

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 06/16/2022
POSITION: Oppose

BILL NUMBER: AB 257
AUTHOR: Holden, Chris

BILL SUMMARY: Food facilities and employment.

This bill establishes the Fast Food Sector Council (Council) within the Department of Industrial Relations (DIR) to set minimum fast food restaurant employment standards, such as wages, working conditions, and training. This bill also authorizes certain local governments to establish local Fast Food Sector Councils (Local Councils) to make recommendations for local standards.

FISCAL SUMMARY

DIR estimates a significant but unknown ongoing fiscal impact to convene the Council, respond to local Councils, and produce the reports required by this bill.

The Department of Finance notes that this bill will also increase enforcement, rulemaking, and appeals workload across DIR for the Division of Occupational Safety and Health (DOSH), Division of Labor Standards and Enforcement (DLSE), Occupational Safety and Health Standards Board (OSHSB), and Occupational Safety and Health Appeals Board (OSHAB). The effect of this increased workload will be dependent on the final regulations adopted by the Council.

The Labor and Workforce Development Agency (LWDA) anticipates minor and absorbable costs to serve on the Council.

Any requests for additional resources will be evaluated through the annual budget process.

Finance does not anticipate that this bill would create a state-reimbursable mandate because it does not require a new program or higher level of service. Rather, this bill defines a new crime, changes the existing definition of a crime by the state, and/or changes the penalty for conviction of a crime, none of which are reimbursable. Furthermore, this bill provides authority for an optional program. Therefore, any costs to a local agency is the result of an action undertaken at the option of the local agency and are not reimbursable by the state.

COMMENTS

Finance is opposed to this bill because it creates significant ongoing costs at DIR. Additionally, it creates a sector-specific rule-making body within DIR, which could lead to a fragmented regulatory and legal environment for employers and raise long-term costs across industries. Finally, it is not clear that this bill will accomplish its goal, as it attempts to address delayed enforcement by creating stricter standards for certain sectors, which could exacerbate existing delays.

This bill establishes the Council to set minimum fast food restaurant employment standards. The Council consists of a total of 13 members serving 4-year terms with 5 members appointed by the

Analyst/Principal Toppin, Patrick / March, Andrew	Date	Program Budget Manager Calvert, Teresa	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

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COMMENTS (continued)

Governor, including a representative from the Labor and Workforce Development Agency, and 8 members appointed by the Legislature representing the fast food sector.

The bill requires the Council to promulgate statewide and local fast food restaurant employment standards, including for wages, working conditions, and training necessary to protect fast food restaurant workers. Any new standard or change to an existing standard would require the affirmative vote of the Secretary of LWDA, and be submitted to the labor committees of each house of the Legislature for informational purposes. New or modified standards would take effect no sooner than October 15 of the same year, unless the Legislature intervened to prevent or modify the standard.

The Council must conduct a full review of all fast food standards at least every three years, and subsequently make changes based on the findings. The bill requires any individual new standard, or an amendment or repeal of an existing standard, to be no less protective of or less beneficial to health, safety, or fast food restaurant worker employment conditions, including wages, than the immediately preceding standard.

Additionally, this bill authorizes a county or city with a population of greater than 200,000 to establish a Local Council, composed of at least one representative who is a fast food employee, at least one representative who is a fast food franchisor or franchisee, and a majority of representatives from local employment, health, and safety agencies, to coordinate with local agencies and hold hearings. Local Councils may provide written recommendations to the Council on local health, safety, and employment standards. The Council must respond within 60 days on its decision whether or not to adopt a local standard.

This bill also modifies the franchisee-franchisor relationship because it states that a fast food franchisor is jointly and severally liable for its franchisee's compliance with employment, worker, public health, and safety laws and regulations, including those promulgated by the Council. This bill establishes that this liability cannot be waived.

This bill prohibits a fast food restaurant operator from discriminating or retaliating against any employee who submits information related to this bill, testifies or is otherwise involved in the Council, or who refuses to work if they have reasonable cause to believe that the employer is violating specified health and safety regulations. Any worker who faces such retaliation is entitled to enhanced penalties and restitutions against the violator.

This bill establishes a rebuttable presumption of unlawful discrimination or retaliation of any employees under specified conditions.

Existing law establishes the Industrial Welfare Commission (IWC), which operated from 1913-2004. The IWC set 17 Wage Orders for various industries and set overtime, wage, and other standards on a statewide basis. The IWC was defunded in 2004 and today DLSE enforces the IWC's orders, which were last updated in 2001.

According to the author, the over 700,000 Californian food workers face low pay, few benefits, and high risk of injuries.

This bill codifies a style of "sectoral bargaining" more common in Europe than the United States, which has historically focused on "enterprise bargaining." Sectoral bargaining, also known as multiemployer, industrywide, or broad-based bargaining, is a style of collective bargaining that

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COMMENTS (continued)

provides contract coverage and sets compensation floors for most workers in a particular occupation, industry, or region.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					Fund Code
	LA	(Dollars in Thousands)					
	CO	PROP		2022-2023	2023-2024	2024-2025	
	RV	98	FC	FC	FC	FC	
0559/LabWorkDev	SO	No		----- No/Minor Fiscal Impact -----			0001
7350/DIR	SO	No	C	200-4,000	200-4,000	200-4,000	3121
7350/DIR	SO	No	C	800-4,000	800-4,000	800-4,000	3152
<u>Fund Code</u>	<u>Title</u>						
0001	General Fund						
3121	Occupational Safety and Health Fund						
3152	Labor Enforcement and Compliance Fund						