

Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

July 15, 2021

Via teleconference / videoconference

Board Meeting Packet

Occupational Safety and Health Standards Board

Meeting Agenda

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
www.dir.ca.gov/oshsb



MISSION STATEMENT

The mission of the Occupational Safety and Health Standards Board is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for California workers.

July 15, 2021 at 10:00 a.m.

TELECONFERENCE AGENDA

PUBLIC MEETING AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

PLEASE NOTE: In accordance with [Executive Order N-29-20](#), and [Executive Order N-33-20](#), the June Board Meeting will be conducted via teleconference.

Attend the meeting via Video-conference:

1. Go to www.webex.com
2. Select "Join"
3. Enter the meeting information: **268 984 996**
4. Enter your name and email address then click "Join Meeting"
5. Video-conference will be opened to the public at 9:50 a.m.

Attend the meeting via Teleconference:

1. Dial (844) 992-4726
2. When prompted, enter **268-984-996**
3. When prompted for an Attendee ID, press #
4. Teleconference will be opened to the public at 9:50 a.m.

Live video stream and audio stream (English and Spanish):

1. Go to <https://videobookcase.com/california/oshsb/>
2. Video stream and audio stream will launch as the meeting starts at 10:00 a.m.

Public Comment Queue:

Stakeholders who wish to comment on agenda items may submit a request to be added to the public comment queue. Please provide the following information*: 1) name; 2) affiliation; 3) comment topic; and 4) phone number (if not attending via Webex).

**Information requested is voluntary and not required to address the Board.*

In advance of the meeting: Email the requested information to OSHSB@dir.ca.gov.

During the meeting: Email the requested information to OSHSB@dir.ca.gov, request to speak via Webex “Chat” function, or dial 916-274-5721 to be placed in the queue.

**NOTE: In accordance with [Executive Order N-29-20](#),
Board Members will participate via video-conference and/or teleconference.**

I. **CALL TO ORDER AND INTRODUCTIONS**

II. **PUBLIC MEETING (Open for Public Comment)**

This portion of the Public Meeting is open to any interested person to propose new or revised standards to the Board or to make any comment concerning occupational safety and health (Labor Code Section 142.2). *The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration.*

This portion of the meeting is also open to any person who wishes to address the Board on any item on today’s Business Meeting Agenda (Government Code Section 11125.7).

Any individual or group planning to make a presentation during the Public Meeting is requested to contact Sarah Money, Executive Assistant, or Christina Shupe, Executive Officer, at (916) 274-5721 in advance of the meeting so that any logistical concerns can be addressed.

A. PUBLIC COMMENT

B. ADJOURNMENT OF THE PUBLIC MEETING

III. **BUSINESS MEETING – All matters on this Business Meeting agenda are subject to such discussion and action as the Board determines to be appropriate.**

The purpose of the Business Meeting is for the Board to conduct its monthly business.

A. PROPOSED PETITION DECISION FOR ADOPTION

1. Don Zampa, President
Greg McClelland, Executive Director
Western Steel Council
[Petition File No. 587](#)

Petitioners request to amend Title 8, Construction Safety Orders (CSO), Section 1630 as it pertains to construction personnel hoists (CPH), to expedite amendments proposed by the Division of Occupational Safety and Health in their April 3, 2019, Request for New, or Change in Existing, Safety Order (Form 9). Additionally, the Petition asks to address additional CPH issues: the definition of

when alternative access is permissible in lieu of a CPH; and a requirement in the permit application for employers to provide empirical data to substantiate the infeasibility of CPH use.

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION – no items for consideration

C. REPORTS

1. Division Update
2. COVID-19 Prevention ETS Subcommittee Update
3. Legislative Update
4. Executive Officer's Report

D. NEW BUSINESS

1. Future Agenda Items

Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code sections 11125 & 11125.7(a).).

E. CLOSED SESSION

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210
3. National Retail Federation, et. al., v OSHSB, et. al., County of San Francisco, CA Superior Court Case No. CGC-20-588367
4. Western Growers Association, California Farm Bureau Federation, et. al. v OSHSB, et al., County of San Francisco, CA Superior Court Case No. CPF-21-517344
5. Personnel

F. RETURN TO OPEN SESSION

1. Report from Closed Session

G. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: August 19, 2021
Teleconference and Video-conference
(In accordance with Executive Orders [N-29-20](#) and [N-33-20](#))
10:00 a.m.

CLOSED SESSION

1. If necessary, consideration of personnel matters. (Government Code section 11126(a)(1)).
2. If necessary, consideration of pending litigation pursuant to Government Code section 11126(e)(1).

PUBLIC COMMENT

Efforts will be made to accommodate each individual who has signed up to speak. However, given time constraints, there is no guarantee that all who have signed up will be able to address the State body.

Each speaker is invited to speak for up to two minutes, depending on the number of speakers.

The total time for public comment is 120 minutes, unless extended by the Board Chair.

The public can speak/participate at the meetings before items that involve decisions.

In addition to public comment during Public Hearings, the Occupational Safety and Health Standards Board (Board) affords an opportunity to members of the public to address the Board on items of interest that are either on the Business Meeting agenda, or within the Board's jurisdiction but are not on the noticed agenda, during the Public Meeting. The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration. The Board reserves the right to limit the time for speakers

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the meeting.

TRANSLATION

Requests for translation services should be made no later than five (5) days before the meeting.

NOTE: Written comments may be emailed directly to oshsb@dir.ca.gov no later than 5:00 p.m. on the Tuesday prior to a scheduled Board Meeting.

Under Government Code section 11123, subdivision (a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The Board Chair may adopt reasonable time limits for public comments in order to ensure that the purpose of public discussion is carried out. (Gov. Code, §11125.7, subd. (b).)

Pursuant to Executive Orders N-29-20 and N-35-20, certain provisions of the Bagley-Keene Open Meeting Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Orders, this meeting of the Occupational Safety and Health Standards Board will be conducted remotely via video/teleconference only. None of the locations from which the Board Members will participate will be open to the public. Members of the public who wish to participate in the meeting may do so via livestream on our website at <https://videobookcase.com/california/oshsb/>. The video recording and transcript of this meeting will be posted on our website as soon as practicable.

For questions regarding this meeting, please call (916) 274-5721.

Occupational Safety and Health Standards Board

Meeting Notice

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
www.dir.ca.gov/oshsb



NOTICE OF PUBLIC MEETING AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING: On **July 15, 2021**, at 10:00 a.m. via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING: On **July 15, 2021**, at 10:00 a.m. via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

DAVE THOMAS, Chairman

Occupational Safety and Health Standards Board

Business Meeting

Occupational Safety and Health Standards Board

**Business Meeting
Petition 587**

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of a Petition by:)
)
) PETITION FILE NO. 587
)
Donald A. Zampa, President)
Greg McClelland, Exec. Director)
1660 San Pablo Avenue, Suite C)
Pinole, CA 94564)
)
)
_____) Applicant.)

The Occupational Safety and Health Standards Board hereby adopts the attached
PROPOSED DECISION.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVE HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

By: _____
Christina Shupe, Executive Officer

DATE: July 15, 2021
Attachments

PETITION NO. 587

Petitioners request to amend Title 8, Construction Safety Orders (CSO), Section 1630 as it pertains to construction personnel hoists (CPH), to expedite amendments proposed by the Division of Occupational Safety and Health in their April 3, 2019, Request for New, or Change in Existing, Safety Order (Form 9). Additionally, the Petition asks to address additional CPH issues: the definition of when alternative access is permissible in lieu of a CPH; and a requirement in the permit application for employers to provide empirical data to substantiate the infeasibility of CPH use.

HYPERLINKS TO PETITION NO. 587 DOCUMENTS:

[PROPOSED PETITON DECISION](#)

[BOARD STAFF EVALUATION](#)

[DIVISION EVALUATION](#)

[ORIGINAL PETITION \(SUBMITTED 10/15/20\)](#)

Occupational Safety and Health Standards Board

Business Meeting

Proposed Variance Decisions

No items for consideration

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

Summary of Changes

AB-2 Regulations: legislative review: regulatory reform. (2021-2022) **No Update**

AB 7 Emergency ambulance employees: ~~subsidized~~ *multithreat body* protective gear. (2021-2022) **Update New language in italics**

AB-29 State bodies: meetings. (2021-2022) **No Update**

AB-62 Income taxes: credits: costs to comply with COVID-19 regulations. (2021-2022) **No Update**

AB-73 Employment safety: agricultural workers: wildfire smoke. (2021-2022) **Update New language in italics**

AB-257 Fast food industry: working standards. (2021-2022) **Update**

AB-420 Public health: amusement parks and COVID-19. (2021-2022) **No Update**

AB-473 California Public Records Act.(2021-2022) **Update**

AB-474 California Public Records Act: conforming revisions. (2021-2022) **Update**

AB-701 Warehouse distribution centers. (2021-2022) **Update New language in italics**

AB-783 Surface mines: safety regulation. (2021-2022) **Update New language in italics**

AB-885 Bagley-Keene Open Meeting Act: teleconferencing. (2021-2022) **No Update**

AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022) **No Update**

AB-1175 Division of Occupational Safety and Health: inspections and investigations: advance notice. (2021-2022) **No Update**

AB-1291 State bodies: open meetings. (2021-2022) **Update**

SB-321 Employment safety standards: household domestic services. (2021-2022) **Update**

SB-410 Occupational safety and health: regulations. (2021-2022) **Update- New Language in italics**

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-2	AB-2 Regulations: legislative review: regulatory reform. (2021-2022) (Fong)	
	Date	Action
	05/20/21	In committee: Held under submission.
	05/20/21	Joint Rule 62(a), file notice suspended.
	05/19/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/29/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 28). Re-referred to Com. on APPR.
<u>Summary:</u>		
<p>AB 2, as introduced, Fong. Regulations: legislative review: regulatory reform.</p> <p>The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation, as specified, that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000, as estimated by the agency. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances.</p> <p>This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature enacts a statute to override the regulation.</p> <p>The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.</p> <p>This bill would require each state agency to, on or before January 1, 2023, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the</p>		

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2024.

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-7 Emergency ambulance employees: subsidized protective gear. (2021-2022)
 (Carillo, Luz Reyes, and Lorena Gonzalez)

Date	Action
06/29/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 1.) (June 28). Re-referred to Com. on APPR.
06/23/21	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on L., P.E. & R.
06/16/21	In committee: Set, first hearing. Hearing canceled at the request of author.
06/09/21	Referred to Com. on L., P.E. & R.

Summary:

AB-7

AB 7, as amended, Rodriguez. Emergency ambulance employees: ~~subsidized~~ *multithreat body protective gear.*

Existing law establishes a statewide system for emergency medical services, through which the Emergency Medical Services Authority is responsible for the coordination and integration of all state activities concerning emergency medical services, including on matters of training, scope of practice, and continuing education for emergency medical technicians and other prehospital personnel.

Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including requirements that every employer furnish and use safety devices and safeguards, and adopt and use practices that are reasonably adequate to render the employment and place of employment safe and healthful. Existing law makes a violation of those requirements a crime.

This bill would, upon request by an emergency ambulance employee, require an emergency ambulance provider to provide that employee with multithreat body protective gear, defined as material or equipment that is worn by an employee and is bullet, strike, slash, and stab resistant, and, for these purposes only, to be considered as part of the above-described safety devices and safeguards. The bill would require the provider provider, once the provider has obtained the protective gear, to make the protective gear readily available for the requesting employee to use when responding to an emergency call, and to provide training to that employee on the proper fitting and use of the protective gear, as specified. The bill would require an emergency ambulance provider to inform each emergency ambulance employee, upon initial employment and subsequently on an annual basis, of the employee's right to request multithreat body protective gear.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

By creating new duties for emergency ambulance providers, a violation of which would be a crime, the bill would impose a state-mandated local program. The bill would not apply to the state or a political subdivision of the state.

The bill would require the Emergency Medical Services Authority to develop and establish standards for the protective gear provided, to develop a process of certification for the protective gear, and to develop guidelines for the above-described training, as specified.

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.

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-29	AB-29 State bodies: meetings. (2021-2022) (Cooper and Rubio)	
	Date	Action
	05/20/21	In committee: Held under submission.
	04/21/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/12/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 22. Noes 0.) (April 8). Re-referred to Com. on APPR.
	<u>Summary:</u>	
	AB 29, as introduced, Cooper. State bodies: meetings.	
	Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.	
	This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.	
	Board staff are monitoring this legislation for cost and impacts to its meeting requirements.	

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-62	AB-62 Income taxes: credits: costs to comply with COVID-19 regulations. (2021-2022) (Gray)	
	Date	Action
	03/22/21	In committee: Hearing postponed by committee.
	<p><u>Summary:</u></p> <p>AB 62, as introduced, Gray. Income taxes: credits: costs to comply with COVID-19 regulations.</p> <p>The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law requires any bill authorizing a new tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.</p> <p>This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2021, to a qualified taxpayer, as defined, in an amount equal to the total amount paid or incurred during the taxable year by the qualified taxpayer to comply with the regulations adopted by the Occupational Safety and Health Standards Board on November 19, 2020, relating to COVID-19 prevention and approved by the Office of Administrative Law. The bill also would state the intent of the Legislature to comply with the additional information requirement for any bill authorizing a new income tax credit.</p> <p>This bill would take effect immediately as a tax levy.</p> <p>Board staff are monitoring this legislation for any potential impacts to its COVID-19 Emergency Temporary Standards.</p>	

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-73 Employment safety: agricultural workers: wildfire smoke. (2021-2022)
 (Rivas, Garcia, Gonzalez, and Kalra)

Date	Action
06/29/21	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on L., P.E. & R.
06/28/21	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on L., P.E. & R.
06/24/21	From committee: Do pass and re-refer to Com. on L., P.E. & R. (Ayes 11. Noes 0.) (June 23). Re-referred to Com. on L., P.E. & R.
06/09/21	Referred to Coms. on HEALTH and L., P.E. & R.

Summary:

AB-73

AB 73, as amended, Robert Rivas. Health emergencies: employment safety: agricultural workers: wildfire smoke.

(1) Existing law establishes the State Department of Public Health (department) to implement various programs throughout the state relating to public health, including licensing and regulating health facilities and control of infectious diseases. Existing law requires the department and the Office of Emergency Services, in coordination with other state agencies, to, upon appropriation and as necessary, establish a personal protective equipment (PPE) stockpile. Existing law requires the department to establish guidelines for the procurement, management, and distribution of PPE, taking into account, among other things, the amount of each type of PPE that would be required for all health care workers and essential workers, as defined, in the state during a 90-day pandemic or other health emergency.

This bill would specifically include wildfire smoke events among health emergencies for these purposes. The bill would include agricultural workers, as defined, in the definition of essential workers.

Existing law also establishes the Personal Protective Equipment Advisory Committee (committee), consisting of representatives from, among other groups, an association representing skilled nursing facilities, a statewide association representing physicians, 2 representatives of labor organizations that represent health care workers, and 2 representatives of labor organizations that represent essential workers, as defined, to make

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

recommendations to the department for the development of guidelines for the procurement, management, and distribution of PPE, as specified.

This bill would include agricultural workers within the definition of essential workers, and would require the committee to, in addition, include a representative of a labor organization representing agricultural workers and a representative of an organization that represents agricultural employers. The bill would also require the department to report to the Legislature regarding the PPE stockpile within 6 months of the effective date of these provisions.

(2) Existing law establishes the Division of Occupational Safety and Health and the Occupational Safety and Health Standards Board within the Department of Industrial Relations and sets forth their powers and duties relating to the adoption of health and safety standards for workers. Under existing law, certain violations of a standard, order, or special order pursuant to these provisions are crimes.

Existing regulations of the division protect employees exposed to wildfire smoke and include control by respiratory protective equipment among the methods to control harmful exposure.

This bill would, among other things, require the division to designate wildfire smoke strike teams within the appropriate regional offices *and authorize the division to deploy the teams* to enforce wildfire smoke protection regulations under specified conditions with regard to agricultural workplaces and agricultural employees.

The bill would require the division, by January 1, 2023, to develop and distribute a sample template document providing prescribed air quality training and information, including, but not limited to, how to use N95 respirators safely. The bill would require employers to periodically conduct the training. The bill would, in addition, commencing January 1, 2023, require refresher training during wildfire smoke emergencies and prior to distribution of the respirators. The bill would require the template and training be consistent with regulations adopted by the board.

Because a violation of certain safety and health standards or orders constitutes a crime, this bill would impose a state-mandated local program.

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

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB 257 Food facilities and employment. (2021-2022)
(Gonzalez)

Date	Action
06/28/21	Ordered to inactive file at the request of Assembly Member Lorena Gonzalez.
06/28/21	Reconsideration granted.

Summary:

AB 257, as amended, Lorena Gonzalez. ~~Fast food industry: working standards.~~ Food facilities and employment.

Existing law prescribes various protections for employees and generally charges the Labor Commissioner with the enforcement of labor laws. Existing law establishes the powers and responsibilities of the Division of Occupational Safety and Health and the Division of Labor Standards and Enforcement, which are within the Department of Industrial Relations.

Existing law creates the California Retail Food Code, which establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities, as defined, and requires local health agencies to enforce these provisions.

This bill would enact the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The bill would establish the Fast Food Sector Council (council), to be composed of 11 members to be appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee, and would prescribe its powers. The purpose of the council would be to establish industry-wide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers, as well as effecting interagency coordination and prompt agency responses in this regard. The bill would define the characteristics of a fast food restaurant, including that the establishment be part of a set of fast food restaurants consisting of 30 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.

This bill would require the council to promulgate minimum fast food restaurant employment standards, including standards on wages, working conditions, and training, and to issue, amend, and repeal any other rules and regulations, as necessary to carry out its duties. Under the bill, if a conflict exists between council's standards, rules, or regulations and those issued by another state agency, the standards, rules, or regulations issued by the

AB-257

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

council would apply to fast food restaurant workers and fast food restaurant franchisees and franchisors, and the conflicting rules or regulations of the other state agency would not have force or effect with respect to these parties. The bill would except from this application proposed standards within the jurisdiction of the Occupational Safety and Health Standards Board and would prescribe an alternate process in this regard.

This bill would require the council to conduct a full review of the adequacy of minimum fast food restaurant health, safety, and employment standards at least once every 3 years, and would empower the council to issue subpoenas for this purpose. The bill would require the council, following that review, to issue, amend, or repeal, or make recommendations to issue, amend, or repeal, any fast food employment, health or safety standard as appropriate. The bill would require the council to hold hearings every 6 months that would be open to the public, as specified, and would authorize the council to coordinate with and authorize local agencies to hold such meetings. The bill would authorize a county, and a city with a population greater than 200,000, to establish a Local Fast Food Sector Council, and would prescribe its powers and requirements for its composition. The bill would authorize a Local Fast Food Sector Council to provide recommendations to the council and would prescribe requirements for the state council in connections with these recommendations.

This bill would require standards for minimum wages, maximum hours of work, and other working conditions fixed by the council to be the minimum standards for fast food restaurant employees and would require that they be enforced by the Division of Labor Standards Enforcement. The bill would require the Labor Commissioner and the commissioner's deputies to take assignments of violations of standards issued by the council upon the filing of a claim in writing by an employee or an employee's authorized representative.

In addition to the above, FAST Recovery Act would require that fast food restaurant franchisor be responsible for ensuring that its franchisee comply with a variety of employment, worker, and public health and safety laws and orders, including those related to unfair business practices, ~~general liability~~, employment discrimination, the California Retail Food Code, a range of labor regulations, emergency orders, and standards issued by the council. The bill would require that a fast food restaurant franchisor be jointly and severally liable for violations of its franchisee, as specified, and would provide that specified laws may be enforced against a fast food restaurant franchisor to the same extent that they may be enforced against a franchisee. Among other things, the bill would authorize a fast food restaurant franchisee to file an action against its franchisor for monetary or injunctive relief in connection with the terms of a franchise and the franchisee's compliance with specified laws and orders. The bill would create presumptions in this regard and would provide for joint and several liability of the franchisor if the terms of a franchise are found to be a substantial factor in causing the franchisee to be liable. The bill would prohibit a fast food restaurant ~~franchisee or fast food restaurant franchisor~~ *operator* from discharging or in any manner discriminating or retaliating against any fast food restaurant employee for

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

specified reasons and would create a cause of action and right to reinstatement for employees in this ~~connection.~~ *connection, as well as a presumption of unlawful discrimination and retaliation in certain circumstances.*

Existing law requires a local health officer or a local enforcement agency to notify the person in charge of the food facility, investigate conditions, and take appropriate action when a local health officer is notified of an illness that can be transmitted by food or an employee in a food facility. Existing law requires the owner or the food safety certified employee to require food employees to report to the person in charge if a food employee is diagnosed with an illness. Existing law specifies that illness, for purposes of those requirements, includes salmonella typhi and norovirus, among others. A person who violates any provision of the California Retail Food Code is guilty of a misdemeanor.

This bill would additionally include COVID-19 as an illness for purposes of the above-described requirements. By increasing the duties of local officials and expanding the definition of an existing crime, this bill would impose a state-mandated local program.

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.

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-420	AB-420 Public health: amusement parks and COVID-19. (2021-2022) (Quirk-Silva and Valladares)	
	Date	Action
	03/01/21	Re-referred to Com. on A.,E.,S.,T., & I.M..
	02/25/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on A.,E.,S.,T., & I.M. Read second time and amended.
	02/25/21	Referred to Coms. on A.,E.,S.,T., & I.M. and L. & E.
	02/05/21	From printer. May be heard in committee March 7.
	02/04/21	Read first time. To print.
	<u>Summary:</u>	
	AB 420, as introduced, Quirk-Silva. Public health: amusement parks and COVID-19.	
	Existing law, the California Emergency Services Act, authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. Pursuant to this authority, on March 4, 2020, the Governor declared a state of emergency relating to the novel coronavirus 2019 (COVID-19) pandemic. On August 28, 2020, the executive branch implemented a 4-tier "Blueprint for a Safer Economy," which identifies a county's COVID-19 risk level for business operations on a scale from widespread risk to minimal risk. On October 20, 2020, the State Department of Public Health and the Division of Occupational Safety and Health issued a guidance document, "COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks," which authorizes a small amusement park to operate at limited capacity when its county is in the moderate tier, and authorizes any other amusement park to operate at 25% capacity when its county is in the minimal tier.	
	This bill would express the intent of the Legislature that the executive branch adjust the "COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks" document and place all amusement parks, regardless of size, within the moderate risk tier, rather than the minimal risk tier. If the executive branch takes those actions, the bill would require the Department of Industrial Relations to administer a competitive grant for amusement parks to be used by amusement parks to purchase personal protective equipment for their employees. The bill would appropriate \$500,000 from the General Fund for the grant program. The bill would also make related findings and declarations.	

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

	Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.
--	---

AB-473	AB-473 California Public Records Act.(2021-2022) (Chau)	
	Date	Action
	07/01/21	Read second time. Ordered to Consent Calendar.
	06/30/21	From committee: Do pass. To Consent Calendar. (Ayes 11. Noes 0.) (June 29).
	06/16/21	Referred to Com. on JUD.
	06/07/21	In Senate. Read first time. To Com. on RLS. for assignment.
	<p><u>Summary:</u></p> <p>AB 473, as introduced, Chau. California Public Records Act.</p> <p>The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.</p> <p>This bill would recodify and reorganize the provisions of the act. The bill would include provisions to govern the effect of recodification and state that the bill is intended to be entirely nonsubstantive in effect. The bill would contain related legislative findings and declarations. The bill would become operative on January 1, 2023.</p> <p>Board staff are monitoring this legislation.</p>	

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-474	AB-474 California Public Records Act: conforming revisions. (2021-2022) (Chau)	
	Date	Action
	07/01/21	Read second time. Ordered to Consent Calendar.
	06/30/21	From committee: Do pass. To Consent Calendar. (Ayes 11. Noes 0.) (June 29).
	06/21/21	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on JUD.
	06/16/21	Referred to Com. on JUD.
<p><u>Summary:</u></p> <p>AB 474, as introduced, Chau. California Public Records Act: conforming revisions.</p> <p>The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.</p> <p>This bill would enact various conforming and technical changes related to another bill that recodifies and reorganizes the California Public Records Act. The bill would only become operative if the related bill recodifying the act is enacted and becomes operative on January 1, 2023. The bill would also specify that any other bill enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.</p> <p>Board staff are monitoring this legislation.</p>		

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-701 Warehouse distribution centers. (2021-2022)
 (Gonzalez)

Date	Action
06/09/21	Referred to Coms. on L., P.E. & R. and JUD.

Summary:

AB 701, as amended, Lorena Gonzalez. Warehouse distribution centers.

(1) Existing law relating to employment regulation and supervision imposes special provisions on certain occupations and industries. Existing law charges the Labor Commissioner and the Division of Labor Standards Enforcement with the enforcement of labor laws.

This bill, among other things, would require specified employers to provide to each employee, defined as a nonexempt employee who works at a warehouse distribution center, *upon hire, with a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed, or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota.* ~~The bill would require, if the quota or the adverse consequences for failure to meet the quota have changed, the employer to provide the employee with a revised written description.~~ *provide that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods or health and safety laws.* The bill would prohibit an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or for failure to meet a quota that does not allow a worker to comply with *meal or rest periods or health and safety laws.* The bill would require that any action taken by an employee to comply with health and safety laws or division standards be considered time on task and productive time for the purposes of any quotas or monitoring system.

~~This bill would give a current and former employee, or their representative, the right to inspect or receive a copy of the most recent 3 months of that employee's personal work speed data, as provided. The bill would require an employer, at the time of hiring, to provide each employee with written notice of the employee's right to comply with health and safety laws without retaliation, the requirement that actions taken by an employee to comply with health and safety laws be considered productive work time, and the employee's right to file a complaint with the commissioner or the Division of Occupational Safety and Health. The bill would also authorize a current or former employee to bring an action for injunctive relief to obtain compliance with these requirements and to recover costs and reasonable attorney's fees.~~

This bill would provide that if a current or former employee believes that meeting a quota caused a violation of their right to a meal or rest period or required them to violate any

AB-701

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

health and safety standard, they have the right to request, and the employer is required to provide, a written description of each quota to which the employee is subject and a copy of the most recent 3 weeks of the employee's own personal work speed data. The bill would require the Labor Commissioner, if any employee files a complaint alleging violations of these provisions, to provide each employee in the workplace with a written notice containing information regarding the employee's right to report specified violations and regarding the employer being prohibited from retaliating against an employee for reporting unsafe workplace conditions or participating in an investigation by an enforcement agency. The bill would also authorize a current or former employee to bring an action for injunctive relief to obtain compliance with specified requirements, and may, upon prevailing in the action, recover costs and reasonable attorney's fees in that action.

(2) Under existing law, the California Occupational Safety and Health Act of 1973, the Division of Occupational Safety and Health investigates complaints that a workplace is not safe and may issue orders necessary to ensure employee safety. Under existing law, certain violations of that act or a standard, order, or special order authorized by the act are a crime.

This bill would require the division, by January 1, 2023, to propose to the Occupational Safety and Health Standards Board for the board's review and adoption a standard that minimizes the risk of musculoskeletal injuries and disorders among employees working in warehouse distribution centers, as provided. Because this bill would expand the definition of an existing crime, it would impose a state-mandated local program. The bill would also require the division, when an employee files a complaint, to provide the employee with a written notice containing specified information regarding their rights.

(3) 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.

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB 783 Surface mines: safety regulation. (2021-2022)
 (Gray)

Date	Action
06/29/21	From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 5. Noes 0.) (June 28). Re-referred to Com. on APPR.
06/09/21	Referred to Com. on L., P.E. & R.

Summary:

AB 783, as introduced, Gray. Surface mines: safety regulation.

Existing law, enforced by the Division of Occupational Safety and Health, defines and regulates mines and tunnels and distinguishes between above ground, or surface mines, and underground mines. ~~Existing law requires that sufficient manpower be maintained to provide for 4 annual inspections of underground mines, one inspection of surface mines or quarries annually, and 6 inspections of tunnels under construction annually.~~

AB-783

Existing law requires the Division of Occupational Safety and Health to issue citations if, upon inspection, an employer violates specified standards, rules, orders, or regulations. Existing law authorizes a notice to be issued in lieu of a citation if specified conditions are met. Existing law prohibits a citation or notice from being issued by the division more than 6 months after the occurrence of the violation.

~~This bill would authorize a surface mine that has been accepted into, and is currently in compliance with, the Voluntary Protection Program of the Division of Occupational Safety and Health to be excepted from the annual inspection requirement described above. The bill would prohibit~~ *specify that the division is prohibited from issuing a citation or notice to a surface mine employer more than 6 months after the occurrence of a violation. For inspections at a surface mine, the bill would require the division to provide the employer a specified notice of hazard within 72 hours after the inspection for observable conditions that may cause an injury if not addressed with reasonable promptness. The bill would prohibit the absence of identification of particular conditions in a notice, or the failure of the division to note particular conditions in a notice, from being grounds to dismiss or prevent applicable enforcement or corrective action.*

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-885 Bagley-Keene Open Meeting Act: teleconferencing.(2021-2022)
 (Quirk)

Date	Action
03/25/21	Re-referred to Com. on G.O.
03/24/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on G.O. Read second time and amended.
02/25/21	Referred to Com. on G.O.
02/18/21	From printer. May be heard in committee March 20.
02/17/21	Read first time. To print.

Summary:

AB 885, as amended, Quirk. Bagley-Keene Open Meeting Act: teleconferencing.

AB-885

The Bagley-Keene Open Meeting Act (Bagley-Keene Act), requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. The Bagley-Keene Act, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting. The Bagley-Keene Act requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and requires each teleconference location to be accessible to the public. That law authorizes any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body to hold an open meeting by teleconference if the meeting complies with the requirements of the act, except as provided. Existing law requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting. Existing law requires a multimember state advisory body to end or adjourn a meeting if it discovers that a required means of remote access has failed during the meeting, and, if the meeting is to adjourn and reconvene on the same day, that law requires the body to communicate, among other things, how a member of the public may hear audio of the meeting or observe the meeting.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting. The bill would also make nonsubstantive changes to those provisions.

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.

Board staff are monitoring this legislation for cost and impacts to its meeting requirements.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022)

(Davies)

Date	Action
02/25/21	Referred to Com. on A. & A.R.
02/18/21	From printer. May be heard in committee March 20.
02/17/21	Read first time. To print

Summary:

AB 893, as introduced, Davies. Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health.

AB-893

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees. The Division of Occupational Safety and Health enforces occupational safety and health standards and orders.

Existing law establishes the State Department of Public Health, within the California Health and Human Services Agency, and vests the department with certain duties, powers, functions, jurisdiction, and responsibilities over specified public health programs.

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations, including emergency regulations, by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would require the Division of Occupational Safety and Health or the State Department of Public Health, within 14 calendar days of the release of a federal recommendation that conflicts with an emergency regulation related to COVID-19 issued by the division or the department, to review the conflicting emergency regulation and make a determination to either amend the regulation or submit a report to the Legislature on the decision not to amend the regulation, as specified. The bill would require the division or department, before determining whether to amend the emergency regulation, to provide public notice and an opportunity for public comment. The bill would repeal these provisions

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

	<p>90 days after the termination of the state of emergency related to the COVID-19 pandemic declared by the Governor.</p> <p>This bill would declare that it is to take effect immediately as an urgency statute.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
--	--

AB-1175	<p>AB-1175 Division of Occupational Safety and Health: inspections and investigations: advance notice. (2021-2022)</p> <p style="text-align: center;">(Aguiar-Curry)</p>	
	Date	Action
	05/05/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/26/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 22). Re-referred to Com. on APPR.
	<p><u>Summary:</u></p> <p>AB 1175, as amended, Aguiar-Curry. Employees: regulation and supervision. Division of Occupational Safety and Health: inspections and investigations: advance notice.</p> <p>Existing law, the California Occupational Safety and Health Act of 1973, vests the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision over every employment and place of employment, which is necessary adequately to enforce and administer all laws and lawful standards and orders, or special orders requiring such employment and place of employment to be safe, and requiring the protection of the life, safety, and health of every employee in such employment or place of employment, including to inspect and investigate employments and places of employment, as prescribed. The Occupational Safety and Health Administration (OSHA), except as provided, prohibits a person or employer from being given advance warning of an inspection or investigation by any authorized representative of the division. OSHA authorizes the Chief of the Division of Occupational Safety and Health or an authorized representative to permit advance notice of an inspection or investigation as</p>	

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

prescribed by the Director of Industrial Relations. OSHA prohibits the authorization of advance notice when the investigation or inspection is to be made as a result of an employee complaint, unless there is imminent danger to the health or safety of an employee or employees. OSHA makes it a crime, punishable as prescribed, for any person to give unauthorized advance notice of any inspection to be conducted.

This bill would revise those advance warning provisions to prohibit any representative of the division from giving advance notice of an inspection or investigation to an employer or other person unless authorized under OSHA. The bill would authorize the chief or their authorized representatives to permit advance notice of an inspection or investigation when advance notice is necessary to ensure availability of essential personnel or access to the site, equipment, or process, as prescribed by the director. The bill would delete the prohibition on the authorization of advance notice when the investigation or inspection is to be made as a result of an employee complaint. The bill would expand the crime to apply to unauthorized advance notice of an investigation to be conducted, thereby imposing a state-mandated local program.

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.

Board staff are monitoring this legislation.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-1291 State bodies: open meetings. (2021-2022)
(Frazier)

Date	Action
06/24/21	In Assembly. Ordered to Engrossing and Enrolling.
06/24/21	Read third time. Passed. Ordered to the Assembly. (Ayes 39. Noes 0.).
06/22/21	Read second time. Ordered to Consent Calendar.
06/21/21	From committee: Be ordered to second reading file pursuant to Senate Rule 28.8 and ordered to Consent Calendar.
06/08/21	From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 14. Noes 0.) (June 8). Re-referred to Com. on APPR.

AB-1291 Summary:

AB 1291, as introduced, Frazier. State bodies: open meetings.

The Bagley-Keene Open Meeting Act requires that meetings of a state body be open and public and that all persons be permitted to attend, with certain exceptions. Existing law provides that, subject to certain exceptions and reasonable regulations, the state body shall provide members of the public an opportunity to directly address the state body on agenda items. Existing law authorizes the state body to limit the amount of time allotted for each member of the public to speak, but specifies that members of the public who use translators shall be given twice that allotted amount of time.

This bill would also require a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes translating technology to address the state body. The bill would additionally make technical, nonsubstantive changes.

Board staff are monitoring this legislation for cost and impacts to its meeting requirements.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

SB-321 Employment safety standards: household domestic services. (2021-2022)
(Durazo)

Date	Action
06/23/21	From committee: Do pass and re-refer to Com. on JUD. (Ayes 5. Noes 1.) (June 22). Re-referred to Com. on JUD.
06/10/21	Referred to Coms. on L. & E. and JUD.

Summary:

SB 321, as amended, Durazo. Employment safety standards: household domestic services.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified. Existing law charges the Division of Occupational Safety and Health within the Department of Industrial Relations with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety *and Health* (chief). Existing law makes a violation of the act a crime.

SB-321

Existing law defines “employment,” for purposes of the act, to include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, except household domestic service.

This bill would delete the above-described exception for household domestic service, thereby making it subject to the act. The bill would provide, however, that “employment” does not include household domestic service that is publicly funded, as specified, unless it is subject to certain regulatory ~~provisions~~. *provisions, nor would “employment” include family daycare homes, as specified.* The bill would make coverage for household domestic service operative on January 1, 2023, as specified. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The bill would require the chief or a representative of the chief to convene an advisory committee and, within 6 months of convening, in consultation with the Commission on Health and Safety and Workers’ Compensation, make findings and recommendations to the Occupational Safety and Health Standards Board for industry-specific regulations related to household domestic service. The bill would require the board to adopt industry-specific regulations pursuant to these provisions within a reasonable time and no later than January 1, 2023.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

Existing law authorizes the chief and all qualified and authorized division inspectors and investigators to have free access to any place of employment to make an investigation or inspection during regular working hours, and at other reasonable times when necessary, for the protection of safety and health.

This bill would require the chief or their representative, when the workplace is a residential dwelling, to initiate telephone contact with the employer in response to an alleged violation received from a domestic service employee within a specified timeframe. The bill would require the chief or their representative to provide specified notice to the employer about the alleged violation and to investigate the violation in accordance with certain procedures. The bill would require the employer to provide specified information to the division regarding mitigation efforts to correct the violation and to provide copies of all correspondence received from the division to the domestic service employee or to post the correspondence, as specified. The bill would authorize the chief or their authorized representative, for complaints alleging serious illness or injury or death in household domestic service, to enter the premises with permission or with an inspection warrant without first initiating telephone contact, as specified. The bill would require investigations of complaints in household domestic service employment to be conducted in a manner that avoids any unwarranted invasion of personal privacy and to not contain any personal, financial, or medical information of residents residing in the residential dwelling that is not pertinent to the investigation of the complaint.

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Legislative Update
Prepared July 6, 2021, for the July 15, 2021
Meeting of the Occupational Safety and Health Standards Board

SB-410	SB-410 Occupational safety and health: regulations. (2021-2022) (Leyva)	
	Date	Action
	06/30/21	From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.
	06/09/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (June 8). Re-referred to Com. on APPR.
<p><u>Summary:</u></p> <p>SB 410, as amended, Leyva. Occupational safety and health: regulations.</p> <p>Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations. Existing law authorizes the standards board to adopt, amend, or repeal occupational safety and health standards and orders, as defined, and requires the adoption of standards at least as effective as the federal standards for all issues for which federal standards have been promulgated under provisions of the federal Occupational Safety and Health Act of 1970. Existing law generally requires the adoption, amendment, or repeal of standards and orders by the standards board to comply with the rulemaking provisions of the Administrative Procedure Act (APA), but exempts from provisions of the APA relating to public participation and review of proposed regulations a standard or amendment to any standard adopted by the standards board that is substantially the same as a federal standard, including existing APA requirements, for a proposed nonmajor regulation, to prepare a prescribed economic impact assessment and, for a proposed major regulation, to prepare a standardized regulatory impact analysis in a manner prescribed by the Department of Finance.</p> <p>This bill would exempt any occupational safety and health standard and order from the standardized regulatory impact analysis requirement.</p> <p><i>The bill would also require an economic impact assessment to be prepared for the adoption, amendment, or repeal of any occupational safety and health standard and order, including for any such standard and order that is a major regulation proposed after January 1, 2022.</i></p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>		

Occupational Safety and Health Standards Board

Business Meeting Executive Officer's Report