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AB-1601 Employment protections: mass layoff, relocation, or termination of employees: call centers.
(2021-2022)

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Assembly Bill No. 1601

CHAPTER 752

An act to amend Section 1406 of, to amend and renumber Section 1400 of, and to add Article 1 (commencing with Section 1400) and Article 2 (commencing with Section 1409) to Chapter 4 of Part 4 of Division 2 of, the Labor Code, relating to employment.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1601, Akilah Weber. Employment protections: mass layoff, relocation, or termination of employees: call centers.

Existing law generally regulates the wages, hours, and working conditions of people employed in any occupation. Existing law creates the Division of Labor Standards Enforcement, the head of which is the Labor Commissioner. Existing law prohibits an employer from ordering a mass layoff, relocation, or termination, as defined, at a covered establishment, as defined, without giving a written notice of the order to certain parties and entities, including the employees, the Employment Development Department, and specified local officials.

Existing federal law, the Workforce Innovation and Opportunity Act of 2014, provides for workforce investment activities, including activities in which states may participate. Existing law requires the local chief elected officials in a local workforce development area to form, pursuant to specified guidelines, a local workforce investment board to plan and oversee the workforce investment system, and further requires the Governor to periodically certify one local board for each local area in the state.

Existing law authorizes the Labor Commissioner, in any investigation or proceeding under provisions governing the relocation, termination, or mass layoff of employees, to examine the books and records of an employer.

This bill would authorize the Labor Commissioner to enforce certain notice requirements concerning a mass layoff, relocation, or termination of employees, including call center employees. The bill would grant the Labor Commissioner the authority to investigate an alleged violation, order appropriate temporary relief to mitigate a violation pending completion of a full investigation or hearing, and issue a citation in accordance with certain procedures.

This bill would prohibit a call center employer from ordering a relocation of its call center, or one or more of its facilities or operating units within a call center, unless notice of the relocation is provided to the affected employees and the Employment Development Department, local workforce investment board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs, as specified. The bill would require the Employment Development Department to compile and publish semiannually, on its internet website, a list of call center employers that provided notice, as prescribed. The bill would require the Employment Development Department and local workforce development boards to provide workforce services to call center employers and their call center employees who are laid off as a result of the relocation of a call center. By imposing new duties on local government officials, the bill would impose a state-mandated local program.

This bill would establish remedies for a call center employer's failure to provide notice regarding a relocation of its call center facilities and would make a call center employer who appears on the department's list, or who should appear on the list but failed to provide notice, ineligible to be awarded or have renewed state grants or state-guaranteed loans for 5 years, as specified. The bill would also make that call center employer ineligible to claim a tax credit for 5 taxable years beginning on and after the date that the list is published. The bill would authorize an appropriate agency, as defined, to waive ineligibility for specified reasons.

This bill would preclude the withholding or denial of payments, compensation, or benefits under any other state law to workers based upon these provisions, as specified. The bill would authorize the Labor Commissioner and the Employment Development Department to adopt regulations as necessary to implement these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 1 (commencing with Section 1400) is added to Chapter 4 of Part 4 of Division 2 of the Labor Code, to read:

Article 1. General Cal/WARN Requirements

1400. This chapter may be cited as the "California Worker Adjustment and Retraining Act" or "Cal/WARN Act."

SEC. 2. Section 1400 of the Labor Code is amended and renumbered to read:

1400.5. The definitions set forth in this section shall govern the construction and meaning of the terms used in this chapter:

(a) "Covered establishment" means any industrial or commercial facility or part thereof that employs, or has employed within the preceding 12 months, 75 or more persons.

(b) "Employer" means any person, as defined by Section 18, who directly or indirectly owns and operates a covered establishment. A parent corporation is an employer as to any covered establishment directly owned and operated by its corporate subsidiary.

(c) "Layoff" means a separation from a position for lack of funds or lack of work.

(d) "Mass layoff" means a layoff during any 30-day period of 50 or more employees at a covered establishment.

(e) "Relocation" means the removal of all or substantially all of the industrial or commercial operations in a covered establishment to a different location 100 miles or more away.

(f) "Termination" means the cessation or substantial cessation of industrial or commercial operations in a covered establishment.

(g) (1) This chapter does not apply where the closing or layoff is the result of the completion of a particular project or undertaking of an employer subject to Wage Order 11, regulating the Broadcasting Industry, Wage Order 12, regulating the Motion Picture Industry, or Wage Order 16, regulating Certain On-Site Occupations in the Construction, Drilling, Logging and Mining Industries, of the Industrial Welfare Commission, and the employees were hired with the understanding that their employment was limited to the duration of that project or undertaking.

(2) This chapter does not apply to employees who are employed in seasonal employment where the employees were hired with the understanding that their employment was seasonal and temporary.

(h) "Employee" means a person employed by an employer for at least 6 months of the 12 months preceding the date on which notice is required.

SEC. 3. Section 1406 of the Labor Code is amended to read:

1406. (a) In any investigation or proceeding under this chapter, the Labor Commissioner has, in addition to all other powers granted by law, the authority to examine the books and records of an employer.

(b) The Labor Commissioner may enforce the notice requirements in Section 1401 and subdivision (a) of Section 1410, including investigating an alleged violation and ordering appropriate temporary relief to mitigate the violation pending the completion of a

full investigation or hearing, through the procedures set forth in Section 98.3 or 1197.1, including by issuance of a citation against an employer who violates this chapter. If a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the commissioner shall be the same as those set forth in Section 1197.1, as appropriate.

SEC. 4. Article 2 (commencing with Section 1409) is added to Chapter 4 of Part 4 of Division 2 of the Labor Code, to read:

Article 2. Relocation of Call Centers

1409. (a) This article shall apply to an employer's relocation of a call center, as defined in this article.

(b) The definitions set forth in this subdivision shall apply to the construction and meaning of terms used in this article. The definitions set forth in Section 1400.5 also apply to this article, except for the definition of "relocation" contained in subdivision (e) of Section 1400.5.

(1) "Call center" means a facility or other operation where employees, as their primary function, receive telephone calls or other electronic communication for the purpose of providing customer service or other related functions.

(2) "Call center employer" means an employer of a covered establishment, as those terms are defined in Section 1400.5, who operates a call center.

(3) "Relocation of a call center" includes when the employer intends to move its call center, or one or more facilities or operating units within a call center comprising at least 30 percent of the call center's or operating unit's total volume when measured against the average call volume for the previous 12 months, or substantially similar operations to a foreign country.

1410. (a) A call center employer shall not order a relocation of its call center, or one or more of its facilities or operating units within a call center, unless notice of the relocation is provided in accordance with Section 1401. If a call center employer is required to provide notice under subdivision (a) of Section 1401 and this section, the call center employer may provide a single notice; however, a notice of the relocation of a call center shall include "This notice is for the relocation of a call center" at the top of the notice.

(b) The Employment Development Department shall compile and publish semiannually, on its internet website, a list of call center employers operating a call center that provided notice pursuant to subdivision (a). This list shall include elements required by the federal Worker Adjustment and Retraining Notification Act (29 U.S.C. Sec. 2101 et seq.).

(c) The Employment Development Department and local workforce development boards shall provide workforce services to call center employers and their call center employees who are laid off as a result of the relocation of a call center, as defined in Section 1409.

1410.5. (a) A violation of subdivision (a) of Section 1410 shall be enforced through the provisions and remedies contained in Article 1 (commencing with Section 1400), including, but not limited to, Sections 1402, 1403, 1404, 1406, and 1407.

(b) A call center employer that is found liable for failing to provide the notice required under this article shall not also be liable for violations for failing to provide notice under Section 1401 under the same facts.

1411. (a) Except as provided in subdivision (b), and notwithstanding any other law, a call center employer that appears on the list described in subdivision (b) of Section 1410, or who should have appeared on the list but did not provide notice as specified, shall be ineligible to be awarded or have renewed any direct or indirect state grants or state-guaranteed loans to that call center employer for five years after the date that the list is published, and that call center employer shall be ineligible to claim a tax credit for five taxable years beginning on and after the date that the list is published.

(b) The appropriate agency, after receiving a written request from a call center employer detailing the reasons for waiving the call center employer's ineligibility under subdivision (a), and after consulting the list described in subdivision (b) of Section 1410, may waive the ineligibility provisions prescribed in subdivision (a) if the agency determines that the applicant call center employer demonstrates good cause to do so, which may include job loss or adverse impact on the state.

(c) As used in this section, "appropriate agency" means the agency that administers the relevant direct or indirect state grants, state-guaranteed loans, or tax credits referenced in subdivision (a).

1412. This article shall not be construed to permit withholding or denial of payments, compensation, or benefits under any other state law, including state unemployment compensation, disability payments, or worker retraining or readjustment funds, to workers employed by call center employers that relocate to a foreign country.

1413. The Labor Commissioner and the Employment Development Department may adopt rules and regulations as necessary and proper to effectuate the purposes of this article, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of

Division 3 of Title 2 of the Government Code.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.