

Date of Hearing: July 2, 2024

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair
SB 1220 (Limón) – As Amended May 16, 2024

AS PROPOSED TO BE AMENDED

SENATE VOTE: 32-7

SUBJECT: Public benefits contracts: phone operator jobs

SYNOPSIS

With the arrival of the latest generation of large language models such as ChatGPT-4, chatbots have infiltrated virtually every white collar professional setting. Such models can process enormous datasets, identify hidden patterns, make decisions with a high degree of accuracy and reliability, and converse fluidly with humans. The widespread adoption of this technology, which may continue to develop at an explosive pace, carries the potential to disrupt jobs in virtually every sector of the economy. Goldman Sachs recently predicted that roughly two-thirds of U.S. occupations could see a quarter to half of their workload displaced by artificial intelligence (AI).

Especially vulnerable are call center jobs, which can offer decent salaries, commission, and benefits, and which often do not require a college degree—providing a path to upward mobility for individuals with disadvantaged backgrounds. While AI currently falls well short of the emotional and intellectual complexity that these services frequently demand, AI can adequately handle many ordinary customer service problems at a fraction of the cost of employing a human. For many companies, the potential diminishment in quality of customer service is worth the savings.

This is not the first time call centers have faced the threat of outsourcing: when the Schwarzenegger and Davis Administrations approved out-of-country vendor contracts for CalFRESH call centers, California enacted protections against outsourcing for call center workers who provide services related to public benefits. As the executive branch has begun procuring generative AI tools for various functions, including call center services for tax guidance, this bill seeks to extend those protections to address the threat of automation by AI.

As proposed to be amended, the bill would, among other things, extend to local governments the existing prohibition on outsourcing public contracts for call services related to public benefits. The bill would also prohibit state and local agencies from contracting for or using call center services related to public benefits that use AI or automated decisionmaking systems (ADS) that eliminate or automate workers' core job functions, with certain exceptions. Before an agency may use or contract for the use of an AI or ADS that impacts the core job function of a worker, the agency must first notify the workers, their collective bargaining representatives, and the public 60 days in advance with a general description of the AI or ADS system and the intended purpose for the AI or ADS system. The bill's provisions sunset July 1, 2030.

The bill is sponsored by the California Labor Federation and the California State Council of the Service Employees International Union. The bill is supported by the California Democratic

Party, the California School Employees Association, Orange County Employees Association, and TechEquity Action. The bill is opposed by various 211 service providers and certain local chapters of United Way. Amendments set forth below appear to address opponents' concerns.

The bill previously passed the Assembly Committee On Public Employment and Retirement on a 5-0 vote.

SUMMARY: Extends to local governments the prohibition on outsourcing public contracts for call services related to public benefits. Prohibits state and local agencies from contracting for or using call center services related to public benefits that use AI or ADS that eliminate or automate workers' core job functions, with certain exceptions. Requires, before an agency may use or contract for the use of AI or ADS that impacts the core job function of a worker, that the agency first notify the workers, their collective bargaining representatives, and the public 60 days in advance with a general description of the AI or ADS system and the intended purpose for the AI or ADS system. Specifically, **this bill:**

- 1) Extends to local governments the existing requirement that, for state agency contracts for call center services related to public benefits programs, the contractor certify in their bid that the services will be performed solely by workers employed in California.
- 2) Prohibits state and local agencies from contracting for or using call center services related to public benefits that use AI or ADS that eliminate or automate the core job function of a worker. A noncompliant contractor may be penalized for the amount the contractor or subcontractor paid for the cost of the AI or ADS to perform core job functions that were eliminated or automated.
- 3) Requires such agencies, before using or contracting for the use of AI or ADS that impact the core job function of a worker, to first notify the workers, their collective bargaining representatives, and the public 60 days in advance with a general description of the AI or ADS system and the intended purpose for the AI or ADS system.
- 4) Exempts from the notice requirement, the following uses of AI or ADS:
 - Phone trees or prompts that route callers to appropriate staff, information, or options.
 - Tools that support workers by providing suggestions, AI-powered searches and support of policy, procedural, or training information.
 - AI used by workers to assist callers with public benefits or assist workers in service delivery.
- 5) Defines, among other terms:
 - "Core job function" as a component of call service delivery that requires the exercise of judgment and discretion to successfully accomplish a complex task.
 - "Public benefits program" as California Work Opportunity and Responsibility to Kids (CalWORKs), CalFresh, Medi-Cal, Healthy Families, the California Healthcare Eligibility, Enrollment, and Retention System, Covered California, Employment Development Department Insurance, Child Welfare Services, California Special

Supplemental Nutrition Program for Women, Infants, and Children (WIC), and other public benefits provided by a local government agency funded in any part by state funding from the California Health and Human Services Agency to provide the same or similar benefits.

6) Exempts:

- Emergency services such as 988 and 911.
- Call center services provided for a local public benefit program in response to an emergency or disaster, including mutual aid, or temporary staff relocations during the emergency or disaster, and until normal operations have been restored.
- A contract or subcontract by a county human services agency for translation or interpretation services.

7) Provides that it does not apply to contracts related to a request for proposal or bid that occurred before January 1, 2025.

8) Sunsets July 1, 2030.

EXISTING LAW:

- 1) Requires that a state agency authorized to enter into contracts relating to public benefits programs only contract for services provided by a call center that directly serve applicants for, recipients of, or enrollees in, those public benefit programs may contract only with a contractor that certifies in its bid for the contract that the services provided under the contract and any subcontract performed under the contract will be performed solely with workers employed in California. A knowing violation of this provision is punishable by a civil penalty of up to \$10,000 in an action brought by a public prosecutor. (Pub. Cont. Code § 12140(a)(1).)
- 2) Defines:
 - a. “Call center” as a building, facility, or operation where customer or client services or assistance is provided by telephone, fax, email, text, or Web-based interaction.
 - b. “Public benefit programs” as California Work Opportunity and Responsibility to Kids (CalWORKs), CalFresh, Medi-Cal, Healthy Families, and the California Healthcare Eligibility, Enrollment, and Retention System. (*Id.* at (b).)
- 3) Requires that a contract under 1) provides that in the event a contractor or subcontractor performs the contract or the subcontract for call center services with workers not employed in California during the life of the contract, the state has the right to terminate the contract for noncompliance and the contractor or subcontractor must pay a penalty to the state agency in an amount equal to the amount paid by the state agency for the percentage of work that was performed. (*Id.* at (c).)

- 4) Provides that a state agency may conduct a solicitation that does not apply 1) if the California Health and Human Services Agency or the board of the California Health Benefit Exchange makes a specified determination. (*Id.* at (d).)
- 5) Provides that the requirements described above do not apply to the following:
 - a. A contract or subcontract, if implementation would violate the specific terms of the Agreement on Government Procurement of the World Trade Organization or any other bilateral or regional free trade agreement to which the State of California has consented.
 - b. A contract or subcontract, including extensions of that contract or subcontract, that results from a request for proposal or bid that occurred prior to the effective date of the act that adds this chapter.
 - c. A contract for a public benefit program between a state agency and a health care service plan or a specialized health care service plan regulated by the Department of Managed Health Care, and any subcontract performed under that contract, or a disability insurer or specialized health insurer regulated by the Department of Insurance, and any subcontract performed under that contract. (*Id.* at (e).)

FISCAL EFFECT: As currently in print, this bill is keyed fiscal.

COMMENTS:

1) **Author’s statement.** According to the author, “The purpose of this bill is to ensure there will be human assistance available when people call to receive help with public benefit programs, serving the most vulnerable Californians. This bill does not preclude AI from assisting workers with their job tasks, but this bill clarifies that a worker must be a human being and not artificial intelligence.”

2) **AI.** In brief, AI is the mimicking of human intelligence by artificial systems such as computers. AI uses algorithms – sets of rules – to transform inputs into outputs. Inputs and outputs can be anything a computer can process: numbers, text, audio, video, or movement. AI is not fundamentally different from other computer functions; its novelty lies in its application. Unlike normal computer functions, AI is able to accomplish tasks that are normally performed by humans.

ADS. In addition to AI, this bill addresses “automated decisionmaking systems” which generally refer to systems that use AI to replace or supplement human decisionmaking ability. ADS are used to decide whom to hire, what treatments patients should receive, whether to grant parole, and many other life-altering decisions that used to be made entirely by human beings.

GenAI. AI that are trained on small, specific datasets in order to make recommendations and predictions are sometimes referred to as “predictive AI.” This differentiates them from GenAI, which are trained on massive datasets in order to produce detailed text and images. When Netflix suggests a TV show to a viewer, the recommendation is produced by predictive AI that has been trained on the viewing habits of Netflix users. When ChatGPT generates text in clear, concise paragraphs, it uses GenAI that has been trained on the written contents of the internet.

The creation of text, imagery, video, and audio by GenAI has the potential to change the world by automating repetitive tasks and fostering creativity. But care should be taken to avoid what New York University Professor Meredith Broussard describes as “the notion that computers are more ‘objective’ or ‘unbiased’ because they distill questions and answers down to mathematical evaluation...an unwavering faith that if the world used more computers, and used them properly, social problems would disappear and we’d create a digitally enabled utopia.”¹ Many aspects of the real world are not reducible to data, and many complex situations present competing demands that human beings remain best equipped to assess. Examples of general challenges with AI follow.

Bias and discrimination. Bias and discrimination can result from skewed training data. There is a famous saying in computer science: “garbage in, garbage out.” The performance of an AI is directly impacted by the quality, quantity, and relevance of the data used to train it.² If the data used to train the AI is biased, the tool’s outputs will be similarly biased. Rather than eliminating human bias, AI can reinforce and mask it with the guise of mathematical neutrality.

Interpretability. Issues such as those described above can be masked by the inscrutability of the most advanced AI models. AI that use “deep learning”—machine learning that uses multilayer (deep) neural networks to analyze vast datasets—can infer intricate patterns and relationships from complicated data, but exactly how they do so is not always obvious. Deep neural networks are sometimes criticized for being “black boxes” that generate predictions and outcomes that cannot be clearly explained.³ “It’s often observed in the field that the most powerful models are on the whole the least intelligible, and the most intelligible are among the least accurate.”⁴ If a decision-making process cannot be explained and clearly understood, how can it be guaranteed that the decision reached is fair and free of bias? Research into the creation of “explainable” AI is ongoing.

Hallucinations: When an AI produces a result that is not grounded in reality, it is said to be “hallucinating.” Text-generators such as ChatGPT do not fundamentally understand the text they are producing. They calculate one word or symbol at a time – if they estimate that the next word/symbol in a sentence should be a period, then the sentence ends. Otherwise, the sentence continues. It is a testament to the ingenious architecture of these systems that their outputs are remotely coherent. But while the text they produce is cogent, it is not always correct.

“These systems live in a world of language,” said Melanie Mitchell, an A.I. researcher at the Santa Fe Institute. “That world gives them some clues about what is true and what is not true, but the language they learn from is not grounded in reality. They do not necessarily know if what they are generating is true or false.”⁵

Privacy. Just as humans cannot intentionally forget information they have learned, it is not currently possible to remove data from a trained AI. Unlike an Excel spreadsheet, which stores data in neat columns, AI stores data in the connections between “neurons” in a “neural network.”

¹ Broussard, “Artificial Unintelligence,” *MIT Press*, 2019.

² Rohit Sehgal, “AI Needs Data More Than Data Needs AI”, *Forbes*, Oct. 5, 2023, <https://www.forbes.com/sites/forbestechcouncil/2023/10/05/ai-needs-data-more-than-data-needs-ai/>.

³ Neil Savage, “Breaking into the black box of artificial intelligence,” *Nature*, March 29, 2022.

⁴ Brian Christian, “The Alignment Problem: Machine Learning and Human Values” (Norton 2020, First Ed.), p. 85.

⁵ Cade Metz, “What Makes A.I. Chatbots Go Wrong?” *New York Times*, March 29, 2023, www.nytimes.com/2023/03/29/technology/ai-chatbots-hallucinations.html.

Each of these connections is influenced by every piece of training data, and a large model like ChatGPT-4 is reported to have more than 1.7 trillion connections. It is not possible to specifically alter these connections in order to remove data without fundamentally changing the model; as a result, for data to be removed, the model must be retrained from scratch. ChatGPT-4 is estimated to have taken 4-7 months to train.

What happens when an AI is trained on extremely sensitive information – for example, an individual’s DNA sequence, or their social security number, or their intimate photos, or their immigration status? The same thing that happens when an AI is trained on any other type of information: the AI digests it, and then retains it forever. AI are fundamentally different from other forms of data storage. They are black holes in the information ecosystem, with “training” acting as their event horizons. Once data has crossed this threshold it cannot be removed.

3) **Automation of jobs.** The net effect that the widespread adoption of AI – especially GenAI – will have on labor is unknown. In 2020 the World Economic Forum published a report suggesting that 97 million new jobs may be created, while 85 million jobs may be displaced.⁶ However, the report goes on to state that though job creation currently outpaces job destruction, the rate of creation is slowing while the rate of destruction continues to accelerate.

Furthermore, quantifying only job creation and destruction fails to fully capture AI’s effect on the labor economy. A huge number of jobs are exposed to AI in one way or another, and these positions may fundamentally change as AI becomes more common. A recent International Monetary Fund analysis found that nearly 40 percent of global employment is exposed to AI.⁷ Goldman Sachs recently predicted that roughly two-thirds of U.S. occupations could see a quarter to half of their workload displaced by AI.⁸

Technological advances regularly transform the labor economies of societies; the development of GenAI differs from historical advances, however, in that it is likely to predominantly affect skilled workers. A 2023 Pew Research Report describes this phenomenon:

Consider customer service agents. Evidence shows that AI could either replace them with more powerful chatbots or it could enhance their productivity. AI may also create new types of jobs for more skilled workers – much as the internet age generated new classes of jobs such as web developers. Another way AI-related developments might increase employment levels is by giving a boost to the economy by elevating productivity and creating more jobs overall. Overall, AI is designed to mimic cognitive functions, and it is likely that higher-paying, white-collar jobs will see a fair amount of exposure to the technology.⁹

⁶ World Economic Forum. "The Future of Jobs Report 2020," October, 2020.

⁷ Kristalina Georgieva, "AI Will Transform the Global Economy. Let’s Make Sure It Benefits Humanity," *International Monetary Fund*, January 14, 2024, www.imf.org/en/Blogs/Articles/2024/01/14/ai-will-transform-the-global-economy-lets-make-sure-it-benefits-humanity.

⁸ Goldman Sachs, "Generative AI could raise global GDP by 7%" (Apr. 5, 2024), <https://www.goldmansachs.com/intelligence/pages/generative-ai-could-raise-global-gdp-by-7-percent.html>.

⁹ Rakesh Kochhar, "Which U.S. Workers Are More Exposed to AI on Their Jobs?," *Pew Research Center*, July 26, 2023, www.pewresearch.org/social-trends/2023/07/26/which-u-s-workers-are-more-exposed-to-ai-on-their-jobs/.

However, this report does not account for the effect that autonomous machines may have on jobs involving mechanical or physical tasks. One job that could be seriously affected by the adoption of autonomous vehicles is long-haul trucking:

A natural division of labor in trucking might be that advanced autonomous trucks drive themselves over the long haul, and humans take the wheel for the endpoints—what’s often called the “last mile” in transportation and logistics. In 2017, Uber announced such an approach: an autonomous truck network, connected by local hubs throughout the country. Autonomous trucks would run the long hauls between the hubs, and human truckers would pilot the trucks from hubs to delivery.¹⁰

Creative jobs may be similarly at risk, as GenAI allows scripts, voices, images, and videos to be generated automatically. In 2023, the Writers Guild of America (WGA) and Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) both engaged in prolonged strikes, partially driven by concerns that AI would displace jobs in their various industries.¹¹

Much depends on whether the breakneck rate of AI progress continues. A decade ago, deep learning models could barely distinguish dogs from cats. Four years ago, large language models could barely produce sentences at the level of a preschooler. This year, GPT-4 passed the bar exam.¹² Current chatbots readily pass for educated adults and can serve as useful assistants. Several factors could cause the vertiginous pace of algorithmic progress to plateau. But if trends continue, AI models could jump from human-level intelligence to superintelligence this decade. Nearly every cognitive job—analyzing legislation included—could be susceptible to automation.¹³

4) GenAI Executive Order and the tax call center “sandbox.” In September of 2023, Governor Gavin Newsom signed Executive Order N-12-23 with the stated goals of “deploy[ing] GenAI ethically and responsibly throughout state government, protect[ing] and prepar[ing] for potential harms, and remain[ing] the world’s AI leader.” Among other things, the Executive Order directs agencies and departments to issue guidelines for the procurement, uses, and training for application of GenAI. By March 2024, the California Department of Technology was required to “establish the infrastructure to conduct pilots of GenAI projects, including California Department of Technology approved environments, or ‘sandboxes,’ to test such projects. The Executive Order also requires agencies and departments to develop a report examining the most significant and beneficial uses of GenAI in the state.”¹⁴

¹⁰ Karen Levy, “Robo Truckers and the AI-Fueled Future of Transport,” *Wired*, December 6, 2022, www.wired.com/story/autonomous-vehicles-transportation-truckers-employment/.

¹¹ Ryan Broderick, “AI can’t replace humans yet — but if the WGA writers don’t win, it might not matter,” *Polygon*, May 31, 2023, www.polygon.com/23742770/ai-writers-strike-chat-gpt-explained.

¹² Pablo Arredondo, GPT-4 Passes the Bar Exam: What That Means for Artificial Intelligence Tools in the Legal Profession (Apr. 19, 2023), <https://law.stanford.edu/2023/04/19/gpt-4-passes-the-bar-exam-what-that-means-for-artificial-intelligence-tools-in-the-legal-industry/>.

¹³ See generally Leopold Aschenbrenner, “Situational Awareness: The Decade Ahead” (Jun. 2024), <https://situational-awareness.ai/wp-content/uploads/2024/06/situationalawareness.pdf>.

¹⁴ Executive Department—State of California, Executive Order N-12-23 (Sept. 6, 2023), <https://www.gov.ca.gov/wp-content/uploads/2023/09/AI-EO-No.12--GGN-Signed.pdf>

A November 2023 report from the Government Operations Agency stated that “GenAI has the potential to dramatically improve service delivery outcomes and increase access to and utilization of government programs.”¹⁵ The report noted numerous specific potential public sector uses of GenAI that could benefit Californians. The report found that chatbots can be used “to guide users through services in their preferred language,” “[i]ncrease first-call resolution for state service centers,” “[r]educe call wait and handle time at state customer service centers,” and that GenAI can recommend and explain government services and program eligibility to constituents.¹⁶ “The report cautions that generative models can produce convincing but inaccurate results, deliver different answers to the same prompt, and suffer model collapse, when predictions stray away from accurate results. Generative AI also carries the risk of automation bias, when people become overly trusting and reliant on automated decision-making.”¹⁷

On January 16, 2024, a “request for innovative ideas” was issued for California Department of Tax and Fee Administration (CDFTA) “seeking a solution that will use GenAI to swiftly search expansive reference materials and provide possible responses to taxpayers who reach out via telephone and live chat.”¹⁸ The request noted that CDFTA’s Customer Service Center fielded 661,155 calls in fiscal year 2022/23. The service provided by CDFTA “ranges from answering general questions regarding CDFTA tax and fee programs to in-depth analysis and guidance for customers to help them file accurate and timely returns, make online payments, register for CDFTA programs, and navigate other compliance-related services.” The goal of the request was to solicit proposals to “utilize generative artificial intelligence (GenAI) to search reference materials and the CDFTA website to provide possible responses to taxpayer inquiries via calls, chatbot, live chat, and emails.” This would “minimize the risk of incorrect information being provided to taxpayers, reduce the time needed to research responses, decrease wait times for taxpayers, and provide tools to improve monitoring of operations.”¹⁹

On May 9, 2024, GovOps announced the state’s six-month partnership with five companies to evaluate GenAI tools in various “sandbox” testing environments, including CDFTA’s call center, which will pair with vendors IgniteGroup and SymSoft Solutions, LLC. At the end of the six-month trial, the Office of Data and Innovation will assess whether the state will purchase any of the tools.²⁰

5) Purpose. This bill seeks to protect public benefits call center workers and ensure the quality of the service they provide. The bill does so by prohibiting state and local agencies from outsourcing public benefit call center jobs to contractors that use AI or ADS to automate the core job functions of public benefit call center workers. Except in specified use cases, before AI or ADS can be used in a way that impacts the core job function of workers, the agency must first

¹⁵ Cal GovOps, “State of California: Benefits and Risks of Generative Artificial Intelligence Report” (Nov. 2023), p. 2, https://www.govops.ca.gov/wp-content/uploads/sites/11/2023/11/GenAI-EO-1-Report_FINAL.pdf.

¹⁶ *Id.* at p. 12.

¹⁷ Khari Johnson, “California plans to use AI to answer your tax questions” (Feb. 8, 2024) *CalMatters*, <https://calmatters.org/economy/technology/2024/02/cdtfa-generative-ai/>.

¹⁸ CDFTA, “Leveraging GenAI to Enhance Services for Taxpayers” (Jan. 16, 2024), <https://www.cdtfa.ca.gov/news/24-02.htm>.

¹⁹ “RFI2 - Request for Innovative Ideas - GenAI Solution for Call Center Team Productivity” (Jan. 16, 2024), <https://caleprocure.ca.gov/event/77601/0000029440>.

²⁰ “California Signs Partnerships to Utilize GenAI (May 9, 2024), https://calmatters.org/wp-content/uploads/2024/05/GenAI-awards-press-release_Final_5.9.2024_.docx-GenAI-awards-press-release_Final_5.9.2024_.docx.pdf.

notify the workers, their collective bargaining representatives, and the public 60 days in advance with a general description of the AI or ADS system and the intended purpose for the AI or ADS system.

6) **AI and call centers.** Call center jobs, which can offer decent salaries, commission and benefits, and often do not require a college degree, provide a path to upward mobility for individuals with disadvantaged backgrounds.²¹ When the Schwarzenegger and Davis Administrations approved out-of-country vendor contracts for CalFRESH call centers, California enacted protections against outsourcing for call center workers who provide services related to public benefits. (AB 2508, Bonilla, Ch. 824, Stats. 2021.) These jobs again face the threat of outsourcing—this time, to AI.

In the private sector, call centers are rapidly incorporating AI. According to a recent *Washington Post* article, 80% of 300 IT and call center leaders surveyed indicated that conversational AI products are essential for their companies, with more than half reporting they had already invested in the technology.²² The British telecommunications giant BT recently announced plans to cut around 55,000 jobs, up to 20% of which would be to customer services as staff are replaced by AI.²³ In another survey of 2000 US call center workers, a majority reported their employers were automating some of their work and “[n]early two-thirds of respondents said they felt it was somewhat or very likely that increased use of bots would lead to layoffs within the next two years.”²⁴

The impact to workers could be devastating: US call center jobs often offer decent salaries, commission and benefits, and often do not require a college degree.²⁵ This can provide a path to upward mobility for individuals with disadvantaged backgrounds. As the authors and sponsors note in background materials provided to the Committee: “Public benefit call center workers have been on the front lines providing services to everyday Californians for years. During times of need, ranging from global pandemics to intense natural disasters, public benefit call center workers have stood with people in need of guidance. By contracting with AI, the state is spending money to push public servants onto public benefits.”

Automating call center services can also harm consumers. In some cases, AI has been deployed in call center services to disastrous effect. As described in the Assembly Committee On Public Employment and Retirement’s analysis of this bill:

For example, in 2023, the National Eating Disorder (NEDA) replaced a human staff helpline with an AI chatbot named “Tessa.” The version of Tessa that was initially tested and studied was a rule-based chatbot; meaning, it could only use a limited number of prewritten

²¹ *Id.*

²² Pranshu Verma, “ChatGPT provided better customer service than his staff. He fired them” (Oct. 3, 2023) *The Washington Post*, <https://www.washingtonpost.com/technology/2023/10/03/ai-customer-service-jobs/>.

²³ Tom Espiner, “BT to cut 55,000 jobs with up to a fifth replaced by AI” (May 18, 2023) *BBC*, <https://www.bbc.com/news/business-65631168>.

²⁴ Emma Goldberg, “‘Training My Replacement’: Inside a Call Center Worker’s Battle with A.I.” (Jul. 19, 2023) *New York Times*, <https://www.nytimes.com/2023/07/19/business/call-center-workers-battle-with-ai.html?smid=nytcore-ios-share&referringSource=articleShare>.

<https://www.nytimes.com/2023/07/19/business/call-center-workers-battle-with-ai.html?smid=nytcore-ios-share&referringSource=articleShare>

²⁵ *Id.*

responses. The CEO of NEDA was quoted as saying, “[we] were cognizant of the fact that AI isn’t ready for this population and so all of the responses were pre-programmed.” Once Tessa started being used by NEDA it underwent “systems upgrade,” including an “enhanced questions and answer feature.” The feature uses generative AI; meaning, it gives the chatbot the ability to use new data and create new responses. After the upgrade Tessa began informing callers to avoid “unhealthy foods” and to only eat “healthy” snacks, like fruit. Such advice can be very harmful to those with eating disorders or certain complicating health factors. After Tessa was accused of giving harmful advice, NEDA was forced to suspend its use.

In another example, the State of Michigan adopted an automated system for their unemployment insurance benefit program, which relied on flawed assumptions that were programmed into the algorithm to identify fraud. As a result, the AI charged 40,000 unemployment recipients with fraud, charging them repayment and fines with up to 400 percent interest. The charges drove people into debt, destroyed credit, and lives. Reports state that up to 93 percent of the AI’s fraud charges were wrong, however much of the damage had already been done.

The author and sponsors also argue that human call center workers can empathize with callers and provide personalized support that an AI system cannot replicate. This is particularly important for ensuring that Californians who are vulnerable and in immediate need of public safety net services get the service they deserve.

There is a middle way: While some call centers have fully automated many services, others are attempting to use it in a way that supplements rather than supplants. “AI software tools help call center workers do their jobs better: transcription software analyzes call conversations in real-time and provides agents with ideal solutions; other tools identify angry customers and provides techniques to calm them down.” Such support can allow workers to focus on more complex tasks and on connecting empathically with callers, potentially leading to higher customer satisfaction and lower worker turnover.²⁶ AI can also expedite service delivery; many state customer service hotlines have long wait-times that could be cut down by integration of AI.

The author and sponsors assert that this bill does not preclude AI from assisting workers with their job tasks; rather, it “clarifies that a worker must be a human being and not artificial intelligence.”

7) **This bill.** Under existing law, if a state agency contracts for call center services related to public benefits programs, the contractor must certify in their bid that the services will be performed solely by workers employed in California. As proposed to be amended, this bill extends that requirement to local governments. The bill also prohibits state and local agencies from contracting for or using call center services related to “public benefits”—defined as several enumerated programs, including CalWORKs, CalFresh, Medi-Cal, and other programs funded in part by state funding from the California Health and Human Services Agency—that use AI or ADS that eliminate or automate workers’ “core job functions,” defined under the bill as “a component of call service delivery that requires the exercise of judgment and discretion to successfully accomplish a complex task.”

²⁶ Pranshu Verma, “ChatGPT provided better customer service than his staff. He fired them” (Oct. 3, 2023) *The Washington Post*, <https://www.washingtonpost.com/technology/2023/10/03/ai-customer-service-jobs/>.

Before an agency may use or contract for the use of AI or ADS that impacts the core job function of a worker, the agency must first notify the workers, their collective bargaining representatives, and the public 60 days in advance with a general description of the AI or ADS system and the intended purpose for the AI or ADS system. However, the notice requirement does not apply to uses of AI or ADS for the following:

- Phone trees or prompts that route callers to appropriate staff, information, or options.
- Tools that support workers by providing suggestions, AI-powered searches and support of policy, procedural, or training information.
- AI used by workers to assist callers with public benefits or assist workers in service delivery.

The bill exempts from its scope emergency services such as 988 and 911, services provided for a local public benefit program in response to an emergency or disaster, and contracts by a county human services agency for translation or interpretation services. The bill also provides that it does not apply to contracts related to a request for proposal or bid that occurred before January 1, 2025. The bill sunsets July 1, 2030.

8) **Amendments.** In response to various concerns, the author and sponsors have worked with the Committee and stakeholders to make a number of changes to narrow and refine the scope of the bill and address certain opposition concerns. In broad strokes, the amendments:

- *Remove impact assessments.* Amendments remove this requirement and instead require agencies to notify employees, bargaining unit representatives, and the public of planned uses AI or ADS tech that impacts their core job functions. This reduces the burden on public agencies while providing necessary information to workers related to potential AI-related impacts to their jobs.
- *Redefine “core job function.”* Amendments define this concept in terms of the skills required to complete a component of call service delivery—the exercise of judgment and discretion to successfully accomplish a complex task—rather than in terms of the ability of the call center worker.
- *Clarify the penalty for contractors or subcontractors who eliminate or automate core job functions in violation of the bill.* Under existing law—which prohibits outsourcing call center jobs to non-Californians—if a call center’s contractor outsources jobs, the agency for whom the contractor provides the service may cancel the contract and recoup the money that went to outsourced jobs. The bill in print incorporates AI-replaced jobs into this provision but the penalty is still based on the amount paid to workers outside California. Amendments clarify that the agency can recover whatever was paid for AI services that replaced core job functions.
- *Exempt:*
 - Emergency services: Amendments remove 911 and 988 from the bill’s ambit. This is consistent with the bill’s focus on the provision of public benefits. Emergency services workers are subject to extensive training requirements; while it seems unlikely that AI will supplant workers in this space, it is important to

- retain the flexibility to incorporate AI as needed to ensure efficiency in service delivery.
- Local emergencies: The bill in print provides emergency exemptions for state agencies. At the request of the County Welfare Directors Association (CWDA), amendments extend this to local governments.
 - Translation services contracted by counties: This amendment is also being made at the request of CWDA, in light of their existing national contract for translation services enabling translation into the five most spoken languages within their jurisdiction.
 - State contracts with health plans and insurers: Amendments restore an existing exemption for contracts managed by Department of Managed Health Care or Department of Insurance. This likely resolves concerns raised by health plans and insurers.
- *Remove express reference to 211 services.* Providers of the 211 hotline serve as a hub for health, human, and social services. In response to requests from 211 providers, the amendments remove express reference to 211. Such services are not mandated; the providers worry that singling out 211 could give an unfair advantage to competitors that use AI using a different hotline number. While the bill would still apply to all such referral services, the removal of this reference puts all of these providers on the same footing.
 - *Sunset the bill July 1, 2030:* This will enable the Legislature to revisit this issue in light of technological developments between now and the end of this decade to determine whether to extend or replace the bill's provisions.
 - *Make other technical and clarifying changes.*

The amendments are as follows:

12140. (a) (1) Notwithstanding any other law, any state agency authorized to provide or enter into contracts relating to public benefit programs, and any local government agency authorized to provide or enter into contracts relating to public benefit programs funded in any part by state funding, shall only provide services through, or contract for services provided by, a call center that directly serves callers with services performed solely with and by workers employed in California.

(2) With regard to contracts specified in paragraph (1), a contractor shall certify in its bid that any services provided by the contractor or its subcontractors are to be performed with and by workers employed in California. A certification required by this paragraph is not made under penalty of perjury. Any contractor that knowingly provides false information in the certification required by this paragraph shall be subject to a civil penalty in an amount of up to ten thousand dollars (\$10,000), in addition to any other civil remedies available to the state agency. An action for a civil penalty under this paragraph may be brought by any public prosecutor in the name of the people of the State of California.

(3) A state agency, or a local agency authorized to provide or enter into contracts relating to public benefit programs funded in any part by state funding to provide call center services related to public benefits, ~~211 services, or 988 services, as described in Article 6.3~~

~~(commencing with Section 53123.1) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, shall not use artificial intelligence (AI) or automated decision systems (ADS) that eliminate or automate the core job function of a worker. That agency shall not contract with a party to provide call center services related to public benefit programs that utilizes AI or ADS to eliminate or automate the core job function of a worker.~~

(4) If a state agency, or local agency authorized to provide or enter into contracts relating to public benefit programs funded in any part by state funding to provide services related to public benefits, ~~211 services, or 988 services, as described in Article 6.3 (commencing with Section 53123.1) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code~~ uses AI or ADS that impact the core job function of a worker, or contracts with a party to provide call center services related to public benefits utilizing AI or ADS that impact the core job function of a worker, then that agency shall ***notify the workers, their collective bargaining representatives, and the public 60 days in advance with a general description of the AI or ADS system and the intended purpose for the AI or ADS system.*** ~~comply with all of the following requirements:~~

~~(A) Provide access to a human call center worker upon request of a public caller.~~

~~(B) (i) Develop an impact assessment report on the AI or ADS proposed to be used in the call center. That report shall include all of the following elements:~~

~~(I) A detailed description of the technology and all its intended uses and roles in providing call center services.~~

~~(II) A description of the data used by the technology, including the specific categories of data that will be processed as input and any data used to train the model that the technology relies upon.~~

~~(III) A description of the types of outputs produced by the technology.~~

~~(IV) Potential impacts on current or future employees, including, but not limited to, job loss, hour reductions, and material changes in core job duties.~~

~~(ii) The agency shall notify employees potentially affected by the workplace technology, and their collective bargaining representative, at least 60 days before drafting the impact assessment report, as specified in clause (i).~~

~~(iii) The agency shall conduct all major phases of the impact assessment report with the direct, meaningful, and sustained involvement of employees impacted and their collective bargaining representative, if applicable. Sixty days before the ratification of the contract, the agency shall provide the report to employees potentially affected by the workplace technology, or their collective bargaining representative.~~

(5) For purposes of this section, AI ***or ADS*** may be used as a tool to support call center workers ***to provide services***. Permissive uses of limited AI ***that do not impact the core job function of a worker and are not subject to the notification requirement under paragraph (4)*** include all of the following:

(A) Phone trees *or prompts that* that ~~filter-route~~ callers to appropriate *staff, information, or options* departments or language audios.

(B) *Tools that support workers by providing suggestions, AI-powered searches and support of policy, procedural, or training information.* ~~Screening tools to provide initial suggestions for workers.~~

(C) AI used by workers to assist callers with public benefits *or assist workers in service delivery.*

(b) For purposes of this section:

(1) “Artificial intelligence,” or “AI,” means an engineered or machine-based system that for explicit or implicit objectives, infers, from the input it receives, how to generate outputs that can influence physical or virtual environments and that may operate with varying levels of autonomy.

(2) “Automated decision systems,” or “ADS” means a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking ~~and materially impacts natural persons.~~

(3) “Call center” means a building, facility, or operation where customer or client services or assistance is provided by telephone, fax, email, text, or Web-based interaction.

(4) “Core job function” means *a component of call service delivery that requires the exercise of judgment and discretion to successfully accomplish a complex task.* ~~ability of a call center worker to fully exercise judgment throughout the service delivery process.~~

~~(5) “Impact assessment report” means a report by an agency on AI or ADS used in the provision of call center services for public benefit programs by the agency or a contractor and its impact on the core job function of call center workers.~~

(5) (A) “Public benefit programs” means California Work Opportunity and Responsibility to Kids (CalWORKs), CalFresh, Medi-Cal, Healthy Families, the California Healthcare Eligibility, Enrollment, and Retention System, Covered California, Employment Development Department Insurance, Child Welfare Services, California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and other public benefits provided by a local government agency funded in any part by state funding from the California Health and Human Services Agency to provide the same or similar benefits as those described in this section.

(B) “Public benefit programs” do not include emergency services such as 988 and 911.

(7) “State agency” means a state agency authorized to provide or enter into contracts relating to public benefit programs, ~~211 services, or 988 services as described in Article 6.3 (commencing with Section 53123.1) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.~~

(8) “Worker” means a *natural* person.

(c) (1) The contract shall provide that in the event a contractor or subcontractor performs the contract or the subcontract for call center services without call center workers ~~responding to calls and~~ are employed in California during the life of the contract, ***or who eliminates or automates or the core job function of workers through AI or ADS technology as described in paragraph (3) of subdivision (a)***, the state or local government agency has the right to terminate the contract for noncompliance and the contractor or subcontractor shall pay a penalty to the state agency or local government agency in an amount equal to the amount paid by the state agency or local government agency for the percentage of work that was performed with workers not employed in California, ***or the amount the contractor or subcontractor paid for the cost of AI or ADS to perform core job functions that were eliminated or automated by the AI or ADS.***

(2) The penalty authorized in paragraph (1) shall be in addition to any other applicable penalty, including, but not limited to, the penalty provided in paragraph (2) of subdivision (a).

(d) (1) Notwithstanding subdivision (a), a state agency may conduct a solicitation without applying this section if the California Health and Human Services Agency or the board of the California Health Benefit Exchange makes any of the following determinations:

(A) A prior solicitation was conducted and the bids received were priced unreasonably high as a result of including these provisions.

(B) A prior solicitation was conducted and no bids were received as a result of including these provisions.

(C) The services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety.

(2) If the agency or board makes a determination described in paragraph (1), that entity shall submit a report to the Assembly Committee on Jobs, Economic Development and the Economy and to the Senate Committee on Labor and Industrial Relations on or before the last day of the quarter following the quarter in which the determination was made. The report shall include the reason for making the determination.

(e) This section shall not apply to the following:

(1) A contract or subcontract, if implementation would violate the specific terms of the Agreement on Government Procurement of the World Trade Organization or any other bilateral or regional free trade agreement to which the State of California has consented.

(2) A contract or subcontract, including extensions of that contract or subcontract, that results from a request for proposal or bid that occurred before the effective date of the act that adds this chapter.

(3) A contract for a public benefit program between a state or local agency and a health care service plan or a specialized health care service plan regulated by the Department of Managed Health Care, and any subcontract performed under that contract, or a disability insurer or specialized health insurer regulated by the Department of Insurance, and any subcontract performed under that contract.

(4) Emergency services such as 988 and 911.

(5) Call center services provided for a local public benefit program in response to an emergency or disaster, including mutual aid, or temporary staff relocations during the emergency or disaster, and until normal operations have been restored. This shall include non-emergency or non-disaster services that have been disrupted by the emergency or disaster.

(6) A contract or subcontract by a county human services agency for translation or interpretation services.

(f) Notwithstanding any other law, this section shall apply to call center services for public benefit programs regardless of the state or local agency or contractor that administers the program or provides the public benefit.

(g) This section shall be construed so as to not conflict with, and be applied consistent with, federal law.

(h) The amendments made to this section by the act adding this subdivision shall not apply for contracts or subcontracts, including extensions of contracts or subcontracts, that result from a request for proposal or bid that occurred before January 1, 2025.

(i) The amendments to this section made by Senate Bill No. 1220 (2023-24 Reg. Sess.) repeal July 1, 2030.

[. . .]

9) **Related legislation.** SB 1446 (Smallwood-Cuevas, 2024) would limit the use of self-service checkout stations in grocery retail stores and retail drug establishments and requires advance notification of the implementation of consequential workplace technology to workers, their representatives, and the public. The bill will be heard in this Committee in the same hearing as this bill.

AB 2508 (Bonilla, Ch. 824, Stats. 2012) enacted protections against outsourcing for call center workers who provide services related to public benefits.

ARGUMENTS IN SUPPORT: SEIU California, a co-sponsor of the bill, writes:

While AI and automated systems can be very helpful in helping streamlining workload and assisting public employees in serving higher caseloads than they could on their own it is the duty of the State to regulate the use and purpose of technology. Especially in highly sensitive settings, such as safety net services where the public are already in an extremely vulnerable position.

AI and automated systems run on often unknown algorithms fed with data that may be unreliable or replicate unwanted interactions. This creates a level of risk that can be particularly harmful to individuals in dire need of benefits and services like unemployment or mental health services.

The growth of AI has posed many challenges to California's workforce. Employers often deploy technology for cost-cutting and without any worker input. The result is not only the

elimination of good jobs, but the decline in the quality of public services. Without worker engagement implementation can be disastrous, with worker engagement even disastrous implementations can overtime serve the purpose needed. That distinction is one that this legislation underscores.

For instance, the inaugural role out of CalSAWs only had limited worker engagement, in its initial implementation it significantly increased workload, delayed benefits for recipients, putting counties and the most vulnerable populations into crisis. Workers have since been included in every transition and have helped turn the use of CalSAWs into a tool that is now being utilized by almost every county. Our caseloads to worker ratio in almost every single agency are well above recommended guidelines, the use and role of technology exists but that value added is only when the workers are at the helm.

California Labor Federation, the bill's other co-sponsor, adds:

When an individual calls state or local agencies for support, they need a person who can empathize with and who can understand their situation. Individuals do not need a lifeless voice or chat box providing automated decisions without effective solutions. Many callers are reluctant to talk about their personal or financial struggles and the job of call center workers is to make callers comfortable and read their verbal cues to elicit information.

Ultimately, AI simply cannot provide the level of empathy and effectiveness provided by a person. Public benefit call center workers have been on the front lines providing services to everyday Californians for years. During times of need, ranging from global pandemics to intense natural disasters, public benefit call center workers have stood with people in need of guidance. Without protections from AI, call center workers face the erosion and eventual elimination of their jobs. By contracting with AI, the State is spending money to push public servants onto public benefits.

To protect workers and the quality of public services, SB 1220 will prohibit state and local governments from outsourcing public benefit call center jobs to firms or employers using artificial intelligence or automated decision systems (ADS) to automate the core job functions of public benefit call center workers. [. . .]

ARGUMENTS IN OPPOSITION: Numerous 211 providers oppose the bill unless it is amended to remove reference to 211—a change that the author has agreed to, as described above. Additionally, the trade associations for health plans and insurers oppose the bill unless it is amended to restore an exemption under existing law for contracts with health care services plans regulated the Department of Managed Health Care results. The author has also agreed to make this change, as described above.

REGISTERED SUPPORT / OPPOSITION:

Support

California Labor Federation, Afl-cio (co-sponsor)
California State Council of Service Employees International Union (co-sponsor)
American Federation of State, County and Municipal Employees, Afl-cio
California Democratic Party

California School Employees Association
Orange County Employees Association
TechEquity Collaborative

Opposition

Orange County United Way
United Way of The Wine Country

Oppose Unless Amended

2-1-1 Humboldt Info and Resource Ctr
211 LA County
211 San Diego
Association of California Life and Health Insurance
California Association of Health Plans
Community Action Partnership of Kern
Contra Costa Crisis Center
Inland Southern California United Way
United Way of Northern California
United Way of Stanislaus County

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