

## Updates

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California "Job-Killer" SB 1044 Passes Senate Committee



[SB 1044](#) passed the California Senate Labor, Public Employment and Retirement Committee on Monday, March 21, 2022. SB 1044 would prohibit an employer, in the event of a state of emergency or an emergency condition, from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace within the affected area because the employee feels unsafe. Furthermore, employees would be permitted to leave work regardless of existing health and safety standards and regardless of whether or not the employer has provided health and safety protections.

### **What Is a State of Emergency or Emergency Condition?**

SB 1044 defines "state of emergency" as the existence of any of the following in the county where a worker lives or works, and poses an imminent and ongoing risk of harm to the worker, the worker's home, or the worker's workplace:

- A presidential declaration of a major disaster or emergency, caused by natural forces.
- A declared state of emergency or local emergency due to conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by natural forces.
- A federal, state, regional, or county alert of imminent threat to life or property due to a natural disaster or emergency.

SB 1044 also permits employees to walk off the job in an "emergency condition," which means the existence of either of the following:

- An event that poses serious danger to the structure of a workplace or to a worker's immediate health and safety.
- An order to evacuate a workplace, a worker's home, or the school of a worker's child.

## **Under SB 1044, Employers Cannot Prohibit Cell Phone Use**

In addition to permitting employees to walk off the job if they feel unsafe, SB 1044 prohibits an employer from preventing any employee from accessing their mobile device to seek emergency assistance, assess the safety of the situation, or communicate with another person to confirm their safety.

## **Opposition to SB 1044**

SB 1044 has amassed a large opposition. Notably, the California Chamber of Commerce (CalChamber) and a coalition of over 60 organizations sent a [letter](#) to Senator Durazo outlining numerous reasons for opposition to the bill. CalChamber has labeled SB 1044 a "job killer," noting the bill would cripple emergency response, ignore existing protections, and undermine the California Division of Occupational Safety and Health's (Cal/OSHA) existing health and safety procedures.

Moreover, CalChamber said SB 1044 would reduce workplace safety by allowing essential workers such as police, firefighters, healthcare workers, and others to simply walk off the job. CalChamber states "this bill just allows workers to walk away *regardless of how outdated the state of emergency is or how distant it is from the workplace.*"

## **Implications and Takeaways From SB 1044**

SB 1044 subjects employers to costly Private Attorneys General Act (PAGA) lawsuits if they dispute an employee's decision to leave the premises or fail to show up at work if they feel unsafe. Furthermore, if any employer replaces a worker in order to keep the workplace functioning, or to provide time sensitive services, the employer could face a retaliation lawsuit. CalChamber warns of the legal perils associated with SB 1044, noting "SB 1044 gives such broad discretion to employees that if they walk away from a completely safe workplace, the employer could do little in response without risking litigation."

Despite fierce opposition, SB 1044 passed by 4-1 vote in the Senate Labor, Public Employment and Retirement Committee. The bill will now move to another Senate committee before going to a full Senate vote.

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