges the people of California to
32 join in celebrating Juneteenth as a day to honor and reflect on the
33 significant role that African Americans have played in the history
34 of the United States and how they have enriched society through
35 their steadfast commitment to promoting unity and equality; and
36 be it further

37 *Resolved*, That the Secretary of the Senate transmit copies of
38 this resolution to the author for appropriate distribution.

O

Date of Hearing: June 24, 2024

ASSEMBLY COMMITTEE ON RULES
Blanca Pacheco, Chair
SCR 152 (Bradford) – As Introduced May 20, 2024

SENATE VOTE: 39-0

SUBJECT: Juneteenth.

SUMMARY: Recognizes June 19, 2024, as Juneteenth; and, urges the people of California to join in celebrating Juneteenth as a day to honor and reflect on the significant role that African Americans have played in the history of the United States, and how they have enriched society through their steadfast commitment to promoting unity and equality. Specifically, **this resolution** makes the following legislative findings:

- 1) Juneteenth, also known as “Juneteenth Independence Day,” “Emancipation Day,” “Emancipation Celebration,” and “Freedom Day,” is the oldest African American holiday observance in the United States.
- 2) Juneteenth, or June 19, 1865, is considered the date when the last slaves in America were freed when General Gordon Granger rode into Galveston, Texas, and issued General Order No. 3, almost two and one-half years after President Lincoln issued the Emancipation Proclamation.
- 3) Juneteenth education and celebrations declined in America in the early part of the 20th century. But the Civil Rights Movement of the 1950s and 1960s saw a resurgence of interest in Juneteenth, along with renewed community celebrations of the day.
- 4) On January 1, 1980, Juneteenth became an official state holiday in Texas through the efforts of Al Edwards, an African American state legislator. The successful passage of this bill marked Juneteenth as the first emancipation celebration granted official state recognition.
- 5) As of 2022, all 50 states in the country recognize Juneteenth as an official state holiday or day of observance.
- 6) California law requires the Governor to proclaim the third Saturday in June of each year to be known as “Juneteenth National Freedom Day: A day of observance,” to urge all Californians in celebrating this day to honor and reflect on the significant roles that African Americans have played in the history of the United States.
- 7) A growing number of American and African American cultural institutions have sponsored Juneteenth cultural events designed to make all Americans aware of this celebration, including the Smithsonian Institution’s National Museum of American History in Washington, D.C., the Chicago Historical Society, the Black Archives of Mid-America in Kansas City, and the California African American Museum in the City of Los Angeles.
- 8) Juneteenth commemorates African American freedom and emphasizes education and achievement. It is a day, a week, and in some areas, a month marked with celebrations, guest

speakers, picnics, and family gatherings. It is a time for reflection and rejoicing. It is a time for assessment, self-improvement, and for planning the future.

9) 2024 marks 159 years of freedom celebrations.

FISCAL EFFECT: This resolution is keyed non-fiscal by Legislative Counsel.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Michael Erke / RLS. / (916) 319-2800

STATE CAPITOL
SACRAMENTO, CA 95814
(916) 651-4034

California State Senate

SENATOR
THOMAS J. UMBERG
THIRTY-FOURTH SENATE DISTRICT



6/20/2024

Assemblymember Pacheco
1021 O Street, Suite 6250
Sacramento, CA 95814

Dear Assemblymember Pacheco,

This letter is to request the addition of an Urgency Clause to SB 92.

In existing law, the Labor Code Private Attorneys General Act (PAGA) authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other employees, and the State of California for Labor Code violations. While PAGA is an important consumer protection measure, over time, certain provisions have been revealed to be overly burdensome and unfair. This bill would correct many of the deficiencies in PAGA.

Therefore, we request the addition of an urgency clause in order to immediately rectify the flaws in PAGA that are crippling California business and the economy.

Sincerely,

A handwritten signature in black ink that reads "Tom Umberg". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Senator Tom Umberg
34th Senate District

AMENDED IN ASSEMBLY JUNE 21, 2024

AMENDED IN SENATE JANUARY 3, 2024

SENATE BILL

No. 92

Introduced by Senator Umberg

(Principal coauthors: Senators Archuleta, Ashby, Atkins, Becker, Caballero, Cortese, Dodd, Durazo, Grove, Laird, McGuire, Menjivar, Min, Newman, Portantino, Roth, Rubio, Stern, and Wahab)

*(Principal coauthors: Assembly Members Kalra and Robert Rivas)
(Coauthors: Assembly Members Addis, Aguiar-Curry, Bennett, Berman, Bonta, Calderon, Wendy Carrillo, Mike Fong, Friedman, Grayson, Hart, Holden, Irwin, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Pellerin, Quirk-Silva, Rendon, Luz Rivas, Rodriguez, Villapudua, Weber, Wicks, Wilson, and Zbur)*

January 18, 2023

~~An act to amend Section 71651.1 of the Government Code, and to amend Sections 977, 977.3, and 1043.5 of the Penal Code, relating to courts.~~ *An act to amend Section 2699.5 of, and to amend, repeal, and add Section 2699.3 of, the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 92, as amended, Umberg. ~~Courts: remote proceedings for criminal cases.~~ *Labor Code Private Attorneys General Act of 2004.*

Existing law, the Labor Code Private Attorneys General Act of 2004 (PAGA), authorizes an aggrieved employee, as defined, to bring a civil action, on behalf of that employee and other current or former employees, to enforce a violation of any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the

97

Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees pursuant to certain notice and cure provisions, as prescribed.

This bill would, among other things, authorize, on or after October 1, 2024, an employer that employed fewer than 100 employees in total during the period covered by the required notice to, within 33 days of receipt of the notice submit to the agency a confidential proposal to cure one or more of the alleged violations and, upon completing the cure, provide a sworn notification to the employee and agency that the cure is completed, as prescribed.

By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program. The bill would require the agency to verify whether the cure is complete within 20 days of receiving the employer's notification, as specified.

This bill would also authorize an employer who employed at least 100 employees in total during the period covered by the required notice to, upon being served with a summons and complaint asserting a claim under PAGA, file a request and participate in, as prescribed, an early evaluation conference in the proceedings of the claim and a request for a stay of court proceedings before, or simultaneous with, that defendant's responsive pleading or other initial appearance in the action that includes the claim.

This bill would apply its provisions to a civil action brought on or after June 19, 2024, except as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 no reimbursement is required by this act for a specified reason.

This bill would become operative only if AB 2288 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2025.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law prohibits, until January 1, 2025, a trial court from retaliating against an official court reporter or official court reporter pro tempore for notifying a judicial officer that technology or audibility issues are interfering with the creation of the verbatim record for a remote criminal proceeding.~~

~~This bill would extend this provision until January 1, 2026.~~

~~Existing law generally allows, until January 1, 2025, upon a defendant's waiver of the right to be physically present, criminal proceedings to be conducted through the use of remote technology, and prohibits a defendant charged with a felony or misdemeanor to appear remotely for a jury or court trial, except as specified.~~

~~This bill would extend the provisions that would expire on January 1, 2025, until January 1, 2026.~~

~~Existing law authorizes, until January 1, 2025, a witness in a criminal proceeding to testify using remote technology, as provided by statutes regarding the examination of victims of sexual crimes and conditional examinations of witnesses.~~

~~This bill would extend these provisions until January 1, 2026.~~

~~Existing law requires a defendant to be personally present in a preliminary hearing unless otherwise specified. Existing law prohibits these provisions from limiting the right of a defendant to waive the right to be present. Existing law, until January 1, 2025, includes the defendant's right to waive the right to appear through the use of remote technology from being limited by these provisions.~~

~~This bill would extend the provision that would expire on January 1, 2025, to January 1, 2026.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~^{yes}.

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

1 SECTION 1. Section 2699.3 of the Labor Code is amended to
2 read:

3 2699.3. (a) A civil action by an aggrieved employee pursuant
4 to subdivision (a) or (f) of Section 2699 alleging a violation of any
5 provision listed in Section 2699.5 shall commence only after the
6 following requirements have been met:

1 (1) (A) The aggrieved employee or representative shall give
2 written notice by online filing with the Labor and Workforce
3 Development Agency and by certified mail to the employer of the
4 specific provisions of this code alleged to have been violated,
5 including the facts and theories to support the alleged violation.

6 (B) A notice filed with the Labor and Workforce Development
7 Agency pursuant to subparagraph (A) and any employer response
8 to that notice shall be accompanied by a filing fee of seventy-five
9 dollars (\$75). The fees required by this subparagraph are subject
10 to waiver in accordance with the requirements of Sections 68632
11 and 68633 of the Government Code.

12 (C) The fees paid pursuant to subparagraph (B) shall be paid
13 into the Labor and Workforce Development Fund and used for the
14 purposes specified in subdivision ~~(j)~~ (n) of Section 2699.

15 (2) (A) The agency shall notify the employer and the aggrieved
16 employee or representative by certified mail that it does not intend
17 to investigate the alleged violation within 60 calendar days of the
18 postmark date of the notice received pursuant to paragraph (1).
19 Upon receipt of that notice or if no notice is provided within 65
20 calendar days of the postmark date of the notice given pursuant to
21 paragraph (1), the aggrieved employee may commence a civil
22 action pursuant to Section 2699.

23 (B) If the agency intends to investigate the alleged violation, it
24 shall notify the employer and the aggrieved employee or
25 representative by certified mail of its decision within 65 calendar
26 days of the postmark date of the notice received pursuant to
27 paragraph (1). Within 120 calendar days of that decision, the
28 agency may investigate the alleged violation and issue any
29 appropriate citation. If the agency determines that no citation will
30 be issued, it shall notify the employer and aggrieved employee of
31 that decision within five business days thereof by certified mail.
32 Upon receipt of that notice or if no citation is issued by the agency
33 within the time limits prescribed by subparagraph (A) and this
34 subparagraph or if the agency fails to provide timely or any
35 notification, the aggrieved employee may commence a civil action
36 pursuant to Section 2699.

37 (C) Notwithstanding any other provision of law, a plaintiff may
38 as a matter of right amend an existing complaint to add a cause of
39 action arising under this part at any time within 60 days of the time
40 periods specified in this part.

1 (b) A civil action by an aggrieved employee pursuant to
2 subdivision (a) or (f) of Section 2699 alleging a violation of any
3 provision of Division 5 (commencing with Section 6300) other
4 than those listed in Section 2699.5 shall commence only after the
5 following requirements have been met:

6 (1) The aggrieved employee or representative shall give notice
7 by online filing with the Division of Occupational Safety and
8 Health and by certified mail to the employer, with a copy to the
9 Labor and Workforce Development Agency, of the specific
10 provisions of Division 5 (commencing with Section 6300) alleged
11 to have been violated, including the facts and theories to support
12 the alleged violation.

13 (2) (A) The division shall inspect or investigate the alleged
14 violation pursuant to the procedures specified in Division 5
15 (commencing with Section 6300).

16 (i) If the division issues a citation, the employee may not
17 commence an action pursuant to Section 2699. The division shall
18 notify the aggrieved employee and employer in writing within 14
19 calendar days of certifying that the employer has corrected the
20 violation.

21 (ii) If by the end of the period for inspection or investigation
22 provided for in Section 6317, the division fails to issue a citation
23 and the aggrieved employee disputes that decision, the employee
24 may challenge that decision in the superior court. In such an action,
25 the superior court shall follow precedents of the Occupational
26 Safety and Health Appeals Board. If the court finds that the division
27 should have issued a citation and orders the division to issue a
28 citation, then the aggrieved employee may not commence a civil
29 action pursuant to Section 2699.

30 (iii) A complaint in superior court alleging a violation of
31 Division 5 (commencing with Section 6300) other than those listed
32 in Section 2699.5 shall include therewith a copy of the notice of
33 violation provided to the division and employer pursuant to
34 paragraph (1).

35 (iv) The superior court shall not dismiss the action for
36 nonmaterial differences in facts or theories between those contained
37 in the notice of violation provided to the division and employer
38 pursuant to paragraph (1) and the complaint filed with the court.

1 (B) If the division fails to inspect or investigate the alleged
2 violation as provided by Section 6309, the provisions of subdivision
3 (c) shall apply to the determination of the alleged violation.

4 (3) (A) Nothing in this subdivision shall be construed to alter
5 the authority of the division to permit long-term abatement periods
6 or to enter into memoranda of understanding or joint agreements
7 with employers in the case of long-term abatement issues.

8 (B) Nothing in this subdivision shall be construed to authorize
9 an employee to file a notice or to commence a civil action pursuant
10 to Section 2699 during the period that an employer has voluntarily
11 entered into consultation with the division to ameliorate a condition
12 in that particular worksite.

13 (C) An employer who has been provided notice pursuant to this
14 section may not then enter into consultation with the division in
15 order to avoid an action under this section.

16 (4) The superior court shall review and approve any proposed
17 settlement of alleged violations of the provisions of Division 5
18 (commencing with Section 6300) to ensure that the settlement
19 provisions are at least as effective as the protections or remedies
20 provided by state and federal law or regulation for the alleged
21 violation. The provisions of the settlement relating to health and
22 safety laws shall be submitted to the division at the same time that
23 they are submitted to the court. This requirement shall be construed
24 to authorize and permit the division to comment on those settlement
25 provisions, and the court shall grant the division's commentary
26 the appropriate weight.

27 (c) A civil action by an aggrieved employee pursuant to
28 subdivision (a) or (f) of Section 2699 alleging a violation of any
29 provision other than those listed in Section 2699.5 or Division 5
30 (commencing with Section 6300) shall commence only after the
31 following requirements have been met:

32 (1) (A) The aggrieved employee or representative shall give
33 written notice by online filing with the Labor and Workforce
34 Development Agency and by certified mail to the employer of the
35 specific provisions of this code alleged to have been violated,
36 including the facts and theories to support the alleged violation.

37 (B) A notice filed with the Labor and Workforce Development
38 Agency pursuant to subparagraph (A) and any employer response
39 to that notice shall be accompanied by a filing fee of seventy-five
40 dollars (\$75). The fees required by this subparagraph are subject

1 to waiver in accordance with the requirements of Sections 68632
2 and 68633 of the Government Code.

3 (C) The fees paid pursuant to subparagraph (B) shall be paid
4 into the Labor and Workforce Development Fund and used for the
5 purposes specified in subdivision ~~(j)~~ (n) of Section 2699.

6 (D) *If the employer is not eligible for the processes in paragraph
7 (2) or (3) or chooses not to utilize those processes, the agency
8 shall notify the employer and the aggrieved employee or
9 representative by certified mail that it does not intend to investigate
10 the alleged violation within 60 calendar days of the postmark date
11 of the notice received pursuant to paragraph (1). Upon receipt of
12 that notice or if no notice is provided within 65 calendar days of
13 the postmark date of the notice given pursuant to subparagraph
14 (A), the aggrieved employee may commence a civil action pursuant
15 to Section 2699.*

16 (E) *If the agency intends to investigate the alleged violation, it
17 shall notify the employer and the aggrieved employee or
18 representative by certified mail of its decision within 65 calendar
19 days of the postmark date of the notice received pursuant to
20 subparagraph (A). Within 120 calendar days of that decision, the
21 agency may investigate the alleged violation and issue any
22 appropriate citation. If the agency determines that no citation will
23 be issued, it shall notify the employer and aggrieved employee of
24 that decision within five business days thereof by certified mail.
25 Upon receipt of that notice or if no citation is issued by the agency
26 within the time limits prescribed by subparagraph (D) and this
27 subparagraph or if the agency fails to provide timely or any
28 notification, the aggrieved employee may commence a civil action
29 pursuant to Section 2699.*

30 (2) (A) The employer may cure the alleged violation within 33
31 calendar days of the postmark date of the notice sent by the
32 aggrieved employee or representative. The employer shall give
33 written notice within that period of time by certified mail to the
34 aggrieved employee or representative and by online filing with
35 the agency if the alleged violation is cured, including a description
36 of actions taken, and no civil action pursuant to Section 2699 may
37 commence. If the alleged violation is not cured within the 33-day
38 period, the employee may commence a civil action pursuant to
39 Section 2699.

1 ~~(B) (i) Subject to the limitation in clause (ii), no employer may~~
2 ~~avail himself or herself of the notice and cure provisions of this~~
3 ~~subdivision more than three times in a 12-month period for the~~
4 ~~same violation or violations contained in the notice, regardless of~~
5 ~~the location of the worksite.~~

6 ~~(ii) No employer may avail himself or herself of the notice and~~
7 ~~cure provisions of this subdivision with respect to alleged violations~~
8 ~~of paragraph (6) or (8) of subdivision (a) of Section 226 more than~~
9 ~~once in a 12-month period for the same violation or violations~~
10 ~~contained in the notice, regardless of the location of the worksite.~~

11 ~~(3)~~

12 *(B)* If the aggrieved employee disputes that the alleged violation
13 has been cured, the aggrieved employee or representative shall
14 provide written notice by online filing with the agency and by
15 certified mail to the employer, including specified grounds to
16 support that dispute, to the employer and the agency. Within 17
17 calendar days of the receipt of that notice, the agency shall review
18 the actions taken by the employer to cure the alleged violation,
19 and provide written notice of its decision by certified mail to the
20 aggrieved employee and the employer. The agency may grant the
21 employer three additional business days to cure the alleged
22 violation. If the agency determines that the alleged violation has
23 not been cured or if the agency fails to provide timely or any
24 notification, the employee may proceed with the civil action
25 pursuant to Section 2699. If the agency determines that the alleged
26 violation has been cured, but the employee still disagrees, the
27 employee may appeal that determination to the superior court.

28 *(d) No employer shall avail itself of the notice and cure*
29 *provisions of this section more than one time in a 12-month period*
30 *for violations of the same provisions set forth in the notice,*
31 *regardless of the location of the worksite or if it has been served*
32 *with a prior notice pursuant to this part alleging the same violation*
33 *that it did not cure.*

34 ~~(4)~~

35 *(e)* The periods specified in this section are not counted as part
36 of the time limited for the commencement of the civil action to
37 recover penalties under this part.

38 *(f) (1) (A) Notwithstanding any other law, an employer who*
39 *employed at least 100 employees in total during the period covered*
40 *by the notice, upon being served with a summons and complaint*

1 *asserting a claim under subdivision (a) or (f) of Section 2699, may*
2 *file a request for an early evaluation conference in the proceedings*
3 *of the claim and a request for a stay of court proceedings prior to*
4 *or simultaneous with that defendant's responsive pleading or other*
5 *initial appearance in the action that includes the claim.*

6 *(B) The purpose of the evaluation conference shall include, but*
7 *not be limited to, evaluation of all of the following, as applicable:*

8 *(i) Whether any of the alleged violations occurred and if so,*
9 *whether the defendant has cured the alleged violations.*

10 *(ii) The strengths and weaknesses of the plaintiff's claims and*
11 *the defendant's defenses.*

12 *(iii) Whether plaintiff's claims, including any claim for penalties*
13 *or injunctive relief, can be settled in whole or in part.*

14 *(iv) Whether the parties should share other information that*
15 *may facilitate early evaluation and resolution of the dispute.*

16 *(2) A request for an early evaluation conference by a defendant*
17 *pursuant to paragraph (1) shall include a statement regarding*
18 *whether the defendant intends to cure any or all of the alleged*
19 *violations, specify the alleged violations it will cure, if applicable,*
20 *and identify the allegations it disputes.*

21 *(3) Upon the filing of a request for an early evaluation*
22 *conference by a defendant and, if requested, a stay of proceedings,*
23 *a court shall stay the proceedings and issue an order that does the*
24 *following, absent good cause for denying a defendant's request in*
25 *whole or in part:*

26 *(A) Schedules a mandatory early evaluation conference for a*
27 *date as soon as possible from the date of the order but in no event*
28 *later than 70 days after issuance of the order.*

29 *(B) Directs a defendant that has filed a statement that it intends*
30 *to cure any or all of the alleged violations to submit confidentially*
31 *to the neutral evaluator and serve on the plaintiff, within 21 days*
32 *after issuance of the order, the employer's proposed plan to cure*
33 *those violations.*

34 *(C) Directs a defendant that is disputing any alleged violations*
35 *to submit to the neutral evaluator and serve on the plaintiff a*
36 *confidential statement that includes for use solely for the early*
37 *evaluation conference, the basis and evidence for disputing those*
38 *alleged violations.*

39 *(D) Directs the parties to appear at the time set for the*
40 *conference.*

1 (E) Directs the plaintiff to submit to the neutral evaluator and
2 serve on the defendant no more than 21 days after service of
3 defendant's proposed cure plan, a confidential statement that
4 includes, to the extent reasonably known, for use solely for the
5 purpose of the early evaluation conference, all of the following:
6 (i) The factual basis for each of the alleged violations.
7 (ii) The amount of penalties claimed for each violation if any,
8 and the basis for that calculation.
9 (iii) The amount of attorney's fees and costs incurred to date,
10 if any, that are being claimed.
11 (iv) Any demand for settlement of the case in its entirety.
12 (v) The basis for accepting or not accepting the employer's
13 proposed plan for curing any or all alleged violations.
14 (4) If the neutral evaluator accepts the employer's proposed
15 plan for curing any or all alleged violations, the defendant shall
16 present evidence within 10 calendar days or such longer period
17 as agreed by the parties or set by the neutral evaluator,
18 demonstrating that the cure has been accomplished. If the
19 defendant indicated it would cure any alleged violations and fails
20 to timely submit the required evidence showing correction of the
21 violation or violations to neutral evaluator and plaintiff, the early
22 evaluation process and any stay may be terminated by the court.
23 (5) If the neutral evaluator and the parties agree that the
24 employer has cured the alleged violations that it stated an intention
25 to cure, the parties shall jointly submit a statement to the court
26 setting forth the terms of their agreement.
27 (6) If no other alleged violations remain in dispute, the parties
28 and the court shall treat the parties' submission as a proposed
29 settlement pursuant to the terms and procedures set forth in
30 subdivision (l) of Section 2699.
31 (7) If other alleged violations remain in dispute, the court shall
32 have discretion to defer consideration of the parties' agreement
33 until after further litigation proceedings.
34 (8) In calculating any penalties owed under this part for any
35 violations that the employer promptly cured pursuant to this
36 section, the court shall determine the applicability of subdivision
37 (j), paragraph (2) of subdivision (e), paragraph (1) of subdivision
38 (g), and paragraph (1) of subdivision (h) of Section 2699, as well
39 as the fact that the violations were cured without the need for
40 extended litigation.

1 (9) *If the neutral evaluator or plaintiff does not agree that the*
2 *employer has cured the alleged violations that it stated an intention*
3 *to cure, the employer may file a motion to request the court to*
4 *approve the cure and submit evidence showing correction of the*
5 *alleged violations. The court may request further briefing and*
6 *evidentiary submissions from the parties in response to that motion*
7 *and evidence.*

8 (10) *All statements or evidence submitted for purposes of the*
9 *early evaluation conference and all discussions at the early*
10 *evaluation conference shall be subject to Section 1152 of the*
11 *Evidence Code.*

12 (11) *The early evaluation process need not extend beyond 30*
13 *days unless parties mutually agree to extend time.*

14 (12) *Early evaluation conferences shall be conducted by a judge*
15 *or commissioner or such other person knowledgeable about and*
16 *experienced with issues arising under the code whom the court*
17 *shall designate.*

18 (13) *Nothing in this subdivision affects or modifies the*
19 *inadmissibility of evidence regarding offers of compromise*
20 *pursuant to Section 1152 of the Evidence Code, including, but not*
21 *limited to, inadmissibility to prove injury or damage.*

22 (14) *Nothing in this subdivision prohibits an employer from*
23 *independently curing any violations or prevents the parties from*
24 *agreeing to their own mediation process. Nor does anything in*
25 *this section prohibit an employer covered by subparagraph (A) of*
26 *paragraph (2) of subdivision (c) from requesting an early*
27 *evaluation conference under such other terms and conditions as*
28 *the court makes available to other litigants.*

29 (15) *Nothing in this subdivision shall preclude a court from*
30 *ordering appropriate injunctive relief pursuant to paragraph (1)*
31 *of subdivision (e) of Section 2699.*

32 (16) *Nothing in this subdivision limits the court's obligation to*
33 *approve settlements under this part.*

34 (g) (1) *Except as provided in paragraph (2), the amendments*
35 *made to this section by the act adding this subdivision shall apply*
36 *to a civil action brought on or after June 19, 2024.*

37 (2) *The amendments made to this section by the act adding this*
38 *subdivision shall not apply to a civil action with respect to which*
39 *the notice required by subparagraph (A) of paragraph (1) of*
40 *subdivision (a), paragraph (1) of subdivision (b), or subparagraph*

1 (A) of paragraph (1) of subdivision (c) of this section was filed
2 before June 19, 2024.

3 (e)

4 (h) This section shall ~~become operative on July 1, 2021~~. be
5 operative only until October 1, 2024, and as of that date is
6 repealed.

7 SEC. 2. Section 2699.3 is added to the Labor Code, to read:

8 2699.3. (a) A civil action by an aggrieved employee pursuant
9 to subdivision (a) or (f) of Section 2699 alleging a violation of any
10 provision listed in Section 2699.5 shall commence only after the
11 following requirements have been met:

12 (1) (A) The aggrieved employee or representative shall give
13 written notice by online filing with the Labor and Workforce
14 Development Agency and by certified mail to the employer of the
15 specific provisions of this code alleged to have been violated,
16 including the facts and theories to support the alleged violation.

17 (B) A notice filed with the Labor and Workforce Development
18 Agency pursuant to subparagraph (A) and any employer response
19 to that notice shall be accompanied by a filing fee of seventy-five
20 dollars (\$75). The fees required by this subparagraph are subject
21 to waiver in accordance with the requirements of Sections 68632
22 and 68633 of the Government Code.

23 (C) The fees paid pursuant to subparagraph (B) shall be paid
24 into the Labor and Workforce Development Fund and used for the
25 purposes specified in subdivision (n) of Section 2699.

26 (2) (A) The agency shall notify the employer and the aggrieved
27 employee or representative by certified mail that it does not intend
28 to investigate the alleged violation within 60 calendar days of the
29 postmark date of the notice received pursuant to paragraph (1).
30 Upon receipt of that notice or if no notice is provided within 65
31 calendar days of the postmark date of the notice given pursuant
32 to paragraph (1), the aggrieved employee may commence a civil
33 action pursuant to Section 2699.

34 (B) If the agency intends to investigate the alleged violation, it
35 shall notify the employer and the aggrieved employee or
36 representative by certified mail of its decision within 65 calendar
37 days of the postmark date of the notice received pursuant to
38 paragraph (1). Within 120 calendar days of that decision, the
39 agency may investigate the alleged violation and issue any
40 appropriate citation. If the agency determines that no citation will

1 *be issued, it shall notify the employer and aggrieved employee of*
2 *that decision within five business days thereof by certified mail.*
3 *Upon receipt of that notice or if no citation is issued by the agency*
4 *within the time limits prescribed by subparagraph (A) and this*
5 *subparagraph or if the agency fails to provide timely or any*
6 *notification, the aggrieved employee may commence a civil action*
7 *pursuant to Section 2699.*

8 *(C) Notwithstanding any other provision of law, a plaintiff may*
9 *as a matter of right amend an existing complaint to add a cause*
10 *of action arising under this part at any time within 60 days of the*
11 *time periods specified in this part.*

12 *(b) A civil action by an aggrieved employee pursuant to*
13 *subdivision (a) or (f) of Section 2699 alleging a violation of any*
14 *provision of Division 5 (commencing with Section 6300) other*
15 *than those listed in Section 2699.5 shall commence only after the*
16 *following requirements have been met:*

17 *(1) The aggrieved employee or representative shall give notice*
18 *by online filing with the Division of Occupational Safety and Health*
19 *and by certified mail to the employer, with a copy to the Labor*
20 *and Workforce Development Agency, of the specific provisions of*
21 *Division 5 (commencing with Section 6300) alleged to have been*
22 *violated, including the facts and theories to support the alleged*
23 *violation.*

24 *(2) (A) The division shall inspect or investigate the alleged*
25 *violation pursuant to the procedures specified in Division 5*
26 *(commencing with Section 6300).*

27 *(i) If the division issues a citation, the employee may not*
28 *commence an action pursuant to Section 2699. The division shall*
29 *notify the aggrieved employee and employer in writing within 14*
30 *calendar days of certifying that the employer has corrected the*
31 *violation.*

32 *(ii) If by the end of the period for inspection or investigation*
33 *provided for in Section 6317, the division fails to issue a citation*
34 *and the aggrieved employee disputes that decision, the employee*
35 *may challenge that decision in the superior court. In such an*
36 *action, the superior court shall follow precedents of the*
37 *Occupational Safety and Health Appeals Board. If the court finds*
38 *that the division should have issued a citation and orders the*
39 *division to issue a citation, then the aggrieved employee may not*
40 *commence a civil action pursuant to Section 2699.*

1 (iii) A complaint in superior court alleging a violation of
2 Division 5 (commencing with Section 6300) other than those listed
3 in Section 2699.5 shall include therewith a copy of the notice of
4 violation provided to the division and employer pursuant to
5 paragraph (1).

6 (iv) The superior court shall not dismiss the action for
7 nonmaterial differences in facts or theories between those
8 contained in the notice of violation provided to the division and
9 employer pursuant to paragraph (1) and the complaint filed with
10 the court.

11 (B) If the division fails to inspect or investigate the alleged
12 violation as provided by Section 6309, the provisions of subdivision
13 (c) shall apply to the determination of the alleged violation.

14 (3) (A) Nothing in this subdivision shall be construed to alter
15 the authority of the division to permit long-term abatement periods
16 or to enter into memoranda of understanding or joint agreements
17 with employers in the case of long-term abatement issues.

18 (B) Nothing in this subdivision shall be construed to authorize
19 an employee to file a notice or to commence a civil action pursuant
20 to Section 2699 during the period that an employer has voluntarily
21 entered into consultation with the division to ameliorate a condition
22 in that particular worksite.

23 (C) An employer who has been provided notice pursuant to this
24 section may not then enter into consultation with the division in
25 order to avoid an action under this section.

26 (4) The superior court shall review and approve any proposed
27 settlement of alleged violations of the provisions of Division 5
28 (commencing with Section 6300) to ensure that the settlement
29 provisions are at least as effective as the protections or remedies
30 provided by state and federal law or regulation for the alleged
31 violation. The provisions of the settlement relating to health and
32 safety laws shall be submitted to the division at the same time that
33 they are submitted to the court. This requirement shall be construed
34 to authorize and permit the division to comment on those settlement
35 provisions, and the court shall grant the division's commentary
36 the appropriate weight.

37 (c) A civil action by an aggrieved employee pursuant to
38 subdivision (a) or (f) of Section 2699 alleging a violation of any
39 provision other than those listed in Section 2699.5 or Division 5

1 (commencing with Section 6300) shall commence only after the
2 following requirements have been met:

3 (1) (A) The aggrieved employee or representative shall give
4 written notice by online filing with the Labor and Workforce
5 Development Agency and by certified mail to the employer of the
6 specific provisions of this code alleged to have been violated,
7 including the facts and theories to support the alleged violation.

8 (B) A notice filed with the Labor and Workforce Development
9 Agency pursuant to subparagraph (A) and any employer response
10 to that notice shall be accompanied by a filing fee of seventy-five
11 dollars (\$75). The fees required by this subparagraph are subject
12 to waiver in accordance with the requirements of Sections 68632
13 and 68633 of the Government Code.

14 (C) The fees paid pursuant to subparagraph (B) shall be paid
15 into the Labor and Workforce Development Fund and used for the
16 purposes specified in subdivision (n) of Section 2699.

17 (D) If the employer is not eligible for the processes in
18 paragraphs (2) or (3) or chooses not to utilize those processes,
19 the agency shall notify the employer and the aggrieved employee
20 or representative by certified mail that it does not intend to
21 investigate the alleged violation within 60 calendar days of the
22 postmark date of the notice received pursuant to paragraph (1).
23 Upon receipt of that notice or if no notice is provided within 65
24 calendar days of the postmark date of the notice given pursuant
25 to subparagraph (A), the aggrieved employee may commence a
26 civil action pursuant to Section 2699.

27 (E) If the agency intends to investigate the alleged violation, it
28 shall notify the employer and the aggrieved employee or
29 representative by certified mail of its decision within 65 calendar
30 days of the postmark date of the notice received pursuant to
31 subparagraph (A). Within 120 calendar days of that decision, the
32 agency may investigate the alleged violation and issue any
33 appropriate citation. If the agency determines that no citation will
34 be issued, it shall notify the employer and aggrieved employee of
35 that decision within five business days thereof by certified mail.
36 Upon receipt of that notice or if no citation is issued by the agency
37 within the time limits prescribed by subparagraph (D) and this
38 subparagraph or if the agency fails to provide timely or any
39 notification, the aggrieved employee may commence a civil action
40 pursuant to Section 2699.

1 (2) (A) Within 33 days of receipt of the notice sent by the
2 aggrieved employee or representative, an employer that employed
3 fewer than 100 employees in total during the period covered by
4 the notice may submit to the agency a confidential proposal to
5 cure one or more of the alleged violations. The employer shall
6 specify which of the alleged violations it proposes to cure.

7 (B) If the cure is facially sufficient or if a conference is necessary
8 to determine if a sufficient cure is possible, then within 14 days
9 after receipt of the employer's proposal, the agency may set a
10 conference with the parties, to be conducted no more than 30 days
11 thereafter, to determine whether the proposed cure is sufficient,
12 what additional information may be necessary to evaluate the
13 sufficiency of the cure, and the deadline agreed upon by the parties
14 for the employer to complete the cure. If the cure includes the
15 payment of unpaid wages, the agency shall also determine at the
16 conference whether to request the employer pay the proposed cure
17 amount, including any wages and liquidated damages due and 7
18 percent interest, into escrow or shall provide such other form of
19 security as the agency deems suitable. Any such conference may
20 be electronic, telephonic, or in person. If the agency determines
21 that the cure is not facially sufficient or does not act upon the
22 employer's cure proposal, the employee may proceed with a civil
23 action under this part after 65 calendar days from sending the
24 notice required by this subdivision, unless this time is extended by
25 the agency, provided that such time shall not be extended to more
26 than 120 calendar days after notice is sent. However, the employer
27 shall be entitled to file a request for a stay and early evaluation
28 conference as set forth in subdivision (f).

29 (C) On or before the agreed upon deadline to cure, but no more
30 than 45 days after the conference, the employer shall complete the
31 cure and provide a sworn notification to the employee and agency
32 that the cure is completed, accompanied by a payroll audit and
33 check register if the violation involves a payment obligation. This
34 notification shall also include any information the parties deemed
35 necessary to determine the sufficiency of the cure. The agency
36 shall verify whether the cure is complete within 20 days of
37 receiving the employer's notification. If the agency review
38 procedure under this section extends beyond the 65-day period
39 set forth in this section, the statute of limitation on the alleged

1 violations shall remain tolled until that procedure has been
2 completed.

3 (D) If the agency preliminarily determines that the alleged
4 violation has been cured, it shall notify the aggrieved employee
5 and, if requested by the aggrieved employee, shall set a hearing
6 within 30 days of such determination. The agency shall issue an
7 order no more than 20 days after the hearing providing a
8 determination whether the cure is adequate and the reasons for
9 its determination. If the agency determines that the alleged
10 violation has been cured, the aggrieved employee may not proceed
11 with a civil action. If the aggrieved employee disagrees with the
12 cure determination, the aggrieved employee may appeal that
13 determination to the superior court. Any amounts paid by the
14 employer to the aggrieved employees exclusive of penalties under
15 this section to cure the alleged violation shall be offset against
16 any judgment later entered with respect to that violation, if the
17 superior court concludes the agency abused its discretion in finding
18 that the employer's cure was adequate.

19 (E) No cure or proposal to cure pursuant to this paragraph may
20 be deemed an admission of liability by the employer that submitted
21 the proposed cure. Any cure proposal shall be deemed a
22 confidential settlement proposal subject to Section 1152 of the
23 Evidence Code.

24 (F) Nothing in this paragraph prohibits an employer from
25 independently remedying any violations or prevents the parties
26 from agreeing to their own mediation process.

27 (3) If the only alleged violation the employer seeks to cure is a
28 violation of Section 226, the following procedure shall apply:

29 (A) The employer may cure the alleged violation within 33
30 calendar days of the postmark date of the notice sent by the
31 aggrieved employee or representative. The employer shall give
32 written notice within that period of time by certified mail to the
33 aggrieved employee or representative and by online filing with
34 the agency if the alleged violation is cured, including a description
35 of actions taken, and no civil action pursuant to Section 2699 may
36 commence. If the alleged violation is not cured within the 33-day
37 period, the employee may commence a civil action pursuant to
38 Section 2699.

39 (B) If the aggrieved employee disputes that the alleged violation
40 of Section 226 has been cured, the aggrieved employee or

1 representative shall provide written notice by online filing with
2 the agency and by certified mail to the employer, including
3 specified grounds to support that dispute, to the employer and the
4 agency. Within 17 calendar days of the receipt of that notice, the
5 agency shall review the actions taken by the employer to cure the
6 alleged violation, and provide written notice of its decision by
7 certified mail to the aggrieved employee and the employer. The
8 agency may grant the employer three additional business days to
9 cure the alleged violation. If the agency determines that the alleged
10 violation has not been cured or if the agency fails to provide timely
11 or any notification, the employee may proceed with the civil action
12 pursuant to Section 2699. If the agency determines that the alleged
13 violation has been cured, but the employee still disagrees, the
14 employee may appeal that determination to the superior court.

15 (d) No employer shall avail itself of the notice and cure
16 provisions of this section more than one time in a 12-month period
17 for violations of the same provisions set forth in the notice,
18 regardless of the location of the worksite or if it has been served
19 with a prior notice pursuant to this part alleging the same violation
20 that it did not cure.

21 (e) The periods specified in this section are not counted as part
22 of the time limited for the commencement of the civil action to
23 recover penalties under this part.

24 (f) (1) (A) Notwithstanding any other law, an employer not
25 covered by subparagraph (A) of paragraph (2) of subdivision (c),
26 upon being served with a summons and complaint asserting a
27 claim under subdivision (a) or (f) of Section 2699, may file a
28 request for an early evaluation conference in the proceedings of
29 the claim and a request for a stay of court proceedings prior to or
30 simultaneous with that defendant's responsive pleading or other
31 initial appearance in the action that includes the claim.

32 (B) The purpose of the evaluation conference shall include, but
33 not be limited to, evaluation of all of the following, as applicable:

34 (i) Whether any of the alleged violations occurred and if so,
35 whether the defendant has cured the alleged violations.

36 (ii) The strengths and weaknesses of the plaintiff's claims and
37 the defendant's defenses.

38 (iii) Whether plaintiff's claims, including any claim for penalties
39 or injunctive relief, can be settled in whole or in part.

1 (iv) Whether the parties should share other information that
2 may facilitate early evaluation and resolution of the dispute.

3 (2) A request for an early evaluation conference by a defendant
4 pursuant to paragraph (1) shall include a statement regarding
5 whether the defendant intends to cure any or all of the alleged
6 violations, specify the alleged violations it will cure, if applicable,
7 and identify the allegations it disputes.

8 (3) Upon the filing of a request for an early evaluation
9 conference by a defendant and, if requested, a stay of proceedings,
10 a court shall stay the proceedings and issue an order that does the
11 following, absent good cause for denying defendant's request in
12 whole or in part:

13 (A) Schedules a mandatory early evaluation conference for a
14 date as soon as possible from the date of the order but in no event
15 later than 70 days after issuance of the order.

16 (B) Directs a defendant that has filed a statement that it intends
17 to cure any or all of the alleged violations to submit confidentially
18 to the neutral evaluator and serve on the plaintiff, within 21 days
19 after issuance of the order, the employer's proposed plan to cure
20 those violations.

21 (C) Directs a defendant that is disputing any alleged violations
22 to submit to the neutral evaluator and serve on the plaintiff a
23 confidential statement that includes for use solely for the early
24 evaluation conference, the basis and evidence for disputing those
25 alleged violations.

26 (D) Directs the parties to appear at the time set for the
27 conference.

28 (E) Directs the plaintiff to submit to the neutral evaluator and
29 serve on the defendant no more than 21 days after service of
30 defendant's proposed cure plan, a confidential statement that
31 includes, to the extent reasonably known, for use solely for the
32 purpose of the early evaluation conference, all of the following:

33 (i) The factual basis for each of the alleged violations.

34 (ii) The amount of penalties claimed for each violation if any,
35 and the basis for that calculation.

36 (iii) The amount of attorney's fees and costs incurred to date,
37 if any, that are being claimed.

38 (iv) Any demand for settlement of the case in its entirety.

39 (v) The basis for accepting or not accepting the employer's
40 proposed plan for curing any or all alleged violations.

1 (4) *If the neutral evaluator accepts the employer's proposed*
2 *plan for curing any or all alleged violations, the defendant shall*
3 *present evidence within 10 calendar days or such longer period*
4 *as agreed by the parties or set by the neutral evaluator,*
5 *demonstrating that the cure has been accomplished. If the*
6 *defendant indicated it would cure any alleged violations and fails*
7 *to timely submit the required evidence showing correction of the*
8 *violation or violations to neutral evaluator and plaintiff, the early*
9 *evaluation process and any stay may be terminated by the court.*

10 (5) *If the neutral evaluator and the parties agree that the*
11 *employer has cured the alleged violations that it stated an intention*
12 *to cure, the parties shall jointly submit a statement to the court*
13 *setting forth the terms of their agreement.*

14 (6) *If no other alleged violations remain in dispute, the parties*
15 *and the court shall treat the parties' submission as a proposed*
16 *settlement pursuant to the terms and procedures set forth in*
17 *subdivision (l) of Section 2699.*

18 (7) *If other alleged violations remain in dispute, the court shall*
19 *have discretion to defer consideration of the parties' agreement*
20 *until after further litigation proceedings.*

21 (8) *In calculating any penalties owed under this part for any*
22 *violations that the employer promptly cured pursuant to this*
23 *section, the court shall determine the applicability of subdivision*
24 *(j), paragraph (2) of subdivision (e), paragraph (1) of subdivision*
25 *(g), and paragraph (1) of subdivision (h) of Section 2699, and the*
26 *court shall consider that the violations were cured without the*
27 *need for extended litigation.*

28 (9) *If the neutral evaluator or plaintiff does not agree that the*
29 *employer has cured the alleged violations that it stated an intention*
30 *to cure, the employer may file a motion to request the court to*
31 *approve the cure and submit evidence showing correction of the*
32 *alleged violations. The court may request further briefing and*
33 *evidentiary submissions from the parties in response to that motion*
34 *and evidence.*

35 (10) *All statements or evidence submitted for purposes of the*
36 *early evaluation conference and all discussions at the early*
37 *evaluation conference shall be subject to Section 1152 of the*
38 *Evidence Code.*

39 (11) *The early evaluation process shall not extend beyond 30*
40 *days unless parties mutually agree to extend time.*

1 (12) Early evaluation conferences shall be conducted by a judge
2 or commissioner or such other person knowledgeable about and
3 experienced with issues arising under the code whom the court
4 shall designate.

5 (13) Nothing in this subdivision affects or modifies the
6 inadmissibility of evidence regarding offers of compromise
7 pursuant to Section 1152 of the Evidence Code, including, but not
8 limited to, inadmissibility to prove injury or damage.

9 (14) Nothing in this subdivision prohibits an employer from
10 independently curing any violations or prevents the parties from
11 agreeing to their own mediation process. Nor does anything in
12 this section prohibit an employer covered by subparagraph (A) of
13 paragraph (2) of subdivision (c) from requesting an early
14 evaluation conference under such other terms and conditions as
15 the court makes available to other litigants.

16 (15) Nothing in this subdivision shall preclude a court from
17 ordering appropriate injunctive relief pursuant to paragraph (1)
18 of subdivision (e) of Section 2699.

19 (16) Nothing in this subdivision limits the court's obligation to
20 approve settlements under this part.

21 (g) This section shall become operative October 1, 2024.

22 SEC. 3. Section 2699.5 of the Labor Code is amended to read:

23 2699.5. (a) The provisions of subdivision (a) of Section 2699.3
24 apply to any alleged violation of the following provisions:
25 subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5,
26 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205,
27 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section
28 213, Sections 221, 222, 222.5, 223, and 224, paragraphs (1) to (5),
29 inclusive, (7), and (9) of subdivision (a) of Section 226, Sections
30 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8,
31 and 231, subdivision (c) of Section 232, subdivision (c) of Section
32 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of
33 Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511,
34 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851,
35 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025,
36 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of
37 Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198,
38 subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290,
39 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301,
40 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392,

1 1683, and 1695, subdivision (a) of Section 1695.5, Sections
2 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6,
3 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47,
4 Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and
5 2673, subdivision (a) of Section 2673.1, Sections 2695.2, ~~2800~~,
6 2801, ~~2802~~, 2806, and 2810, subdivision (b) of Section 2929, and
7 Sections 3073.6, 6310, 6311, and 6399.7.

8 *(b) (1) Except as provided in paragraph (2), the amendments*
9 *made to this section by the act adding this subdivision shall apply*
10 *to a civil action brought on or after June 19, 2024.*

11 *(2) The amendments made to this section by the act adding this*
12 *subdivision shall not apply to a civil action with respect to which*
13 *the notice required by subparagraph (A) of paragraph (1) of*
14 *subdivision (a), paragraph (1) of subdivision (b), or subparagraph*
15 *(A) of paragraph (1) of subdivision (c) of Section 2699.3 was filed*
16 *before June 19, 2024.*

17 *SEC. 4. The Legislature finds and declares that Section 1 of*
18 *this act, which amends Section 2699.3 of the Labor Code, and*
19 *Section 2 of this act, which adds Section 2699.3 to the Labor Code,*
20 *impose a limitation on the public's right of access to the meetings*
21 *of public bodies or the writings of public officials and agencies*
22 *within the meaning of Section 3 of Article I of the California*
23 *Constitution. Pursuant to that constitutional provision, the*
24 *Legislature makes the following findings to demonstrate the interest*
25 *protected by this limitation and the need for protecting that*
26 *interest:*

27 *Preserving the confidentiality of statements presented during*
28 *settlement negotiations, neutral evaluation of claims, or*
29 *assessments of attempts to cure violations pursuant to this act is*
30 *necessary to facilitate early resolution of claims and encourage*
31 *employers to take prompt action to make aggrieved employees*
32 *whole.*

33 *SEC. 5. No reimbursement is required by this act pursuant to*
34 *Section 6 of Article XIII B of the California Constitution because*
35 *the only costs that may be incurred by a local agency or school*
36 *district will be incurred because this act creates a new crime or*
37 *infraction, eliminates a crime or infraction, or changes the penalty*
38 *for a crime or infraction, within the meaning of Section 17556 of*
39 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 *SEC. 6. This act shall become operative only if Assembly Bill*
4 *2288 of the 2023–24 Regular Session is enacted and takes effect*
5 *on or before January 1, 2025.*

6 *SEC. 7. This act is an urgency statute necessary for the*
7 *immediate preservation of the public peace, health, or safety within*
8 *the meaning of Article IV of the California Constitution and shall*
9 *go into immediate effect. The facts constituting the necessity are:*

10 *In order to further the purpose and intent of the Labor Code*
11 *Private Attorneys General Act of 2004 to protect workers from*
12 *labor violations and address a pending ballot measure, it is*
13 *necessary for this statute to take effect immediately.*

14 ~~SECTION 1. Section 71651.1 of the Government Code is~~
15 ~~amended to read:~~

16 ~~71651.1. (a) Consistent with federal and California labor law,~~
17 ~~a trial court shall not retaliate against an official reporter or official~~
18 ~~reporter pro tempore who notifies the judicial officer that~~
19 ~~technology or audibility issues are interfering with the creation of~~
20 ~~the verbatim record for a remote proceeding pursuant to~~
21 ~~subdivisions (f) and (g) of Section 977 of the Penal Code.~~

22 ~~(b) This section shall remain in effect only until January 1, 2026,~~
23 ~~and as of that date is repealed.~~

24 ~~SEC. 2. Section 977 of the Penal Code, as amended by Section~~
25 ~~3 of Chapter 190 of the Statutes of 2023, is amended to read:~~

26 ~~977. (a) (1) In all cases in which the accused is charged with~~
27 ~~a misdemeanor only, they may appear by counsel only, except as~~
28 ~~provided in paragraphs (2) and (3). If the accused agrees, the initial~~
29 ~~court appearance, arraignment, plea, and all other proceedings,~~
30 ~~except jury and court trials, may be conducted remotely through~~
31 ~~the use of technology, as provided by subdivision (c).~~

32 ~~(2) If the accused is charged with a misdemeanor offense~~
33 ~~involving domestic violence, as defined in Section 6211 of the~~
34 ~~Family Code, or a misdemeanor violation of Section 273.6, the~~
35 ~~accused shall be present for arraignment and sentencing, and at~~
36 ~~any time during the proceedings when ordered by the court for the~~
37 ~~purpose of being informed of the conditions of a protective order~~
38 ~~issued pursuant to Section 136.2.~~

39 ~~(3) If the accused is charged with a misdemeanor offense~~
40 ~~involving driving under the influence, in an appropriate case, the~~

1 court may order a defendant to be present for arraignment, at the
2 time of plea, or at sentencing. For purposes of this paragraph, a
3 misdemeanor offense involving driving under the influence shall
4 include a misdemeanor violation of any of the following:

5 (A) Subdivision (b) of Section 191.5.

6 (B) Section 23103 as specified in Section 23103.5 of the Vehicle
7 Code.

8 (C) Section 23152 of the Vehicle Code.

9 (D) Section 23153 of the Vehicle Code.

10 (b) (1) Except as provided in subdivision (c), in all cases in
11 which a felony is charged, the accused shall be physically present
12 at the arraignment, at the time of plea, during the preliminary
13 hearing, during those portions of the trial when evidence is taken
14 before the trier of fact, and at the time of the imposition of
15 sentence. The accused shall be physically or remotely present at
16 all other proceedings unless they waive their right to be physically
17 or remotely present, with leave of court and with approval by
18 defendant's counsel.

19 (2) The waiver of a defendant's right to be physically or
20 remotely present may be in writing and filed with the court or,
21 with the court's consent, may be entered personally by the
22 defendant or by the defendant's counsel of record.

23 (A) A defendant's personal waiver of the right to be physically
24 or remotely present shall be on the record and state that the
25 defendant has been advised of the right to be physically or remotely
26 present for the hearing at issue and agrees that notice to the attorney
27 that the defendant's physical or remote presence in court at a future
28 date and time is required is notice to the defendant of that
29 requirement.

30 (B) A waiver of the defendant's physical or remote presence
31 may be entered by counsel, after counsel has stated on the record
32 that the defendant has been advised of the right to be physically
33 or remotely present for the hearing at issue, has waived that right,
34 and agrees that notice to the attorney that the defendant's physical
35 or remote presence in court at a future date and time is required is
36 notice to the defendant of that requirement.

37 (3) The court may specifically direct the defendant, either
38 personally or through counsel, to be physically or remotely present
39 at any particular proceeding or portion thereof, including upon

1 request of a victim, to the extent required by Section 28 of Article
2 I of the California Constitution.

3 ~~(4) A written waiver of the defendant’s physical or remote~~
4 ~~presence shall be substantially in the following form:~~

5
6 ~~“Waiver of Defendant’s Physical or Remote Presence”~~

7
8 ~~“The undersigned defendant, having been advised of their right~~
9 ~~to be present at all stages of the proceedings, including, but not~~
10 ~~limited to, presentation of and arguments on questions of fact and~~
11 ~~law, and to be confronted by and cross-examine all witnesses,~~
12 ~~hereby knowingly, intelligently, and voluntarily waives the right~~
13 ~~to be physically or remotely present at the hearing of any motion~~
14 ~~or other proceeding in this cause. The undersigned defendant~~
15 ~~hereby requests the court to proceed during every absence of the~~
16 ~~defendant that the court may permit pursuant to this waiver, and~~
17 ~~hereby agrees that their interest is represented at all times by the~~
18 ~~presence of their attorney the same as if the defendant were~~
19 ~~physically or remotely present in court, and further agrees that~~
20 ~~notice to their attorney that their physical or remote presence in~~
21 ~~court on a particular day at a particular time is required is notice~~
22 ~~to the defendant of the requirement of their physical or remote~~
23 ~~appearance at that time and place.”~~

24
25 ~~(e) (1) (A) Upon waiver of the right to be physically present~~
26 ~~by the defendant, criminal proceedings may be conducted through~~
27 ~~the use of remote technology, except as provided in subparagraphs~~
28 ~~(D) and (E). The defendant may withdraw the waiver at any time.~~

29 ~~(B) The court may specifically direct the defendant, either~~
30 ~~personally or through counsel, to be physically present at any~~
31 ~~particular felony proceeding or portion thereof, including as~~
32 ~~provided in subdivision (f).~~

33 ~~(C) If the defendant is represented by counsel, the attorney shall~~
34 ~~not be required to be physically present with the defendant if~~
35 ~~remote technology allows for private communication between the~~
36 ~~defendant and the attorney prior to and during the proceeding,~~
37 ~~unless, upon request of defense counsel, the court allows the~~
38 ~~appearance without private communication. Any private~~
39 ~~communication shall be confidential and privileged pursuant to~~
40 ~~Section 952 of the Evidence Code.~~

1 ~~(D) A defendant charged with a felony or misdemeanor shall~~
2 ~~not appear remotely for a jury trial or court trial, except as provided~~
3 ~~in subparagraph (A) of paragraph (2).~~

4 ~~(E) A defendant charged with a felony shall not appear remotely~~
5 ~~at sentencing, except for postconviction relief proceedings and as~~
6 ~~otherwise provided by law.~~

7 ~~(F) A witness may appear at any misdemeanor or felony criminal~~
8 ~~proceeding, except for felony trial, remotely pursuant to section~~
9 ~~977.3.~~

10 ~~(2) (A) A felony defendant who does not wish to be physically~~
11 ~~or remotely present for noncritical portions of the trial when no~~
12 ~~testimonial evidence is taken may make an oral waiver in open~~
13 ~~court prior to the proceeding, or may submit a written request to~~
14 ~~the court, which the court may grant in its discretion.~~

15 ~~(B) This paragraph does not expand or limit the right of a~~
16 ~~defendant to be personally present with their counsel at a particular~~
17 ~~proceeding as required by Section 15 of Article 1 of the California~~
18 ~~Constitution.~~

19 ~~(d) (1) Notwithstanding any other provision in this section, the~~
20 ~~court may allow a defendant to appear by counsel on that day, at~~
21 ~~a trial, hearing, or other proceeding, with or without a written~~
22 ~~waiver, if the court finds, by clear and convincing evidence, all of~~
23 ~~the following to be true:~~

24 ~~(A) The defendant is in custody and is refusing, without good~~
25 ~~cause, to appear in court on that day for that trial, hearing, or other~~
26 ~~proceeding.~~

27 ~~(B) The defendant has been informed of their right and~~
28 ~~obligation to be personally present in court.~~

29 ~~(C) The defendant has been informed that the trial, hearing, or~~
30 ~~other proceeding will proceed without the defendant being present.~~

31 ~~(D) The defendant has been informed that they have the right~~
32 ~~to remain silent during the trial, hearing, or other proceeding.~~

33 ~~(E) The defendant has been informed that their absence without~~
34 ~~good cause will constitute a voluntary waiver of any constitutional~~
35 ~~or statutory right to confront any witnesses against them or to~~
36 ~~testify on their own behalf.~~

37 ~~(F) The defendant has been informed whether or not defense~~
38 ~~counsel will be present.~~

1 ~~(2) The court shall state on the record the reasons for the court’s~~
2 ~~findings and shall cause those findings and reasons to be entered~~
3 ~~into the minutes.~~

4 ~~(3) If the trial, hearing, or other proceeding lasts for more than~~
5 ~~one day, the court is required to make the findings required by this~~
6 ~~subdivision anew for each day that the defendant is absent.~~

7 ~~(4) This subdivision does not apply to any trial, hearing, or other~~
8 ~~proceeding in which the defendant was personally present in court~~
9 ~~at the commencement of the trial, hearing, or other proceeding.~~

10 ~~(e) A court may, as appropriate and practicable, allow a~~
11 ~~prosecuting attorney or defense counsel to participate in a criminal~~
12 ~~proceeding through the use of remote technology without being~~
13 ~~physically present in the courtroom and in accordance with~~
14 ~~subdivision (f).~~

15 ~~(f) Except as otherwise provided by law, the court shall require~~
16 ~~a prosecuting attorney, defense counsel, defendant, or witness to~~
17 ~~appear in person at a proceeding, if any of the following conditions~~
18 ~~are present and cannot be resolved in a reasonable amount of time:~~

19 ~~(1) The court does not have the technology necessary to conduct~~
20 ~~the proceeding remotely.~~

21 ~~(2) Although the court has the requisite technology, the quality~~
22 ~~of the technology or audibility at a proceeding prevents the~~
23 ~~effective management or resolution of the proceeding.~~

24 ~~(3) The quality of the technology or audibility at a proceeding~~
25 ~~inhibits the court reporter’s ability to accurately prepare a transcript~~
26 ~~of the proceeding.~~

27 ~~(4) The quality of the technology or audibility at a proceeding~~
28 ~~prevents defense counsel from being able to provide effective~~
29 ~~representation to the defendant.~~

30 ~~(5) The quality of the technology or audibility at a proceeding~~
31 ~~inhibits a court interpreter’s ability to provide language access,~~
32 ~~including the ability to communicate and translate directly with~~
33 ~~the defendant and the court during the proceeding.~~

34 ~~(g) (1) Before the court may proceed with a remote proceeding,~~
35 ~~the court shall have a process for a defendant, defense counsel,~~
36 ~~prosecuting attorney, witness, official reporter, official reporter~~
37 ~~pro tempore, court interpreter, or other court personnel to alert the~~
38 ~~judicial officer of technological or audibility issues that arise during~~
39 ~~the proceeding.~~

1 ~~(2) When the court conducts a remote proceeding that will be~~
2 ~~reported by an official reporter or official reporter pro tempore,~~
3 ~~the reporter shall be physically present in a courtroom.~~

4 ~~(h) The court shall make findings on the record that any waiver~~
5 ~~entered into pursuant to this section is knowingly, voluntarily, and~~
6 ~~intelligently made by the defendant.~~

7 ~~(i) The Judicial Council shall adopt rules and standards that are~~
8 ~~necessary to implement the policies and provisions of this section~~
9 ~~and the intent of the Legislature.~~

10 ~~(j) This section shall remain in effect only until January 1, 2026,~~
11 ~~and as of that date is repealed.~~

12 ~~SEC. 3. Section 977 of the Penal Code, as amended by Section~~
13 ~~4 of Chapter 190 of the Statutes of 2023, is amended to read:~~

14 ~~977. (a) (1) In all cases in which the accused is charged with~~
15 ~~a misdemeanor only, they may appear by counsel only, except as~~
16 ~~provided in paragraphs (2) and (3). If the accused agrees, the initial~~
17 ~~court appearance, arraignment, and plea may be by video, as~~
18 ~~provided by subdivision (c).~~

19 ~~(2) If the accused is charged with a misdemeanor offense~~
20 ~~involving domestic violence, as defined in Section 6211 of the~~
21 ~~Family Code, or a misdemeanor violation of Section 273.6, the~~
22 ~~accused shall be present for arraignment and sentencing, and at~~
23 ~~any time during the proceedings when ordered by the court for the~~
24 ~~purpose of being informed of the conditions of a protective order~~
25 ~~issued pursuant to Section 136.2.~~

26 ~~(3) If the accused is charged with a misdemeanor offense~~
27 ~~involving driving under the influence, in an appropriate case, the~~
28 ~~court may order a defendant to be present for arraignment, at the~~
29 ~~time of plea, or at sentencing. For purposes of this paragraph, a~~
30 ~~misdemeanor offense involving driving under the influence shall~~
31 ~~include a misdemeanor violation of any of the following:~~

32 ~~(A) Subdivision (b) of Section 191.5.~~

33 ~~(B) Section 23103 as specified in Section 23103.5 of the Vehicle~~
34 ~~Code.~~

35 ~~(C) Section 23152 of the Vehicle Code.~~

36 ~~(D) Section 23153 of the Vehicle Code.~~

37 ~~(b) (1) Except as provided in subdivision (c), in all cases in~~
38 ~~which a felony is charged, the accused shall be personally present~~
39 ~~at the arraignment, at the time of plea, during the preliminary~~
40 ~~hearing, during those portions of the trial when evidence is taken~~

1 before the trier of fact, and at the time of the imposition of
2 sentence. The accused shall be personally present at all other
3 proceedings unless they shall, with leave of court, execute in open
4 court, a written waiver of their right to be personally present, as
5 provided by paragraph (2). If the accused agrees, the initial court
6 appearance, arraignment, and plea may be by video, as provided
7 by subdivision (c).

8 (2) The accused may execute a written waiver of their right to
9 be personally present, approved by their counsel, and the waiver
10 shall be filed with the court. However, the court may specifically
11 direct the defendant to be personally present at any particular
12 proceeding or portion thereof. The waiver shall be substantially
13 in the following form:

14
15 *“Waiver of Defendant’s Personal Presence”*

16
17 *“The undersigned defendant, having been advised of their right
18 to be present at all stages of the proceedings, including, but not
19 limited to, presentation of and arguments on questions of fact and
20 law, and to be confronted by and cross-examine all witnesses,
21 hereby waives the right to be present at the hearing of any motion
22 or other proceeding in this cause. The undersigned defendant
23 hereby requests the court to proceed during every absence of the
24 defendant that the court may permit pursuant to this waiver, and
25 hereby agrees that their interest is represented at all times by the
26 presence of their attorney the same as if the defendant were
27 personally present in court, and further agrees that notice to their
28 attorney that their presence in court on a particular day at a
29 particular time is required is notice to the defendant of the
30 requirement of their appearance at that time and place.”*

31
32 (c) (1) The court may permit the initial court appearance and
33 arraignment of defendants held in any state, county, or local facility
34 within the county on felony or misdemeanor charges, except for
35 those defendants who were indicted by a grand jury, to be
36 conducted by two-way electronic audiovideo communication
37 between the defendant and the courtroom in lieu of the physical
38 presence of the defendant in the courtroom. If the defendant is
39 represented by counsel, the attorney shall be present with the
40 defendant at the initial court appearance and arraignment, and may

1 enter a plea during the arraignment. However, if the defendant is
2 represented by counsel at an arraignment on an information in a
3 felony case, and if the defendant does not plead guilty or nolo
4 contendere to any charge, the attorney shall be present with the
5 defendant or if the attorney is not present with the defendant, the
6 attorney shall be present in court during the hearing. The defendant
7 shall have the right to make their plea while physically present in
8 the courtroom if they request to do so. If the defendant decides not
9 to exercise the right to be physically present in the courtroom they
10 shall execute a written waiver of that right. A judge may order a
11 defendant's personal appearance in court for the initial court
12 appearance and arraignment. In a misdemeanor case, a judge may,
13 pursuant to this subdivision, accept a plea of guilty or no contest
14 from a defendant who is not physically in the courtroom. In a
15 felony case, a judge may, pursuant to this subdivision, accept a
16 plea of guilty or no contest from a defendant who is not physically
17 in the courtroom if the parties stipulate thereto.

18 (2) (A) A defendant who does not wish to be personally present
19 for noncritical portions of the trial when no testimonial evidence
20 is taken may make an oral waiver in open court prior to the
21 proceeding or may submit a written request to the court, which the
22 court may grant in its discretion. The court may, when a defendant
23 has waived the right to be personally present, require a defendant
24 held in any state, county, or local facility within the county on
25 felony or misdemeanor charges to be present for noncritical
26 portions of the trial when no testimonial evidence is taken,
27 including, but not limited to, confirmation of the preliminary
28 hearing, status conferences, trial readiness conferences, discovery
29 motions, receipt of records, the setting of the trial date, a motion
30 to vacate the trial date, and motions in limine, by two-way
31 electronic audiovideo communication between the defendant and
32 the courtroom in lieu of the physical presence of the defendant in
33 the courtroom. If the defendant is represented by counsel, the
34 attorney shall not be required to be personally present with the
35 defendant for noncritical portions of the trial, if the audiovideo
36 conferencing system or other technology allows for private
37 communication between the defendant and the attorney prior to
38 and during the noncritical portion of trial. Any private
39 communication shall be confidential and privileged pursuant to
40 Section 952 of the Evidence Code.

1 ~~(B) This paragraph does not expand or limit the right of a~~
2 ~~defendant to be personally present with their counsel at a particular~~
3 ~~proceeding as required by Section 15 of Article 1 of the California~~
4 ~~Constitution.~~

5 ~~(d) (1) Notwithstanding any other provision in this section, the~~
6 ~~court may allow a defendant to appear by counsel on that day, at~~
7 ~~a trial, hearing, or other proceeding, with or without a written~~
8 ~~waiver, if the court finds, by clear and convincing evidence, all of~~
9 ~~the following to be true:~~

10 ~~(A) The defendant is in custody and is refusing, without good~~
11 ~~cause, to appear in court on that day for that trial, hearing, or other~~
12 ~~proceeding.~~

13 ~~(B) The defendant has been informed of their right and~~
14 ~~obligation to be personally present in court.~~

15 ~~(C) The defendant has been informed that the trial, hearing, or~~
16 ~~other proceeding will proceed without the defendant being present.~~

17 ~~(D) The defendant has been informed that they have the right~~
18 ~~to remain silent during the trial, hearing, or other proceeding.~~

19 ~~(E) The defendant has been informed that their absence without~~
20 ~~good cause will constitute a voluntary waiver of any constitutional~~
21 ~~or statutory right to confront any witnesses against them or to~~
22 ~~testify on their own behalf.~~

23 ~~(F) The defendant has been informed whether or not defense~~
24 ~~counsel will be present.~~

25 ~~(2) The court shall state on the record the reasons for the court's~~
26 ~~findings and shall cause those findings and reasons to be entered~~
27 ~~into the minutes.~~

28 ~~(3) If the trial, hearing, or other proceeding lasts for more than~~
29 ~~one day, the court is required to make the findings required by this~~
30 ~~subdivision anew for each day that the defendant is absent.~~

31 ~~(4) This subdivision does not apply to any trial, hearing, or other~~
32 ~~proceeding in which the defendant was personally present in court~~
33 ~~at the commencement of the trial, hearing, or other proceeding.~~

34 ~~(e) This section shall become operative on January 1, 2026.~~

35 ~~SEC. 4. Section 977.3 of the Penal Code is amended to read:~~

36 ~~977.3.—(a) A witness may testify in any misdemeanor or felony~~
37 ~~criminal proceeding, except for felony trials, through the use of~~
38 ~~remote technology with the written or oral consent of the parties~~
39 ~~on the record and with the consent of the court. The defendant~~

1 shall waive the right to have a witness testify in person on the
2 record.

3 (b) Notwithstanding subdivision (a), the court may allow a
4 witness to testify through the use of remote technology as otherwise
5 provided by statutes regarding the examination of victims of sexual
6 crimes and conditional examinations of witnesses.

7 (c) The court shall make findings on the record that any waiver
8 entered into pursuant to this section is knowingly, voluntarily, and
9 intelligently made by the defendant.

10 (d) The Judicial Council shall adopt rules and standards that are
11 necessary to implement the policies and provisions of this section
12 and the intent of the Legislature.

13 (e) This section shall remain in effect only until January 1, 2026,
14 and as of that date is repealed.

15 SEC. 5. Section 1043.5 of the Penal Code, as amended by
16 Section 6 of Chapter 190 of the Statutes of 2023, is amended to
17 read:

18 1043.5. (a) Except as otherwise provided in this section, the
19 defendant in a preliminary hearing shall be personally present.

20 (b) The absence of the defendant in a preliminary hearing after
21 the hearing has commenced in their physical presence shall not
22 prevent continuing the hearing to, and including, holding to answer,
23 filing an information, or discharging the defendant in any of the
24 following cases:

25 (1) Any case in which the defendant, after being warned by the
26 judge that they will be removed if they continued their disruptive
27 behavior, nevertheless insists on acting in a manner so disorderly,
28 disruptive, and disrespectful of the court that the hearing cannot
29 be carried on with the defendant present in the courtroom.

30 (2) Any prosecution for an offense which is not punishable by
31 death in which the defendant is voluntarily absent.

32 (c) Any defendant who is absent from a preliminary hearing
33 pursuant to paragraph (1) of subdivision (b) may reclaim their right
34 to be present at the hearing as soon as they are willing to act
35 consistently with the decorum and respect inherent in the concept
36 of courts and judicial proceedings.

37 (d) Subdivisions (a) and (b) shall not limit the right of a
38 defendant to waive the right to be physically present or to appear
39 through the use of remote technology in accordance with Section
40 977.

1 ~~(e) (1) For purposes of subdivision (b), a preliminary hearing~~
2 ~~shall be deemed to have commenced in the presence of the~~
3 ~~defendant if the court finds, by clear and convincing evidence, all~~
4 ~~of the following to be true:~~

5 ~~(A) The defendant is in custody and is refusing, without good~~
6 ~~cause, to appear in court on that day for that preliminary hearing.~~

7 ~~(B) The defendant has been informed of their right and~~
8 ~~obligation to be personally present in court.~~

9 ~~(C) The defendant has been informed that the preliminary~~
10 ~~hearing will proceed without the defendant being present.~~

11 ~~(D) The defendant has been informed that they have the right~~
12 ~~to remain silent during the preliminary hearing.~~

13 ~~(E) The defendant has been informed that their absence without~~
14 ~~good cause will constitute a voluntary waiver of any constitutional~~
15 ~~or statutory right to confront any witnesses against them or to~~
16 ~~testify on their own behalf.~~

17 ~~(F) The defendant has been informed whether or not defense~~
18 ~~counsel will be present.~~

19 ~~(2) The court shall state on the record the reasons for the court's~~
20 ~~findings and shall cause those findings and reasons to be entered~~
21 ~~into the minutes.~~

22 ~~(3) If the preliminary hearing lasts for more than one day, the~~
23 ~~court is required to make the findings required by this subdivision~~
24 ~~anew for each day that the defendant is absent.~~

25 ~~(4) This subdivision does not apply to any preliminary hearing~~
26 ~~in which the defendant was personally present in court at the~~
27 ~~commencement of the preliminary hearing.~~

28 ~~(f) This section shall remain in effect only until January 1, 2026,~~
29 ~~and as of that date is repealed.~~

30 ~~SEC. 6. Section 1043.5 of the Penal Code, as amended by~~
31 ~~Section 7 of Chapter 190 of the Statutes of 2023, is amended to~~
32 ~~read:~~

33 ~~1043.5. (a) Except as otherwise provided in this section, the~~
34 ~~defendant in a preliminary hearing shall be personally present.~~

35 ~~(b) The absence of the defendant in a preliminary hearing after~~
36 ~~the hearing has commenced in their physical presence shall not~~
37 ~~prevent continuing the hearing to, and including, holding to answer,~~
38 ~~filing an information, or discharging the defendant in any of the~~
39 ~~following cases:~~

- 1 ~~(1) Any case in which the defendant, after being warned by the~~
2 ~~judge that they will be removed if they continued their disruptive~~
3 ~~behavior, nevertheless insists on acting in a manner so disorderly,~~
4 ~~disruptive, and disrespectful of the court that the hearing cannot~~
5 ~~be carried on with the defendant present in the courtroom.~~
- 6 ~~(2) Any prosecution for an offense which is not punishable by~~
7 ~~death in which the defendant is voluntarily absent.~~
- 8 ~~(c) Any defendant who is absent from a preliminary hearing~~
9 ~~pursuant to paragraph (1) of subdivision (b) may reclaim their right~~
10 ~~to be present at the hearing as soon as they are willing to act~~
11 ~~consistently with the decorum and respect inherent in the concept~~
12 ~~of courts and judicial proceedings.~~
- 13 ~~(d) Subdivisions (a) and (b) shall not limit the right of a~~
14 ~~defendant to waive the right to be present in accordance with~~
15 ~~Section 977.~~
- 16 ~~(e) (1) For purposes of subdivision (b), a preliminary hearing~~
17 ~~shall be deemed to have commenced in the presence of the~~
18 ~~defendant if the court finds, by clear and convincing evidence, all~~
19 ~~of the following to be true:~~
- 20 ~~(A) The defendant is in custody and is refusing, without good~~
21 ~~cause, to appear in court on that day for that preliminary hearing.~~
- 22 ~~(B) The defendant has been informed of their right and~~
23 ~~obligation to be personally present in court.~~
- 24 ~~(C) The defendant has been informed that the preliminary~~
25 ~~hearing will proceed without the defendant being present.~~
- 26 ~~(D) The defendant has been informed that they have the right~~
27 ~~to remain silent during the preliminary hearing.~~
- 28 ~~(E) The defendant has been informed that their absence without~~
29 ~~good cause will constitute a voluntary waiver of any constitutional~~
30 ~~or statutory right to confront any witnesses against them or to~~
31 ~~testify on their own behalf.~~
- 32 ~~(F) The defendant has been informed whether or not defense~~
33 ~~counsel will be present.~~
- 34 ~~(2) The court shall state on the record the reasons for the court's~~
35 ~~findings and shall cause those findings and reasons to be entered~~
36 ~~into the minutes.~~
- 37 ~~(3) If the preliminary hearing lasts for more than one day, the~~
38 ~~court is required to make the findings required by this subdivision~~
39 ~~anew for each day that the defendant is absent.~~

- 1 ~~(4) This subdivision does not apply to any preliminary hearing~~
- 2 ~~in which the defendant was personally present in court at the~~
- 3 ~~commencement of the preliminary hearing.~~
- 4 ~~(f) This section shall become operative on January 1, 2026.~~

O

CAPITOL OFFICE
1021 O STREET, SUITE 6610
SACRAMENTO, CA 95814
TEL (916) 651-4024
FAX (916) 651-4924

DISTRICT OFFICE
111 PENN STREET, SUITE 101
EL SEGUNDO, CA 90245
TEL (310) 414-8190
FAX (310) 414-8195

WWW.SENATE.CA.GOV/ALLEN
SENATOR.ALLEN@SENATE.CA.GOV

California State Senate

SENATOR
BEN ALLEN

TWENTY-FOURTH SENATE DISTRICT



COMMITTEES
ENVIRONMENTAL QUALITY, CHAIR
ELECTIONS & CONSTITUTIONAL AMENDMENTS
JUDICIARY
NATURAL RESOURCES & WATER
TRANSPORTATION
JOINT COMMITTEE ON THE ARTS, VICE-CHAIR
ENVIRONMENTAL CAUCUS, CO-CHAIR

June 21, 2024

Assemblymember Blanca Pacheco, Chair
Assembly Rules Committee
1021 O Street, Suite 6250
Sacramento, CA 95814

RE: Request for Urgency Clause, Senate Bill 867 (Allen, Becker, Portantino, and Stern)

Dear Chair Pacheco,

I write requesting that an urgency clause be approved for Senate Bill 867 (Allen, Becker, Portantino, and Stern), as proposed to be amended.

SB 867 proposes a general obligation bond for November's ballot to fund critical investments that reduce the impacts of rising global temperatures and extreme weather events resulting from climate change. The bill funds programs and preventative measures to protect California's vulnerable communities and natural resources from the impact of climate change. The measure proposes to fund projects that reduce fire risk and restore already-damaged areas; restore and protect affected wetlands, watersheds, waterways, coastal resources, and fish and wildlife populations; protect the state's biodiversity; reduce extreme heat impacts in communities and on vulnerable populations; and help our state become more resilient to climate change and reduce the impacts of climate-related natural disasters.

We need an urgency clause in the bill to ensure it is placed on the November ballot.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Ben Allen".

BEN ALLEN
Senator, 24th District