

**STATE OF CALIFORNIA**  
**Budget Change Proposal - Cover Sheet**  
 DF-46 (REV 10/20)

<b>Fiscal Year</b> 2023-24	<b>Business Unit</b> 7350	<b>Department</b> Department of Industrial Relations	<b>Priority No.</b>
<b>Budget Request Name</b> 7350-013-BCP-2023-GB		<b>Program</b> 6100 – Division of Occupational Safety and Health 6105 – Division of Labor Standards Enforcement	<b>Subprogram</b> 6100010 – Compliance 6100070 – OSH Standards Board 6105030 – Retaliation

**Budget Request Description**

Assembly Bill 257: FAST Recovery Act: Food Facilities and Employment

**Budget Request Summary**

The Department of Industrial Relations requests 19 positions and \$4.6 million (\$1.5 million Occupational Safety and Health Fund (OSHF) and \$3.1 million Labor Enforcement and Compliance Fund (LECF)) in 2023-24, and \$4.3 million (\$1.4 million from the OSHF and \$2.9 million from the LECF) in 2024-25 and ongoing, to implement Chapter 246, Statutes of 2022 (AB 257).

<b>Requires Legislation</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Code Section(s) to be Added/Amended/Repealed</b> Click or tap here to enter text.	
<b>Does this BCP contain information technology (IT) components?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	<b>Department CIO</b> Click or tap here to enter text.	<b>Date</b> Click or tap to enter a date.

**For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.**

**Project No.** Click or tap here to enter text. **Project Approval Document:** Click or tap here to enter text.

**Approval Date:** Click or tap to enter a date.

**If proposal affects another department, does other department concur with proposal?**  Yes  No  
*Attach comments of affected department, signed and dated by the department director or designee.*

<b>Prepared By</b> Jeffrey Pantoja	<b>Date</b> 12/30/2022	<b>Reviewed By</b> Courtney Monte	<b>Date</b> 12/30/2022
<b>Department Director</b> Katrina S. Hagen	<b>Date</b> 12/30/2022	<b>Agency Secretary</b> Stewart Knox	<b>Date</b> 12/30/2022

**Department of Finance Use Only**

**Additional Review:**  Capital Outlay  ITCU  FSCU  OSAE  Dept. of Technology

<b>PPBA</b> Andrew March	<b>Date submitted to the Legislature</b> 1/10/2023
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## Analysis of Problem

### A. Budget Request Summary

The Department of Industrial Relations requests 19 positions and \$4.6 million (\$1.5 million Occupational Safety and Health Fund (OSHF) and \$3.1 million Labor Enforcement and Compliance Fund (LECF)) in 2023-24, and \$4.3 million (\$1.4 million from the OSHF and \$2.9 million from the LECF) in 2024-25 and ongoing, to implement Chapter 246, Statutes of 2022 (AB 257).

### B. Background/History

The Department of Industrial Relations (DIR) is a department within the Labor and Workforce Development Agency, which includes the Division of Workers' Compensation, the Division of Occupational Safety and Health (DOSH), the Occupational Safety & Health Standards Board (OSHSB), the Division of Labor Standards Enforcement (DLSE), the Division of Apprenticeship Standards, the Office of the Director (DIR-OD), and the Office of Information Services (OIS), as well as various other boards and commissions. DIR-OD provides guidance, direction, and support to the various divisions in carrying out its work and state mandates.

DLSE, headed by the Labor Commissioner, is responsible for enforcing labor standards, including the adjudication of wage claims and the investigation of retaliation and public works complaints. DLSE's Retaliation Complaint Investigation (RCI) Unit accepts and investigates claims of workplace retaliation in violation of laws prohibiting retaliation for specified activities including filing a claim with the labor commissioner and reporting violations of labor law to the appropriate authorities. Any employee or applicant for employment who believes they were discharged or denied employment or otherwise retaliated or discriminated against in violation of any law under the jurisdiction of the Labor Commissioner may file a complaint with the Labor Commissioner.

DOSH is responsible for protecting workers from health and safety hazards on the job. The Division protects workers in most California workplaces through its enforcement, research and standards, and consultation programs. As part of its mandate to protect California workers, DOSH receives reports from employers of serious injuries or illnesses that occur at places of employment or in connection with employment (Labor Code section 6409.1(b) and 8 CCR section 342(a)). OSHSB is responsible for adopting and maintaining reasonable and enforceable standards to ensure a safe and healthful workplace for California workers. DOSH then enforces these standards through worksite inspections and the issuance of citations and civil penalties for alleged violations.

AB 257 enacts the Fast-Food Accountability and Standards Recovery Act (FAST Recovery Act) which, among other things, establishes until January 1, 2029, the Fast-Food Council (Council) within DIR, to be composed of 10 members, as specified, for the purpose of establishing sector-wide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of fast-food restaurant workers.

AB 257 also expands the protections against retaliation by adding a prohibition against retaliation for reporting information or making claims with the media, the Legislature, and watchdog or community-based organizations—protections that are not listed explicitly elsewhere in the Labor Code.

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### C. State Level Consideration

California has long recognized the importance of the full and prompt payment of wages due to an employee, freedom from unlawful retaliation for engaging in protected activities, and maintenance of safe, hazard free workplaces. AB 257 creates a Council that will collaborate and focus efforts on improving worker protections in the fast-food restaurant industry and increasing financial equity across the state's workforce.

Under AB 257, regulations promulgated by the council regarding wages and working conditions will be enforced by the Labor Commissioner. Additionally, AB 257 provides additional protections for workers who complain to a watchdog or community-based organization, the Legislature or a news organization.

### D. Justification

AB 257 has a significant fiscal impact on the department. Impacted programs are DIR-OD, OIS, DLSE, DOSH, and OSHSB. The functions and tasks of the Council are such that DIR will create a new unit dedicated to staffing and supporting the Council, with other resources for the programs to handle workload associated with outreach, consultation and retaliation claims and appeals.

Council Staff and Support: Total of 6 positions requested

The law gives the Council the authority to employ "necessary assistants, officers, experts, and other employees as it deems necessary, subject to appropriation." The Council's key functions include holding public meetings throughout the state at least every six months; promulgating fast food restaurant standards; issuing, amending, or repealing any rules and regulations as necessary; reporting to the Legislature; and possible coordination with local councils in holding meetings open to the public. Additionally, members of the Council are eligible for per diem and travel expenses reimbursement.

In light of the various functions of the Council, the department requires the following staff: a CEA to act as an Executive Officer and lead the functions of the Council and liaise with the members on a regular basis; one Attorney IV, to do legal research and provide counsel and advice on the issues being considered by the Council; one Staff Services Manager (SSM) I-Specialist, to coordinate the meetings and issue meeting agendas and notices required under the Bagley-Keene Open Meetings Act; one Associate Governmental Program Analyst (AGPA), to support the council's work with analytical functions; one Office Technician (OT), to provide clerical support to the Executive Officer and Council. Additionally, the Council will require contracts for interpretation and translation to carry out its work with multi-language participants and audiences, estimated to cost approximately \$60,000 annually, depending on the needs of the Council. Finally, an Information Technology Specialist I would be required in the department's OIS, to design and support the Council's webpage and post updated information on the council's work.

DIR-OD Staff and Support: Total of 3 positions requested

DIR-OD estimates requiring the following to support the Council: One Policy Advisor, to liaise with the Council and provide policy advice; one Attorney IV, to provide counsel and advice and coordinate with the various Divisions' legal teams on the work related to the Council; and one SSM I-Specialist, to coordinate internal meetings with division subject-matter experts and

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to serve as a project manager for any data or information that the Council may require from the Department.

### DLSE - RCI: Total of 2 positions requested

For DLSE, there is both an immediate fiscal impact from AB 257 based on the retaliation protections and work with the council before any promulgated regulations and a long-term fiscal impact that will depend on the regulations promulgated by the Council. The short-term fiscal impact is based on the new retaliation language, necessary outreach, and expected work with the Council.

The law includes that fast food workers receive protection under retaliation laws for reporting information or making claims with the media, the Legislature, and watchdog or community-based organizations—protections that are not listed explicitly elsewhere in the Labor Code. The broad retaliation statute creates the need for both education on the new retaliation statute for restaurant workers and increased staffing based on anticipated increased claims.

DLSE forecasts 75 additional retaliation cases filed per year, and requests one Deputy Labor Commissioner (DLC) I and one Attorney III. Based on experience, claims in the restaurant industry involving franchisees and franchisors often have complex issues of joint employment that require extensive deputy and attorney time. DLSE estimates that the retaliation claims arising from AB 257 will be more complex and require twice the workload hours as a non-restaurant claim.

### DLSE - Public Outreach: Total of 2 positions requested

Historically, broad sweeping legislation such as AB 257 has generated considerable public interest and engagement. DLSE requires resources for public outreach to address questions about the new law and subsequent regulations from fast food employers and employees, franchisors, franchisees, stakeholders, and the legislature. DLSE requests two AGPAs to carry out this work.

### DLSE - Council Consultation: Total of 1 position requested

DLSE will work with the Council in a consulting role and requests an Attorney III. AB 257 sets up a Council with power to enact regulations that the Labor Commissioner will enforce. There are several anticipated tasks from the law that will need staffing before the Council promulgates any regulations, including:

- Frequently Asked Questions regarding relevant enforcement sections pertaining to the Labor Commissioner's jurisdiction;
- Expert advice on the existing Industrial Welfare Commission Wage Order(s) and Labor Code provisions affecting fast food workers, including existing enforcement mechanisms;
- Data analysis, including where restaurant claims are filed and the nature of those claims;
- Participation in meetings or hearings the Council conducts; and
- Materials for educational and/or public information.

### DLSE - Regulatory Actions: Total of 2 positions requested

DLSE will need to draft and promulgate companion regulations that implement any regulations promulgated by the council. Promulgating regulations is an arduous task requiring

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meetings with stakeholders, drafting language, internal review, and following the procedures outlined in the Administrative Procedures Act (APA). DLSE anticipates a need for one APGA and one Attorney III to complete this work.

### DOSH - Council Consultation: Total of 2 positions requested

DOSH will need to observe council meetings and provide information and expertise as needed to assist the Council and its staff with any occupational safety and health related issues. A Senior Safety Engineer will provide substantive knowledge on safety topics being discussed and an Attorney IV will respond to any occupational safety and health specific legal issues, as these are very unlikely to be within the expertise of the council's own attorney.

Health regulations are drafted and proposed by DOSH; safety regulations are drafted and proposed by OSHSB, though DOSH provides analysis and comment. Rulemaking is a multi-year process, so DOSH estimates that there will be one health and one safety package progressing each year. Further costs will be incurred by enforcement, consultation, and outreach when any resulting rulemaking packages become effective. However, DOSH cannot estimate those costs at this time because it does not know what type of regulations will be proposed by the council.

### OSHSB - Regulatory Actions: Total of 1 position requested

AB 257 empowers the council to petition OSHSB to amend, repeal, or adopt regulations related to the health and safety of fast food workers in California. The Board must respond to any request for the repeal, adoption, or amendment of regulations within 6 months, or 3 months if the petition relates to an emergency.

Petitions filed by the council that are approved by the OSHSB will require full rulemaking; this is a staff-intensive, complex process involving the expertise and input of stakeholders, OSHSB safety engineers, OSHSB legal counsel, OSHSB executive management and administrative support. A single rulemaking may take many hundreds of hours to bring through the process from pre-rulemaking research, the Advisory Committee process, compliance with the APA, OSHSB vote, and approval from the Office of Administrative Law. Thus, OSHSB requests 1 Senior Safety Engineer position to ensure that council petitions are responded to timely, and any required rulemaking will be completed without significant delays.

## **E. Outcomes and Accountability**

The resources requested in this proposal will allow DIR to satisfy the requirements of AB 257 and address the anticipated workload detailed above.

# BCP Fiscal Detail Sheet

BCP Title: AB 257: FAST Recovery Act: Food Facilities and Employment

BR Name: 7350-013-BCP-2023-GB

Budget Request Summary

## Personal Services

Personal Services	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
Positions - Permanent	0.0	19.0	19.0	19.0	19.0	19.0
<b>Total Positions</b>	<b>0.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>
Earnings - Permanent	0	2,147	2,147	2,147	2,147	2,147
<b>Total Salaries and Wages</b>	<b>\$0</b>	<b>\$2,147</b>	<b>\$2,147</b>	<b>\$2,147</b>	<b>\$2,147</b>	<b>\$2,147</b>
Total Staff Benefits	0	1,181	1,181	1,181	1,181	1,181
<b>Total Personal Services</b>	<b>\$0</b>	<b>\$3,328</b>	<b>\$3,328</b>	<b>\$3,328</b>	<b>\$3,328</b>	<b>\$3,328</b>

## Operating Expenses and Equipment

Operating Expenses and Equipment	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
5301 - General Expense	0	78	78	78	78	78
5302 - Printing	0	30	30	30	30	30
5304 - Communications	0	43	43	43	43	43
5306 - Postage	0	51	51	51	51	51
5320 - Travel: In-State	0	59	59	59	59	59
5322 - Training	0	17	17	17	17	17
5324 - Facilities Operation	0	462	405	405	405	405
5340 - Consulting and Professional Services - External	0	60	60	60	60	60
5344 - Consolidated Data Centers	0	111	111	111	111	111
5346 - Information Technology	0	133	133	133	133	133
5368 - Non-Capital Asset Purchases - Equipment	0	235	24	24	24	24
<b>Total Operating Expenses and Equipment</b>	<b>\$0</b>	<b>\$1,279</b>	<b>\$1,011</b>	<b>\$1,011</b>	<b>\$1,011</b>	<b>\$1,011</b>

## Total Budget Request

Total Budget Request	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
<b>Total Budget Request</b>	<b>\$0</b>	<b>\$4,607</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>

## Fund Summary

### Fund Source

Fund Source	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
State Operations - 3121 - Occupational Safety and Health Fund	0	1,520	1,440	1,440	1,440	1,440
State Operations - 3152 - Labor Enforcement and Compliance Fund	0	3,087	2,899	2,899	2,899	2,899
<b>Total State Operations Expenditures</b>	<b>\$0</b>	<b>\$4,607</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>
<b>Total All Funds</b>	<b>\$0</b>	<b>\$4,607</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>

## Program Summary

### Program Funding

Program Funding	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
6100010 - Compliance	0	1,020	967	967	967	967
6100070 - Occupational Safety and Health Standards Board	0	500	473	473	473	473
6105030 - Retaliation	0	3,087	2,899	2,899	2,899	2,899
<b>Total All Programs</b>	<b>\$0</b>	<b>\$4,607</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>	<b>\$4,339</b>

## Personal Services Details

### Positions

Positions	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
1139 - Office Techn (Typing) (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
1402 - Info Tech Spec I (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
3909 - Sr Safety Engr - Industrial (Eff. 07-01-2023)	0.0	2.0	2.0	2.0	2.0	2.0
4800 - Staff Svcs Mgr I (Eff. 07-01-2023)	0.0	2.0	2.0	2.0	2.0	2.0
5393 - Assoc Govtl Program Analyst (Eff. 07-01-2023)	0.0	4.0	4.0	4.0	4.0	4.0
5780 - Atty IV (Eff. 07-01-2023)	0.0	3.0	3.0	3.0	3.0	3.0
5795 - Atty III (Eff. 07-01-2023)	0.0	3.0	3.0	3.0	3.0	3.0
7500 - C.E.A. (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
9502 - Dep Labor Commissioner I (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
VR00 - Various (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
<b>Total Positions</b>	<b>0.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>

### Salaries and Wages

Salaries and Wages	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
1139 - Office Techn (Typing) (Eff. 07-01-2023)	0	45	45	45	45	45
1402 - Info Tech Spec I (Eff. 07-01-2023)	0	94	94	94	94	94
3909 - Sr Safety Engr - Industrial (Eff. 07-01-2023)	0	286	286	286	286	286
4800 - Staff Svcs Mgr I (Eff. 07-01-2023)	0	176	176	176	176	176
5393 - Assoc Govtl Program Analyst (Eff. 07-01-2023)	0	299	299	299	299	299
5780 - Atty IV (Eff. 07-01-2023)	0	453	453	453	453	453
5795 - Atty III (Eff. 07-01-2023)	0	410	410	410	410	410
7500 - C.E.A. (Eff. 07-01-2023)	0	164	164	164	164	164
9502 - Dep Labor Commissioner I (Eff. 07-01-2023)	0	77	77	77	77	77
VR00 - Various (Eff. 07-01-2023)	0	143	143	143	143	143
<b>Total Salaries and Wages</b>	<b>\$0</b>	<b>\$2,147</b>	<b>\$2,147</b>	<b>\$2,147</b>	<b>\$2,147</b>	<b>\$2,147</b>

### Staff Benefits

Staff Benefits	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
5150350 - Health Insurance	0	159	159	159	159	159
5150600 - Retirement - General	0	629	629	629	629	629
5150900 - Staff Benefits - Other	0	393	393	393	393	393
<b>Total Staff Benefits</b>	<b>\$0</b>	<b>\$1,181</b>	<b>\$1,181</b>	<b>\$1,181</b>	<b>\$1,181</b>	<b>\$1,181</b>

### Total Personal Services

Total Personal Services	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
<b>Total Personal Services</b>	<b>\$0</b>	<b>\$3,328</b>	<b>\$3,328</b>	<b>\$3,328</b>	<b>\$3,328</b>	<b>\$3,328</b>