



JOB KILLER

April 16, 2024

TO: Members, Senate Labor, Public Employment and Retirement Committee

**SUBJECT: SB 1434 (DURAZO) UNEMPLOYMENT INSURANCE: BENEFIT AND CONTRIBUTION CHANGES
 OPPOSE/JOB KILLER – AS INTRODUCED FEBRUARY 16, 2024
 SCHEDULED FOR HEARING – APRIL 24, 2024**

The California Chamber of Commerce and the undersigned respectfully **OPPOSE SB 1434 (Durazo)**, as introduced February 16, 2024, as a **JOB KILLER** because it would be a massive increase in unemployment insurance taxes for every single employer in California.

In brief, **SB 1434** is a vast re-working of California's unemployment insurance (UI) system, including the following elements:

- Historic increase of traditional UI taxes for employers via an increase to the taxable wage base.
- A 55% benefit increase for claims beginning in 2025, with ongoing adjustments thereafter.
- Creation of a new tax on all wages to fund a new benefits program for federally-ineligible "excluded" workers.

Taken together, we conservatively estimate **SB 1434's** changes to result in more than a 200% increase in UI-related taxes for all California employers. A complete estimate is impossible because presently **SB 1434** does not include the specified amount of its anticipated tax increases and does not identify which employees would qualify for its new program.

SB 1434 Would Increase UI Taxes on Employers by As-Yet-Unknown Amounts to Fund a 55% Increase in UI Benefits.

SB 1434 is best understood as a massive increase in UI benefits, disguised as reform to California's UI program. **SB 1434** increases the benefits to be distributed from the UI Fund in three ways. Those three changes combined will greatly increase the drain on California's UI Fund, which has a current deficit of \$20.7 billion.

First, **SB 1434** would increase California's maximum weekly benefit by 55.6%¹ for claims filed in 2025, and then provide for continual upward adjustments beginning in 2026 based on inflation.² Second, **SB 1434** alters the calculation of benefits award to increase the number of workers who qualify for maximum benefits.³ Third, **SB 1434** increases the benefits for workers who hold two jobs but lose one, by increasing California's "earnings disregard"⁴ by 100%.⁵ Cumulatively, these changes will result in massive increases in benefits and necessitate massive increases in taxes on California's employers.

Notably, **SB 1434** implicitly acknowledges that it will require considerable tax increases on California employers to fund these massive benefit increases. **SB 1434** presently contains placeholders for taxable wage increases in 2025, 2027, and again in 2028 – but does not include the actual values of these increases as of the date of this letter. However, for the benefit increases proposed in this legislation to not add considerable structural insolvency to California's outstanding UI Fund debt, we conservatively estimate these increases will need to more than double California's taxable wage base. In other words, we conservatively estimate that **SB 1434** would more than double UI-related taxes for all employers in California to fund its generous benefits increases.

SB 1434 Would Create an Entirely New Entitlement Program – and New Tax for California Employers – for Federally-ineligible Workers.

¹ See proposed Unemployment Insurance Code Section 1280(a), increasing maximum benefits from \$450 per week to \$700 per week. All future citations, unless otherwise stated, are to the California Unemployment Insurance Code.

² See proposed Section 1280(c) ("Commencing on January 1, 2026, and each January 1 thereafter, the Director of Finance shall calculate an adjusted minimum and maximum weekly benefit amount.")

³ See proposed Section 1280(a) provides that "For new claims ... an individual's weekly benefit amount is one-twenty-first (1/21) the wages paid to the individual for employment by employers during the quarter of their base period ...). In contrast, the present Section 1280(c) provides that "...the individual's weekly benefit amount shall be 50% of those wages divided by 13", translating to 1/26th of quarterly wages being used as a base for weekly benefit calculations. (emphasis added)

⁴ In unemployment benefit calculations, this is known as the "earnings disregard." Normally, any income while a claimant is collecting unemployment would reduce their weekly benefits – however, the earnings disregard is the mechanism to have EDD ignore some of those earnings and allow the claimant to keep collecting UI benefits while working. In effect, the more of a claimant's income is "disregarded", the more unemployment benefits that claimant can receive while simultaneously working at a job.

⁵ Compare Section 1279(a)(1)&(2) (earnings disregard of \$25 or 25% of weekly wages, whichever is greater) and proposed Section 1279(a) (increasing the earnings disregard to 50% of weekly wages).

In addition to increasing costs to California's UI Fund as discussed above, **SB 1434** would create a new "Excluded Workers Fund" based on an additional .5% tax on the taxable wages of California employers to fund this new program. For context: federal law imposes certain basic requirements for workers to be eligible for unemployment insurance benefits, including that the worker has been an employee, who worked for a sufficient period to qualify, and became unemployed through no fault of their own. Notably, **SB 1434** does not define "excluded workers,"⁶ so a full analysis of the policy issues surrounding this fund cannot be completed at this time, but we have the following concerns with such a program: (1) the program will yet another cost to California's UI Fund (and California's employers who fill it) at a time of extreme debt; (2) the program will unfairly place the cost of these "excluded" workers upon employers who did not employ and terminate these workers; and (3) potential conflicts with federal law.

To give a sense of scale of the tax increase **SB 1434**'s "Excluded Workers Fund", would necessitate, we include some rough estimates. Based upon Department of Labor statistics, California has roughly 18.3 million employees.⁷ Assuming employers pay UI taxes on a taxable wage base of \$7,000 (present law, not **SB 1434**'s proposed change), a 0.5% tax increase would result in an aggregate tax increase of \$640 million. However, we must then likely double or triple this estimate because **SB 1434** is all but certain to include a massive increase in California's taxable wage base, as discussed above. For that reason, we conservatively estimate that this "Excluded Workers Fund" is likely to cost California's employers more than \$1.2 billion aggregate on an annual basis, spread across all employers – regardless of whether they employ such "excluded" workers.

SB 1434 Fails to Address Structural Leakages in California's UI Program, Instead Relying on Simply Increasing Taxes on Employers.

As discussed above, **SB 1434** attempts to fund a massive increase in UI benefits and the creation of an entirely new, parallel "Excluded Workers Fund" at a time of extreme UI Fund deficit – and funds its benefit increases via tax increases that are likely to rise into the billions of dollars. Because of the significant new burdens for California's employers (and the state's UI Fund) that **SB 1434** creates, it bears asking: what does **SB 1434** do to address structural issues with the administration of the UI program? As presently drafted, **SB 1434** makes no attempts to address administrative and legal failures that have added to California's UI debt, which is by far the largest in the nation.

An obvious starting point would be UI fraud, which California employers are forced to bear the cost of as we attempt to replace fraudulently-lost dollars. But because the issue of UI fraud has been widely-covered in recent years, we will focus here on other, less-discussed structural leaks in the UI Fund.

For example: one consistent drain on California's UI fund is so-called "non-fraudulent overpayments." These are payments made by EDD to claimants who are not legally eligible for the benefits paid., However, EDD distributes the benefits before it accurately determines their proper benefit award.⁸ Though the cause of an individual non-fraudulent overpayment may vary – non-response from a claimant to a document request, or urgency to resolve claims on the part of administrators – the end result is that money from the UI Fund is sent out improperly. California employers then bear the cost of refilling the UI Fund for these overpayments, literally paying the cost for the state's mistakes. **SB 1434** does not address this problem.

Nor does **SB 1434** address the weakness of recovery efforts for both fraudulent and non-fraudulent overpayments. At present, EDD's website claims to have recovered just under \$6 billion in fraudulent payments since 2020.⁹ However, UI fraud is commonly-acknowledged to exceed \$20 billion since the

⁶ Notably, Senator Durazo's SB 227 ("Excluded Workers Program") provides one definition that may be incorporated in the future.

⁷ This 18.3 million estimate is taken from Department of Labor statistics most recent data, available here: <https://www.bls.gov/>

⁸ Often, such payments are made to comply with federal guidelines, which push state UI programs to distribute benefits quickly.

⁹ EDD's "Response to Fraud" webpage is available here - https://edd.ca.gov/en/about_edd/fraud-response/. As of the date of this letter, data thereon was updated for February of 2024. Notably, the page does not specify at what point their tally of \$5,990,220,491 in fraudulent funds recovered began – but presumably it was in 2020, as the pandemic triggered much of the political attention to UI fraud and the creation of the relevant website by EDD.

pandemic. Significantly, this \$20 billion estimate is actually lower than the true aggregate leakage, as it does not include non-fraudulent overpayments, as discussed above. In summary: we're seeing a recovery rate below 33% despite massive state efforts post-pandemic to improve recovery efforts. That means that every improperly distributed benefit, presently, is unlikely to be recovered. An improvement in recovery rates would improve the health of the UI Fund without adding costs to California's already struggling employers. But **SB 1434** does not address this issue.

Though we are open to thoughtful discussions about reform to California's UI Fund, **SB 1434** is not the solution. **SB 1434** is a *massive* increase to UI benefits, funded via a *massive* increase in UI taxes, at a time when California's UI Fund is already over twenty billions of dollars in debt and California employers cannot absorb any further UI tax increases.

For these reasons, we **OPPOSE SB 1434 (Durazo)** as a **JOB KILLER**.

Sincerely,



Robert Moutrie
Senior Policy Advocate
on behalf of

Acclamation Insurance Management Services
Agricultural Council of California
Allied Managed Care
American Petroleum and Convenience Store
Association
American Pistachio Growers
American Staffing Association
Associated General Contractors
Associated General Contractors – San Diego
Brea Chamber of Commerce
Building Owners and Managers Association
(BOMA California)
Calforests
California Agricultural Aircraft Association
California Alliance of Family Owned Businesses
California Asian Pacific Chamber of Commerce
California Association of Joint Powers
Authorities
California Association of Licensed Security
Agencies, Guards & Associates - CALSAGA
California Association of Sheet Metal and Air
Conditioning Contractors National Association
California Association of Winegrape Growers
California Attractions and Parks Association
California Avocado Commission
California Beer and Beverage Distributors
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Citrus Mutual
California Craft Brewers Association
California Chamber of Commerce
California Cotton Ginners and Growers
Association
California Date Commission
California Farm Bureau

California Financial Services Association
California Framing Contractors Association
California Fresh Fruit Association
California Fuels and Convenience Alliance
California Grocers Association
California Hospital Association
California Hotel & Lodging Association
California League of Food Producers
California Manufacturers & Technology
Association
California Restaurant Association
California Retailers Association
California Self Storage Association
California Staffing and Recruiting Association
California Taxpayers Association
California Tomato Growers Association
California Travel Association
California Trucking Association
Coalition of Small and Disabled Veteran
Businesses
Construction Employers' Association
Dairy Institute of California
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Family Business Association of California
Family Winemakers of California
Flasher Barricade Association
Folsom Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of
Commerce
Greater High Desert Chamber of Commerce
Housing Contractors of California
Laguna Niguel Chamber of Commerce
Lincoln Area Chamber of Commerce

Livermore Valley Chamber of Commerce
Los Angeles Area Chamber of Commerce
NAIOP California
National Association of Theatre Owners of
California
National Electrical Contractors Association
National Federation of Independent Business
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Palos Verdes Peninsula Chamber of Commerce
Paso Robles Templeton Chamber of Commerce
Public Risk Innovation, Solutions and
Management
Rancho Cordova Area Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Shingle Springs Cameron Park Chamber of
Commerce

Silicon Valley Leadership Group
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
Twenty First Century Alliance
United Chamber Advocacy Network
United Contractors
Vacaville Chamber of Commerce
Walnut Creek Chamber of Commerce
West Ventura County Business Alliance
Western Agricultural Processors Association
Western Carwash Association
Western Electrical Contractors Association
Western Growers Association
Western Plant Health Association
Yorba Linda Chamber of Commerce
Yuba Sutter Chamber of Commerce

cc: Legislative Affairs, Office of the Governor
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RM:ldl