



June 11, 2020

The Honorable Ash Karla
 California State Assembly
 State Capitol, Room 2196
 Sacramento, CA 95814

Re: AB 3216 (Karla): Employee leave: authorization – OPPOSE

Dear Assembly Member Karla:

On behalf of the above business organizations in the Inland Empire, we write to express our opposition to your bill AB 3216, which would make it an unlawful for an employer to refuse grant a request by an employee to take up to 12 workweeks of unpaid protected leave during any 12-month period for family care and medical leave. It would also require an employer to provide each employee with at least 80 hours or 10 days of paid sick leave in cases where a state of emergency is declared by the Governor. Employers would also be required to offer its laid-off employees positions that become available for which the laid-off employees is qualified, and to offer positions based on a preference system.

This bill could result in businesses having to provide a total of 36 weeks of job protected leave. AB 3216 proposes a brand-new 12-week emergency leave entitlement for family care and medical leave taken because of a “state of emergency.” This new leave would apply to employers of any size and to all employees, regardless of how long they have been employed or how many hours they

have worked. The 12-weeks of job protected emergency leave provided by the bill would be in addition to 12 weeks of leave under the California Family Rights Act (CFRA) (which now would apply to all employers, regardless of size). This would result in a total of 24 weeks of leave. Moreover, while the bill purports that the leave under this bill and the federal Family and Medical Leave Act (FMLA) shall not exceed 24 weeks, this language is meaningless and has no effect. As the Legislature is well aware from looking at this issue over the years, California cannot mandate that state leave runs concurrently with the FMLA – that requires an act of Congress or a regulatory change at the federal level. Therefore, under AB 3216 an employee could potentially be entitled to 12 weeks of emergency leave, 12 weeks of leave under CFRA, and 12 weeks of leave under the FMLA – for a staggering total of 36 weeks of job protected leave, which would create a tremendous burden on employers.

Requires employers that are shut down suffering economic catastrophe to provide significant paid sick leave during a time in which they can least afford it. AB 3216 requires all employers to provide employees with at least 80 hours or 10 days of paid sick leave to use for any specified purpose related to a “state of emergency.” Unlike the federal Families First Coronavirus Response Act (FFCRA), which provides for emergency paid sick leave and emergency family and medical leave only where the employee is unable to work or telework, AB 3216 does not even specify that employee must be unable to work in order to take the leave. In addition, the FFCRA does not apply where the employer is closed down directly or indirectly by an emergency shutdown order because there is no work available for the employee. By contrast, AB 3216 specifically provides that an employee is entitled to paid sick leave even when the “place of employment is closed,” and when the employer has no work for them to perform. Most importantly, the new emergency paid sick leave mandated by AB 3216 is completely and 100% employer funded. Requiring an employer who is suffering economic catastrophe (and is likely closed down) during a state of emergency to provide significant paid sick leave is simply not realistic or feasible.

Eliminates the ability for a business to hire those best qualified for a job. Finally, AB 3216 establishes a new “right to recall” requirement that applies to certain hotels, event centers, airport hospitality operations, or the provision of building services to office, retail, or other commercial buildings. These rights also extend where an employer goes out of business and there is a change in control or ownership. This proposal would completely eliminate the crucial flexibility that businesses need to navigate crises such as this and preserve jobs over the long term. Among other things, AB 3216 requires covered employers to offer to recall laid-off workers, and to provide such employees at least 10 business days to respond. This is completely unworkable and would serve to stifle and delay a business returning to normal operations following such an emergency. Requiring recall based on seniority also hurts young workers and newer skilled workers, and eliminates the judgment and flexibility employers need to best structure their operations. It also raise significant legal and constitutional concerns.

For the reasons stated above and others, we oppose AB 3216. If you have any questions or would like to discuss our position in greater detail, please contact Luis Portillo at 909-944-2201 or by email at lportillo@ieep.com. Thank you.

Sincerely,

<p>Janice Moore Apple Valley Chamber of Commerce</p>	<p>Bette Rader Beaumont Chamber of Commerce</p>	<p>Zeb Welborn Chino Valley Chamber of Commerce</p>
<p>Bobby Spiegel Corona Chamber of Commerce</p>	<p>Gloria Martinez Fontana Chamber of Commerce</p>	<p>Joshua Bonner Greater Coachella Valley Chamber of Commerce</p>
<p>Peggi Hazlett Greater Ontario Business Council</p>	<p>Cyndi Lemke Hemet San Jacinto Chamber of Commerce</p>	<p>Shannon Shannon Hesperia Chamber of Commerce</p>
<p>Andrea De Leon Highland Chamber of Commerce</p>	<p>Paul Granillo Inland Empire Economic Partnership</p>	<p>Oscar Valdepeña Moreno Valley Chamber of Commerce</p>
<p>Patrick Ellis Murrieta/Wildomar Chamber of Commerce</p>	<p>Jennifer Walker Perris Valley Chamber of Commerce</p>	<p>Monique Manzanares Pomona Chamber of Commerce</p>
<p>Robert Hufnagel Rancho Cucamonga Chamber of Commerce</p>	<p>John Mills Redlands Chamber of Commerce</p>	<p>Dori Jared-Ferranto Upland Chamber of Commerce</p>

Mark Creffield Victor Valley Chamber of Commerce		
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