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palm desert area
chamber of commerce

ORANGE COUNTY
BUSINESS COUNCIL

March 12, 2025

Honorable Nick Schultz
California State Assembly
1021 O Street, Suite 5150
Sacramento, CA 95814

**SUBJECT: AB 1898 (Schultz) WORKPLACE ARTIFICIAL INTELLIGENCE TOOLS
OPPOSE – AS INTRODUCED FEBRUARY 12, 2025**

Dear Assemblymember Schultz:

The California Chamber of Commerce and the undersigned organizations respectfully **OPPOSE AB 1898 (Schultz)**. As presently written, **AB 1898**'s notice requirements are overbroad and raise significant confidentiality concerns. Any misstep subjects businesses of every size and state and local entities to litigation, including penalties. Further, **AB 1898** gives every employee and independent contractor veto power over implementing new technologies.

AB 1898's Notice Requirements Raise Several Concerns

As a general matter, we do not object to the concept of disclosing information about automated decision systems or surveillance technologies that may result in employee discipline or termination. However, we have concerns about both the breadth and the content of the notices required under **AB 1898**.

AB 1898 Would Require an Untenable Volume of Notices

The bill's definitions of covered technologies are extremely broad and capture many low-risk tools. For example, the definition of "automated decision system" includes tools that merely "assist" human decision making related to anything about employment, which would encompass something as simple as basic scheduling software or other technologies with minimal automation. Likewise, a "workplace surveillance tool" includes any technology that "collects" or "facilitates" the collection of any information that is "reasonably capable of being associated" directly or indirectly with an employee.

Under AB 1898, an employee must receive notice even if the workplace AI tool only "indirectly" impacts them or merely "assists" with an "employment-related decision," no matter how minimal or inconsequential the impact. The circumstances in which a tool would trigger notice obligations are effectively endless. Additionally, even where a workplace AI tool has no impact on a particular employee, the employer would still have to provide that employee with an annual list of every workplace AI tool used anywhere in the organization. This not only creates a substantial administrative burden, it also raises concerns about broad disclosure of a company's, state agency's, or local government's security systems to a wide audience.

The inevitable result is an overwhelming volume of notices that reduces their usefulness to workers and creates an undue burden on both public and private employers. Last year, SB 7 (McNerney) was vetoed in part for this very reason:

"*However, rather than addressing the specific ways employers misuse this technology, the bill imposes unfocused notification requirements on any business using even the most innocuous tools. This proposed solution fails to directly address incidents of misuse*."

AB 1898 suffers from the same flaw.

The Content of the Notices Raise Confidentiality and Security Concerns

Beyond the volume, several of the specific notice content requirements are problematic, including:

- 1601(f)(3) – Requiring disclosure of how and where data is stored is unnecessary for employees to understand their rights and raises serious confidentiality and security concerns by effectively pointing to where workforce-wide data may be accessed.
- 1601(f)(4) – While providing a general description of a tool is reasonable, requiring detail about exactly how the tool works, including its calculations and outputs, risks disclosure of trade secrets or proprietary information and could help bad actors learn how to evade or manipulate certain technologies.
- 1601(f)(5) – Requiring disclosure of the names of individuals who may have access to certain data exposes those employees to potential harassment or other issues, especially if notices are forwarded to people outside the workplace. It also ignores the reality that data may be transferred for confidential or privileged reasons, such as to legal counsel, a CPA, or in connection with corporate transactions.
- 1601(f)(7) – Requiring disclosure of the exact models of workplace tools is especially concerning for entities with sophisticated security systems, such as financial institutions. Disclosing those tools to thousands of people provides a roadmap for bad actors to exploit systems used for fraud prevention and security.
- 1601(f)(11) – Requiring disclosure of the contents of internal risk assessments would expose confidential or proprietary information and reveal details about tools that could be exploited. We have consistently advocated for heightened confidentiality around such assessments.

More generally, we also want to be cautious to ensure that **AB 1898**'s notice provisions do not undermine any investigations or safety and security. Employers often must initiate sudden, targeted monitoring to investigate suspected fraud, inappropriate conduct, or comply with other laws. Providing highly detailed notice 90 days in advance may be impossible in those situations and would defeat the purpose of the investigation.

<u>AB 1898 Gives Every Employee and Independent Contractor Veto Power Over Implementing New Technologies</u>

We also have significant concerns regarding Section 1601(c). That subdivision provides that the employer cannot use the workplace AI tool at issue until every single employee and independent contractor has returned a signed copy of the notice. Not only is it often difficult to get employees to timely return signed documents, but tracking down contractors who by their very definition have limited or sporadic interaction with the company or government entity would be an administrative feat. Most concerning is that this subdivision effectively gives all employees and independent contractors veto power of the implementation of the tool.

<u>Independent Contractors Should Not Be Included in The Definition of "Worker"</u>

The bill's definition of "worker" includes independent contractors and should be revised. Contractors are typically limited-term, engaged for a specific project, and are fundamentally different from employees. Their contractual agreements govern the terms of the engagement, including any notice obligations. The growing trend of treating independent contractors identically to employees in every new bill conflicts with prior legislation and court decisions. Further, including them within the scope of such a broad bill significantly compounds the administrative burden on businesses and public entities.

AB 1898 Creates a Private Right of Action and a Vague Venue Standard

Any misstep in interpreting or implementing **AB 1898**'s broad requirements would subject private and public employers of all sizes to a private right of action, including penalties. Further, Proposed section 1602(f) also raises concerns regarding venue. By allowing actions to be brought "wherein the employer resides or transacts business," the bill appears to create a venue standard that is broader than California Code of Civil Procedure Section 395. We urge clarification to ensure that **AB 1898** does not expand venue rules in a way that encourages forum shopping.

AB 1898 Should Preempt Local Ordinances

California already faces a patchwork of local labor and employment ordinances. Differing requirements across cities and counties create significant compliance challenges. Workers operating in multiple jurisdictions are subject to divergent rules, and employers with multiple locations must design separate systems and processes for each location. If the Legislature enacts notice requirements in this area, those requirements should be uniform and statewide, and should expressly preempt conflicting local ordinances.

For these and other reasons, we **OPPOSE AB 1898 (Schultz)**.

Sincerely,

Ashley Hoffman
Vice President and Deputy Chief of Staff for Advocacy
California Chamber of Commerce

cc: Luke Reidenbach, Chief Deputy Legislative Secretary, Office of Governor Newsom
Megan Lane, Chief Consultant, Assembly Labor and Employment Committee
Rose Rastbaf, Assembly Republican Caucus

AH:kas

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Allied Managed Care Incorporated
American Petroleum and Convince Store Association (APCA), Bobbie Singh-Allen
Anaheim Chamber of Commerce, Dara Maleki, President & CEO
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Associated General Contractors of California
California Apartment Association, Embert Paul Madison Jr.
California Assisted Living Association, Danielle Parsons
California Association of Sheet Metal and Air Conditioning Contractors National Association (CAL SMACNA), Emily Mills
California Association of Winegrape Growers (CAWG), Michael Miiller
California Farm Bureau, Bryan Little
California Fuels + Convenience Alliance, Jack Yanos
California Hispanic Chamber of Commerce, Julian Canete, President & CEO
California Hospital Association, Erika Frank
California Landscape Contractors Association (CLCA), Sandra Giarde, Executive Director
California League of Food Producers, Benjamin Ebbink
California Manufacturers and Technology Association (CMTA), Sarah Bridges
California Restaurant Association, Matt Sutton
California Retailers Association (CRA), Ryan Allain

(cont')

California Trucking Association, Nick Chiappe
California's Credit Union, Eileen Ricker
Carlsbad Chamber of Commerce, Bret Schanzenbach
Citrus Heights Chamber of Commerce, Sheri Merrick
Civil Justice Association of California (CJAC), Jaime Huff
Colusa County Chamber of Commerce, Jack Cunningham
Flasher Barricade Assn., Philip Vermeulen
Glendora Chamber of Commerce, Joe Cina
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Greater High Desert Chamber of Commerce Cities, Mark Creffield
Greater Riverside Chambers of Commerce, Quirina Ramirez
Greater Stockton Chamber of Commerce, Timm Quinn
Hollywood Chamber of Commerce, Steve Nissen
Huntington Beach Chamber of Commerce, Max Daffron
Imperial Valley Regional Chamber of Commerce, Sher Cowie
La Cañada Flintridge Chamber of Commerce, Pat Anderson
Leading Age California, Amber King
Lincoln Area Chamber of Commerce, Tom Indrieri, CEO
Long Beach Area Chamber of Commerce, Jeremy Harris, President & CEO
Menifee Valley Chamber of Commerce, Katie Luna, President & CEO
Murrieta/Wildomar Chamber of Commerce, Patrick Ellis, President & CEO
Newport Beach Chamber of Commerce, Steve Rosansky
North San Diego Chamber of Commerce, Chris Thorne
Oceanside Chamber of Commerce, Scott Ashton
Orange County Business Council, Paulina Alvarez
Palm Desert Chamber of Commerce, Patrick Klein
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Santa Clarita Valley Chamber of Commerce, Ivan Volschenk, President/CEO
Security Industry Association (SIA), Jake Parker
SHRM California, Eric De Wames
Simi Valley Chamber of Commerce, Anthony Angelini
Southwest California Legislative Council (SWCLC), Adam A. Ruiz
TechNet, Jose Torres
Torrance Area Chamber of Commerce, Donna Duperron
Ventura Chamber of Commerce, Stephanie Caldwell, President & CEO
Yorba Linda Chamber of Commerce, Anthony Johnson
Yuba Sutter Chamber of Commerce, Nina Singh Co-Chair, and Coleen Morris, Co-Chair