



**JOB KILLER**

September 19, 2023

The Honorable Gavin Newsom  
 Governor, State of California  
 State Capitol  
 Sacramento, CA 95814

**SUBJECT: SB 627 (SMALLWOOD-CUEVAS) DISPLACED WORKERS: NOTICE: RETENTION AND TRANSFER REQUEST FOR VETO**

The California Chamber of Commerce and the organizations listed below respectfully **REQUEST** your **VETO** of **SB 627 (Smallwood-Cuevas)**, which has been labeled as a **JOB KILLER**. **SB 627** completely removes business's flexibility and autonomy over hiring without justification. It also likely violates the Contracts Clauses of both the federal and California constitutions.

### **SB 627 Will Bog Down Hiring and Undermine Basic Management for Businesses**

**SB 627** seeks to micromanage the rehire process for the affected businesses. Several of the provisions, or lack thereof, will only delay rehiring and increase costs on employers. Specifically:

- **SB 627** forces an employer to repeatedly offer newly available positions to qualified employees, no matter how many times the employees have turned offers down, failed to respond to previous job offers, or explicitly declined previous offers to return to work.<sup>1</sup> Further, there is no opt-out option. Under SB 93 (2021) and similar local ordinances, this slowed down the hiring process significantly and upset former employees who obtained other employment, moved out of state, or changed career paths entirely.
- **SB 627** would essentially eliminate the use of severance agreements, which benefit employees. No employer subject to such a retention right would have any reason to offer a severance agreement.
- **SB 627** forces an employer to send notices to all eligible, qualified employees for an available position and then wait five business days before analyzing acceptance offers based upon seniority. Under SB 93 (2021) and similar local ordinances, this waiting period has slowed down hiring and will have the same impact here.
- **SB 627** forces employers to hire based on seniority, not skill. The bill ties the employer's hands as far as hiring because they are only allowed to consider seniority, not who is most qualified for the job. It further prohibits them from considering other applicants that may be best suited for the position.
- **SB 627's** 25-mile radius requirement is arbitrary. A 25-mile distance across Los Angeles is significantly different than a 25-mile distance across the Central Valley.

### **There is No Justification for SB 627 and It Likely Violates the Contracts Clauses**

As defined in the bill, "chain" would include a multitude of businesses and industries, such as retail, restaurants, grocery stores, hotels, hospitals/health care facilities, movie theaters, and more. For all of these industries, **SB 627** creates a problematic, permanent statutory scheme that eliminates at-will employment and mandates hiring based on seniority alone.

Unlike prior right-to-recall laws, there is no common tie between these industries or their circumstances. Further, there is no justification for the bill. For example, in 2021, the Legislature passed SB 93 as a result of the unique obstacles presented by the COVID-19 pandemic and limited to hospitality. In fact, its first iteration, you returned AB 3216 (2020) without your signature, for creating too large a burden on employers and not being sufficiently tied to a narrow justification. SB 93 was a subsequent, more narrow version. SB 93 was limited in both time and scope and specifically tied to the impacts of COVID-19 on jobs with a sunset. No such justification exists for the permanent mandate proposed by **SB 627**, and it is completely unlimited as to time.

For this reason, **SB 627** likely also violates the Contracts Clauses of the United States and California constitution because it modifies existing at-will contracts. Any law that substantially impairs pre-existing contractual obligations violates the contract clauses of both the federal and California constitutions. **SB 627** creates a novel, long-lasting retroactive right. As stated above, only in extreme circumstances has existing law recognized such a retention right. Under California law, and absent an agreement otherwise, all "employment may be terminated at the will of either party on notice to the other" Labor Code Section 2922. Nearly every employment agreement in California either impliedly or expressly recognizes the at-will nature of the relationship. Employers hired workers assuming that, if the viability of their business was threatened, they could layoff these workers without granting them a possible cause of action. Given the fact that there

---

<sup>1</sup> See FAQ No. 14 interpreting similar language in SB 93 (2021): [Frequently Asked Questions on Recall Rights:](#)

is no justification for **SB 627** and its broad applicability to nearly every industry without any limitation in time or scope, it is unlikely that the state would be able to show that **SB 627** is “appropriate and reasonable” in serving a specific interest. *Sveen v. Melin*, 138 S. Ct. 1815, 1821–1822 (2018).

For these and other reasons, we respectfully **REQUEST** your **VETO of SB 627 (Smallwood-Cuevas)** as a **JOB KILLER**.

Sincerely,



Jennifer Barrera  
President and Chief Executive Officer

Acclamation Insurance Management Services (AIMS), Dominic Russo  
Alhambra Chamber of Commerce, Betsy Aguilera  
Allied Managed Care (AMC), Dominic Russo  
Association of California Healthcare Districts (ACHD), Sarah Bridge  
Brea Chamber of Commerce, Adam Pryor  
California Association of Sheet Metal and Air Conditioning Contractors National Association, Chris Walker  
California Association of Winegrape Growers, Michael Miiller  
California Attractions and Parks Association, Sabrina Demayo Lockhart  
California Bankers Association, Melanie Cuevas  
California Business Properties Association (CBPA), Matthew Hargrove  
California Business Roundtable, Natalie Boust  
California Chamber of Commerce, Ashley Hoffman  
California Employment Law Council, Mike Belote  
California Grocers Association, Leticia Garcia  
California Hotel & Lodging Association, A.J. Rossitto  
California Lodging Industry Association, Bobbie Singh-Allen  
California Manufactures & Technology Association (CMTA), Lawrence Gayden  
California Restaurant Association, Katie Davey  
California Retailers Association, Sarah Pollo Moo  
California State Council of the Society for Human Resource Management, Michael S. Kalt  
Carlsbad Chamber of Commerce, Bret Schanzenbach  
Chino Valley Chamber of Commerce, Zeb Welborn  
Coalition of Small and Disabled Veteran Businesses, Jeffrey Langlois  
Coalition of California Chambers – Orange County, Benjamin Medina  
Corona Chamber of Commerce, Anthony Maldonado  
Danville Area Chamber of Commerce, Judy B. Lloyd  
Family Business Association of California, Robert Rivinius  
Flasher Barricade Association (FBA), Kenneth Johnston  
Folsom Chamber of Commerce, Bill Romanelli  
Fontana Chamber of Commerce, Phil Cothran  
Fresno Chamber of Commerce, Scott Miller  
Gilroy Chamber of Commerce, Victoria Valencia  
Glendora Chamber of Commerce, Joe Cina  
Greater Conejo Valley Chamber of Commerce, Adam Haverstock  
Greater High Desert Chamber of Commerce, Mark Creffield  
Greater San Fernando Valley Chamber of Commerce, Nancy Hoffman Vanyek  
Hollywood Chamber of Commerce, Chris Micheli  
Independent Lodging Industry Association, Bobbie Singh-Allen  
La Cañada Flintridge Chamber of Commerce, Pat Anderson  
Lodi District Chamber of Commerce, J.P. Doucette  
National Federation of Independent Business (NFIB), Tim Taylor  
Oceanside Chamber of Commerce, Scott Ashton  
Official Police Garages Association of Los Angeles, Eric Rose

Orange County Business Council, Connor Medina  
Palos Verdes Peninsula Chamber of Commerce, Marilyn Lyon  
Paso Robles Chamber of Commerce, Amy Russell  
Roseville Area Chamber of Commerce, Rana Ghabban  
San Juan Capistrano Chamber of Commerce, Benjamin Medina  
Santa Clarita Valley Chamber of Commerce, Ivan Volschenk  
Santee Chamber of Commerce, Kristen Dare  
Simi Valley Chamber of Commerce, Kathi Van Etten  
South County Chambers of Commerce, Kathy McCorry  
Templeton Chamber of Commerce, Amy Russell  
Torrance Area Chamber of Commerce, Donna Duperron  
Tulare Chamber of Commerce, Donnette Silva Carter  
Vacaville Chamber of Commerce, Debbie Egidio  
Vista Chamber of Commerce, Rachel Beld  
Yorba Linda Chamber of Commerce, Alex Hernandez

JB:CJ:am