
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1537 **Hearing Date:** June 23, 2026
Author: Bryan
Version: May 18, 2026
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Peace officers: secondary employment*

HISTORY

Source: ICE Out of California Coalition

Prior Legislation: SB 54 (De Leon), Ch. 495, Stats. of 2017
AB 2792 (Bonta), Ch. 768, Stats. of 2016
AB 4 (Ammiano), Ch. 570, Stats. of 2013
AB 359 (Koretz), Ch. 104, Stats. of 2003
SB 243 (Peace), Ch. 452, Stats. of 1997
SB 1375 (Peace), Ch. 710, Stats. of 1996

Support: AAPIs for Civic Empowerment; Alliance for Boys and Men of Color; Buen Vecino; CA Healthy Nail Salon Collaborative; California Attorneys for Criminal Justice; California Community Foundation; California Faculty Association; California Immigrant Policy Center; California Public Defenders Association; Californians United for a Responsible Budget; Center for Human Rights and Constitutional Law; Chinese for Affirmative Action; City of Oakland; Coalition for Humane Immigrant Rights; Communities United for Restorative Youth Justice; Council on American-Islamic Relations, California; Courage California; Drug Policy Alliance; Ella Baker Center for Human Rights; Empowering Marginalized Asian Communities; Freedom for Immigrants; Friends Committee on Legislation of California; Glide; Harbor Institute for Immigrant and Economic Justice; Immigrant Defense Project; Immigrant Legal Resource Center; Justice2jobs Coalition; LA Defensa; League of Women Voters of California; Legal Services for Prisoners With Children; Multi-Faith Action Coalition; National Day Laborer Organizing Network; New Light Wellness; Nextgen California; Orange County Equality Coalition; Orange County Justice Fund; Pacifica Social Justice; Pilipino Workers Center of Southern California; Rubicon Programs; San Francisco Board of Supervisors; San Francisco Public Defender; Santa Monica Democratic Club; Services, Immigrant Rights and Education Network; Sister Warriors Freedom Coalition; Smart Justice California; South Bay People Power; Southeast Asia Resource Action Center; The Social Justice Ministry of the Live Oak Unitarian Universalist Congregation of Goleta, CA; Unitarian Universalist Fellowship of Redwood City, Social Action Committee; Viet Voices; Vietrise; Youth Justice Coalition

Opposition: California Association of Highway Patrolmen; California Police Chiefs Association; California State Sheriffs Association; Peace Officers Research Association of California

Assembly Floor Vote:

51 - 21

PURPOSE

The purpose of this bill is to prohibit specified peace officers from engaging in any form of secondary employment that involves engaging in, arresting, detaining, transporting, or deporting individuals pursuant to federal immigration laws.

Existing law establishes the Commission on Peace Officer Standards and Training (POST) to set minimum standards for the recruitment and training of peace officers, develop training courses and curriculum, and establish a professional certificate program that awards different levels of certification based on training, education, experience, and other relevant prerequisites. (Pen. Code, §§ 830-832.10; 13500 et seq.)

Existing law requires every peace officer in California to satisfactorily complete an introductory training course prescribed by POST, as specified. (Pen. Code, § 832, subd. (a).)

Existing law requires POST to establish a certification program for peace officers, as defined, and provides that basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officers. (Pen. Code § 13510.1, subds. (a), (b).)

Existing law gives POST the authority to suspend, revoke, or cancel any certification, which extends to any certificate or proof of eligibility issued by the commission, including any certificate or proof of eligibility that is invalid, inactive, expired or canceled. (Pen. Code § 13510.1, subd. (f).)

Existing law establishes the California Public Records Act (CPRA), which generally provides that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state, and requires government agencies to disclose government records to the general public upon request, unless such records are exempted from disclosure. (Gov. Code, § 7920.000 et seq.)

Existing law provides that the CPRA does not require the disclosure of peace officer personnel files and background investigation files gathered by law enforcement agencies that are in the custody of the Commission on Peace Officer Standards and Training (POST) in connection with the commission's authority to verify eligibility for the issuance of certification and investigate grounds for decertification of a peace officer including any and all investigative files and records relating to complaints of, and investigations of, police misconduct, and all other investigative files and materials. (Gov. Code, § 7923.601.)

Existing law generally provides that the personnel records of peace officers and custodial officers and records maintained by a state or local agency or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery.

This provision does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, the Attorney General's office, the Commission on Peace Officer Standards and Training (POST), or a civilian oversight board, as specified. (Pen. Code, § 832.7, subd. (a).)

Existing law specifies that notwithstanding the above provision or any other law, specified peace officer or custodial officer personnel records and records maintained by a state or local agency – including any record relating to an incident in which a sustained finding was made involving dishonesty by a peace officer, as specified – are not confidential and shall be made available for public inspection pursuant to the CPRA. (Pen. Code, § 832.7, subd. (b)(1).)

Existing law prohibits a local agency officer or employee from engaging in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to their duties as a local agency officer or employee or with the duties, functions, or responsibilities of their appointing power or the agency by which they are employed. (Gov. Code, § 1126, subd. (a).)

Existing law prohibits an officer or employee from performing any work, service, or counsel for compensation outside of their employment where any part of their efforts will be subject to approval by any other officer, employee, board, or commission of their employing body, unless otherwise approved. (Gov. Code, § 1126, subd. (a).)

Existing law authorizes each appointing power to determine, subject to approval of the local agency, those outside activities which, for employees under its jurisdiction, are incompatible with their duties as local agency officers or employees. (Gov. Code, § 1126, subd. (b).)

Existing law provides that an employee's outside employment, activity, or enterprise may be prohibited if it:

- Involves the use for private gain of their local agency time, facilities, equipment, and supplies, or the badge, uniform, or influence of their agency office or employment.
- Involves acceptance by the officer or employee of any money or other consideration from anyone other than their local agency for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of their employment or duties.
- Involves the performance of an act in other than their capacity as a local agency employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which they are employed.
- Involves time demands that would render the performance of their duties less efficient. (Gov. Code, § 1126, subd. (b).)

Existing law specifies that none of the above is intended to prevent the employment by private business of a public employee, such as a peace officer, who is off duty, to do work related to and compatible with their regular employment, or past employment, provided the person to be employed has the approval of their agency supervisor and are certified as qualified by the appropriate agency. (Gov. Code, § 1127.)

Existing law prohibits a state officer or employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to their duties. (Gov. Code, § 19990.)

Existing law authorizes each appointing power to determine, subject to approval of the Department of Human Resources (Cal HR), those activities which, for employees under its jurisdiction, are incompatible with their duties. (Gov. Code, § 19990.)

Existing law specifies that activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- Using the influence of the state or the appointing authority for the officer's or employee's private gain, or the private gain of another.
- Using state time, facilities, equipment, or supplies for private gain or advantage.
- Using, or having access to, confidential information available by virtue of state employment for private gain or advantage, or providing confidential information to an unauthorized person.
- Receiving or accepting money or any other consideration from anyone other than the state for the performance of their duties.
- Performance of an act in other than their capacity as a state officer or employee, knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the officer or employee.
- Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in their official duties or was intended as a reward for any official actions.
- Subject to any other laws, rules, or regulations as pertain thereto, not devoting their full time, attention, and efforts to their state office or employment during their hours of duty as a state officer or employee. (Gov. Code, § 19990, subds. (a)-(g).)

Existing law provides that every executive or ministerial officer, employee, or appointee of the State of California, or any county or city therein, or any political subdivision thereof, who knowingly asks, receives, or agrees to receive any emolument, gratuity, or reward, or any promise thereof excepting such as may be authorized by law for doing an official act, is guilty of a misdemeanor. (Pen. Code, § 70, subd. (a).)

Existing law provides that the above prohibition does not preclude a peace officer, as defined, from engaging in, or being employed in, casual or part-time employment as a private security guard or patrolman for a public entity while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency, and exercising the powers of a peace officer concurrently with that employment, provided that the peace officer is in a police uniform and is subject to reasonable rules and regulations of the agency for which he or she is a peace officer. (Pen. Code, § 70, subd. (c)(1).)

Existing law specifies that any and all civil and criminal liability arising out of the secondary employment of any peace officer pursuant to the above shall be borne by the officer's secondary employer. (*Ibid.*)

Existing law provides that the above prohibition neither precludes a peace officer from engaging in, or being employed in, casual or part-time employment as a private security guard or patrolman by a private employer while off duty from his or her principal employment and outside his or her regular employment as a peace officer, and exercising the powers of a peace officer concurrently with that employment, provided that all of the following are true:

- The peace officer is in his or her police uniform.
- The casual or part-time employment as a private security guard or patrolman is approved by the county board of supervisors with jurisdiction over the principal employer or by the board's designee or by the city council with jurisdiction over the principal employer or by the council's designee.
- The wearing of uniforms and equipment is approved by the principal employer.
- The peace officer is subject to reasonable rules and regulations of the agency for which he or she is a peace officer. (Pen. Code, § 70, subd. (d)(1).)

Existing law specifies that a peace officer while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency shall not exercise the powers of a police officer if employed by a private employer as a security guard during a strike, lockout, picketing, or other physical demonstration of a labor dispute at the site of the strike, lockout, picketing, or other physical demonstration of a labor dispute, as specified. (Pen. Code, § 70, subd. (d)(2).)

Existing law specifies that the above prohibition does not preclude a peace officer from engaging in, or being employed in, other employment while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency. (Pen. Code, § 70, subd. (e)(1).)

Existing law provides that subject to the above, and except as provided by written regulations or policies adopted by the employing agency, or pursuant to an agreement between the employing agency and a recognized employee organization representing the officer, no officer shall be prohibited from engaging in, or being employed in, other employment while off duty from their principal employment and outside their regular employment as an officer. (Pen. Code, § 70, subd. (e)(2).)

Existing law requires an employer, if they withhold consent to allow an officer to engage in or be employed in other employment while off duty, to, at the time of denial, provide the reasons for denial in writing to the officer. (Pen. Code, § 70, subd. (e)(3).)

This bill provides that notwithstanding the above provisions permitting secondary employment a peace officer shall not engage in any form of secondary employment, including contract based or as an individual contractor, that involves engaging in arresting, detaining, transporting, or deporting individuals pursuant to federal immigration laws.

This bill specifies that a violation of the above constitutes an act of dishonesty for the purposes of peace officer record confidentiality and constitutes grounds for decertification of an officer.

This bill requires a peace officer to report to their employing law enforcement agency any offer of secondary employment that involves assisting with or engaging in immigration enforcement and their response to the offer.

This bill defines the following terms for the purposes of the above provisions:

- “Law enforcement agency” means any local or state entity that employs a peace officer.
- “Offer” is defined as any communication from a potential employer to an individual inviting an individual to fill a position.
- “Peace officer” refers to a range of sheriff’s deputies, police officers, marshals, investigators, custodial officers, correctional officers, parole officers and agents, and probation officers, as specified.
- “Response” is defined as any communication from a peace officer replying to an offer.

This bill specifies that the names of secondary employers and the number of peace officers employed by each secondary employer shall be maintained by the law enforcement agency and shall constitute public records for purposes of the CPRA.

This bill includes a severability clause.

This bill includes various legislative findings and declarations.

COMMENTS

1. Need for This Bill

According to the author:

Nearly a decade ago, California took a stand and explicitly prohibited collaboration between our State and federal immigration enforcement. But our law currently has a harmful loophole that allows police officers to moonlight with Immigration Enforcement. AB 1537 is straightforward. If your day job is to serve

our communities, you should not be off the clock terrorizing those very same communities as Immigration Enforcement.

2. Recent Federal Immigration Enforcement Actions

From the outset of President Trump's second term, his Administration has expanded immigration enforcement and altered the immigration system at an unprecedented scale. Through various executive actions, President Trump has declared a national emergency at the southern border to limit lawful entries, halted refugee admission, expanded who immigration enforcement officers can prioritize for deportation, expanded expedited removal, increased the hiring of immigration officers, expanded immigration detention, and attempted to significantly curtail the availability of various immigration visas and statuses.¹ On January 25, 2025, ICE field offices were told that each office must detain at least 75 noncitizens every day, or more than 1,800 per day nationwide.² To hold more detainees, the Trump Administration opened Guantanamo Bay and sent detained individuals there in February, and has also started sending detained individuals to a mega-prison in El Salvador, in many cases before their due process rights can be vindicated.³ On July 4, 2025, President Trump signed the One Big Beautiful (OBB) Act, a gargantuan domestic policy bill that, among other provisions, allocates more than \$170 billion for immigration enforcement through 2029. The OBB Act increases the annual budget of Immigration and Customs Enforcement (ICE) from \$8.7 billion to approximately \$27.7 billion, with \$75 billion appropriated to the agency over the next four years. With this unprecedented budget increase, ICE is slated to have a higher annual budget than the militaries of Italy, Brazil, Israel, and nearly 20 other countries in the top 40 of military spenders.⁴ This funding will go almost exclusively toward immigration enforcement, detention and deportation operations.⁵ On June 10, 2026, President Trump signed a bill authorizing another \$70 billion in funding for immigration enforcement.⁶

The Trump Administration's ramp-up of immigration enforcement has been accompanied by aggressive recruitment efforts, including attempts by federal immigration agencies to lure state peace officers.⁷ ICE has taken steps to significantly expand hiring, such as giving out \$50,000 signing bonuses, offering student loan forgiveness, lowering the age limit for recruits from 21 to

¹ Proclamation 10888. 20 January 2025. 90 Fed. Register 8333-8336; U.S. Const., art. IV, § 4.

Executive Order 14159. 20 January 2025. 90 Fed. Register 8443. <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/>

² Washington Post, *Trump Officials Issue Quotas to ICE Officers to Ramp up Arrests*, January 26, 2025, <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota>

³ M. Lee, AP News, *Immigration Officials Defend Authority to Hold Migrants at Guantanamo Bay*, March 10, 2025, <https://apnews.com/article/us-immigration-detention-guantanamo-bay-d4fe8f0d051e0cd7e3f04ce02c8e7564>; M. Aleman, AP News, *Venezuelan Migrants Deported by the US Ended up in a Salvadoran Prison. This is Their Legal Status*, March 25, 2025, <https://apnews.com/article/el-salvador-trump-tren-de-aragua-venezuela-dde4259e5dcd502101b7b8fbd3c03659>

⁴ "ICE Budget Now Bigger Than Most of the World's Militaries." *Newsweek*. 2 July 2025. <https://www.newsweek.com/immigration-ice-bill-trump-2093456>

⁵ "Explainer: One Big Beautiful Bill Act: Immigration Provisions." *Immigration Forum*. 7 July 2025. <https://forumtogether.org/article/one-big-beautiful-bill-act-immigration-provisions/>

⁶ "Trump signs bill giving nearly \$70B to his immigration enforcement agenda through end of his term." 10 June 2026. *Associated Press*. <https://apnews.com/article/trump-immigration-enforcement-dhs-ice-deportation-9eef2e24fede3e4d593be462cbcf31f2>

⁷ "ICE offers big bucks – but California police officers prove tough to poach." *Los Angeles Times* 22 September 2025, available at: <https://www.latimes.com/california/story/2025-09-22/ice-poaching-cops>

18, and waiving the 37-year-old hiring cap, among others.⁸ But amid this hiring surge, evidence has surfaced that ICE had misrepresented the rigor of its training for new officers, including legal training over whether they are permitted to use deadly force. According to a recent whistleblower account, training for new officers has been pared down to the point where it is “deficient, defective and broken.”⁹ Moreover, a recent review by the Associated Press found that at least two dozen ICE employees and contractors have been charged with crimes since 2020, including 9 such instances in 2025 alone.¹⁰ According to the report, while most cases happened before the passage of the OBB Act, “experts say such crimes could accelerate given the volume of new employees and their empowerment to use aggressive tactics to deport people.”¹¹

Aggressive tactics have been one of the hallmarks of federal immigration enforcement during President Trump’s second term, and were initially implemented during immigration raids in Los Angeles California in June 2025. According to one commentator:

The protests against these raids, which prompted President Donald Trump to deploy the National Guard, may have died down, but the campaign to round up immigrants has only accelerated. The nationwide crackdown that began days after Trump took office has been focused in Los Angeles as a shock-and-awe campaign terrorizing residents. Homeland Security Secretary Kristi Noem said federal forces had come to “liberate the city,” [...] Groups of officers dressed in military-style fatigues and bulletproof vests, often with their faces covered, driving marked and unmarked vehicles — sometimes even armored vehicles resembling tanks — have flooded into largely Latino neighborhoods. They have targeted everything from taquerias to bus stops, sometimes detaining dozens of people at a time, including U.S. citizens. The scenes play out on social media nearly in real time: a man selling fruit at a stand being wrestled to the ground, another being chased out of his car on the side of the freeway, and a Walmart worker being handcuffed and dragged to an ICE vehicle.¹²

Such tactics were also on full display during Operation Metro Surge, a joint operation of ICE and CBP that took place throughout Minnesota (though primarily in the Twin Cities area) beginning in December 2025 and concluding early February 2026. During this operation, federal immigration officials employed harsh, confrontational, and arguably illegal tactics to make arrests, serve warrants, conduct raids and contain protesters.¹³ Operation Metro Surge also

⁸ Ray and Sanchez, “ICE expansion has outpaced accountability. What are the remedies?” *Brookings* 26 January 2026. Available at: <https://www.brookings.edu/articles/ice-expansion-has-outpaced-accountability-what-are-the-remedies/>

⁹ “ICE whistleblower accuses agency of ‘deficient, defective and broken’ training amid hiring surge.” *The Hill*. 23 February 2026. <https://thehill.com/homenews/administration/5751455-ice-officer-training-whistleblower/>

¹⁰ “Takeaways from AP’s review of recent criminal cases against ICE employees and contractors.” *Associated Press*. 10 February 2026. <https://apnews.com/article/ice-agents-arrested-misconduct-abuse-corruption-charged-d3aeb8c20191fa357f87078fc169cc17>

¹¹ *Ibid.*

¹² “The Terror of Life Under Ice.” *New York Magazine Intelligencer*. 20 June 2025. <https://nymag.com/intelligencer/article/ice-raids-los-angeles-terror.html>

¹³ “Minneapolis, MN: Operation Metro Surge. Sanctuary Information, December 2025.” *Immigrant Legal Resource Center*. <https://www.ilrc.org/immigration-enforcement/federal-tracking/large-scale-raids/minneapolis-mn-operation-metro-surge>; “Judge Partially Blocks Operation Metro Surge Tactics Against Protesters in Minnesota.” *JURIST News*. 17 January 2024, <https://www.jurist.org/news/2026/01/judge-partially-blocks-operation-metro-surge-tactics-against-protesters-in-minnesota/>

resulted in the shooting of three civilians by federal immigration agents, two of which were fatal: the killings of Alex Pretti and Renee Good.¹⁴

3. Relevant Existing Law – Limitations on State and Local Assistance with Immigration Enforcement Efforts and on Secondary Employment

California law imposes a host of limitations on state and local cooperation with federal immigration officials, primarily set forth in The Values Act (SB 54 (De Leon), Chapter 495, Statutes of 2017). The Values Act represents a strict boundary between local law enforcement and federal immigration enforcement, and categorically prohibits state and local law enforcement agencies from using public funds, personnel, or equipment to investigate, interrogate, detain, or arrest individuals for civil immigration violations, from placing officers under the supervision of federal agencies for the purpose of immigration enforcement, and from cooperating in other specified ways with federal immigration authorities. Furthermore, it strictly curtails the sharing of non-public personal information, prohibits notifying ICE of an individual's release date, and bans the physical transfer of individuals to immigration custody—except where the individual's criminal history involves specific serious, violent, or severe felony offenses. Finally, it restricts local agencies from participating in joint law enforcement task forces where the primary purpose is federal immigration enforcement.¹⁵ Critically, the Values Act prohibits California law enforcement agencies from placing peace officers under the supervision of federal agencies for the purposes of immigration enforcement and from using agency from using department money or personnel to “perform the functions of an immigration officer.”¹⁶

Another set of statutes places restrictions on the types of secondary employment and outside activities that state and local officers may engage in. Centrally, these provisions prohibit state and local officers from engaging in any employment, activity, or enterprise which is inconsistent, incompatible, in conflict with, or inimical to their duties.¹⁷ Local officers are additionally prohibited from performing any work outside of their agency where any part of their efforts will be subject to approval by an officer or entity of their employing body, unless otherwise approved. Generally, incompatible activities are determined by an employing agency's “appointing power.” For local agencies, prohibitions on an employee's outside employment, activity, or enterprise are more discretionary, and such activities *may* be prohibited if they 1) involve the use for private gain or advantage of his or her local agency time, facilities, equipment and supplies, or the badge, uniform, prestige, or influence of his or her local agency office or employment, 2) involve receipt or acceptance by the officer of any money or other consideration from anyone other than his or her local agency for the performance of an act which the officer, if not performing such act, would be required or expected to render in the course of their employment for the local agency, 3) involve the performance of an act in their official capacity

¹⁴ “Minneapolis ICE shooting: A minute-by-minute timeline of how Renee Nicole Good died.” *ABC News*. 9 January 2026 <https://abcnews.com/US/minneapolis-ice-shooting-minute-minute-timeline-renee-nicole/story?id=129021809> ; “A minute-by-minute timeline of the fatal shooting of Alex Pretti involving federal agents.” *ABC News* 26 January 2026, <https://abcnews.com/Politics/minute-minute-timeline-fatal-shooting-alex-pretti-federal/story?id=129547199>

¹⁵ Gov. Code, § 7284.6, subds. (a)-(b); provisions regarding transfer to immigration custody cross reference § 7282.5

¹⁶ Gov. Code, § 7284.6, subd. (a)(1)(g), (a)(2).

¹⁷ Gov. Code, §§ 1126, subd. (a), 19990. This prohibition differs slightly for state versus local officers. For state employees, the employment must be *clearly* incompatible with the person's official duties, while for local employees, the employment must be for *compensation*. Moreover, for local officers, outside activities and employment that are incompatible with the duties, functions and responsibilities of the employing agency are also prohibited.

which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or their agency, or 4) demand so much time as to render performance of their normal duties less efficient.¹⁸

The list of potentially incompatible activities and employment for state agencies is longer, and must include: 1) using the prestige or influence of the state or the appointing authority for the officer's gain, 2) using state time, facilities, equipment, or supplies for private gain or advantage, 3) Using confidential information available by virtue of state employment for private gain or advantage, 4) accepting money or any other payment from anyone other than the state for the performance of their duties as a state officer, 5) performing an outside job or activity knowing that the work may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by them or their employer, 6) receiving or accepting gifts, favors, travel, or entertainment from entities doing business with the employing agency if it looks like a bribe or a reward for official actions, and 7) not devoting their full time, attention, and efforts to their state employment during work hours.¹⁹

Penal Code section 70 makes it a crime for a public employee in California to receive consideration in exchange for doing an official act. This provision also makes clear that a peace officer is not prohibited from engaging in casual or part-time employment as a private security guard or patrolman for a public entity or a private employer, provided certain conditions are met as to both, and only when the officer is off-duty from their principal employment.²⁰ Moreover, section 70 makes clear that peace officers are permitted to engage in other outside employment while off-duty from their principal employing agency, subject only to written regulations or policies adopted by the employing state or local agency, or pursuant to an agreement between the employing state or local agency and a recognized employee organization representing the peace officer. If an employer withholds consent to allow a peace officer to obtain outside employment while off-duty, the employer is required to provide the reasons for denial in writing to the peace officer.²¹ For instance, Sacramento Police Department's General Order on Outside Employment provides that sworn SPD officers shall not work in any outside employment that "involves any other municipality or political subdivision of the state or federal government except with express permission from the Chief of Police."²²

4. Effect of This Bill

This bill seeks to prevent California law enforcement officers from seeking outside employment with an entity engaged in immigration enforcement. According to the author, "Working for ICE on one shift while working as a California law enforcement officer on the next presents insurmountable conflict of interest concerns [...] Working for both employers divides loyalty between local community safety and federal deportation priorities [and] can further erode community trust when residents fear contacting the police due to a potential association with immigration enforcement." Accordingly, the bill amends Penal Code section 70 to prohibit peace

¹⁸ Gov. Code, § 1126, subd. (b).

¹⁹ Gov. Code, § 19990, subds. (a)-(g).

²⁰ Pen. Code, § 70, subds. (c), (d).

²¹ Pen. Code, § 70, subd (e)(1)-(3).

²² Sacramento Police Department's General Order 253.02 on "Supplemental Employment," available at <https://www.cityofsacramento.gov/content/dam/portal/police/Transparency/policy/GO/Section-200/GO-25302--Supplemental-Employment.pdf>, and General Order 253.03 on "Outside Employment," available at <https://www.cityofsacramento.gov/content/dam/portal/police/Transparency/policy/GO/Section-200/GO%20253.03%20Outside%20Employment.pdf>

officers from engaging in any form of secondary employment, including contract based or as an individual contractor, that involves engaging in arresting, detaining, transporting, or deporting individuals pursuant to federal immigration laws. Moreover, the bill requires officers to report to their employing agency any offer of secondary employment that involves such responsibilities and the officer's response.

Several of the bill's provisions raise questions that the author and Committee should consider. One such provision prescribes the bill's applicability by defining "peace officer" with specific reference to existing statutes that delineate different classes of peace officer. This provision of the bill is specific as to which sub-classes of officer are included in the bill's requirements, and which are not. For instance, the bill includes most sheriff's deputies and police officers, as well as custodial officers (defined under Penal Code section 830.1 subdivisions (a) and (c), but does not include special agents and investigators of the Department of Justice (defined under subdivision (b) of that section). Taken together, the classes of officer excluded from the bill seem to primarily be officers employed by state agencies, most of which are not engaged in day-to-day public safety operations. If the general intent is to prevent officers from our local communities from being engaged in disfavored federal activities, why does that concern not extend to state agencies as well?

Another provision of the bill appears to include a drafting error. Specifically, existing law, Penal Code section 832.7 allows for transparency into police personnel records involving certain instances of misconduct, including any record related to specified instances of dishonesty by a peace officer. A separate existing statute allows for the decertification of peace officers by POST when they are found to have committed specified types of "serious misconduct."²³ One type of serious misconduct is "dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, another peace officer."²⁴ This bill appears to conflate these unrelated processes, providing that "for the purposes of section 832.7," (again, regarding police personnel records) a violation of the bill's secondary employment prohibition "is an act of dishonesty an constitutes grounds for decertification" pursuant to the aforementioned statute. What was likely intended was the following:

"For the purposes of **section 13510.8**, a violation of paragraph (1) is an act of **serious misconduct** and **may** constitute grounds for decertification..."

The suggested language above includes "may" because section 13510.8 provides that POST "*may* [emphasis added] suspend or revoke the certification of a peace officer if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct."²⁵

Finally, the bill provides that the names of secondary employers and the number of peace officers employed by each secondary employer shall be maintained by the law enforcement agency and shall be public records for the purposes of CPRA. Under the CPRA, there is a general presumption that records are subject to disclosure unless a specific statutory exemption applies, as is the case with many law enforcement records.²⁶ Police personnel records enjoy an even higher degree of confidentiality, although recent reforms have granted public access to

²³ Pen. Code, § 13510.8, subd. (b).

²⁴ Pen. Code, § 13510.8, subd. (b)(1).

²⁵ Pen. Code, § 13510.8, subd. (a)(2).

²⁶ Gov. Code, §§ 7923.600, et. seq.

certain records, especially involving misconduct.²⁷ Although the bill seems primarily concerned with secondary employment regarding immigration enforcement, this provision appears to capture a much broader range of secondary employment records, many if not most of which are unrelated to immigration enforcement. The author and Committee may wish to consider narrowing this provision to establish a tighter nexus between the disclosable records and the secondary employment the bill is seeking to curtail.

5. Constitutional Considerations

State laws that conflict with federal laws, discriminate against the federal government, or attempt to regulate the federal government may be invalidated for several reasons. The Supremacy Clause of the United States Constitution provides that federal law “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”²⁸ The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution, and demands that “the activities of the Federal Government are free from regulation by any state.”²⁹ This makes a state regulation invalid if it “regulates the United States directly or discriminates against the Federal Government or those with whom it deals.”³⁰ Whether a state law “directly regulates” the federal government demands a functional inquiry into whether the regulations at issue “interfere with or control the operations of the federal government.”³¹ Moreover, “a state or local law discriminates against the federal government if it treats a state entity more favorably than it treats a comparable federal entity.”³² Critically, there is no de minimis exception to a discriminatory burden – *any* such burden is impermissible.³³ Nevertheless, it is well settled that generally applicable state laws can apply to federal entities.³⁴ It should be noted that “the scope of a federal contractor’s protection from state law under the Supremacy Clause is substantially narrower than that of a federal employee or other federal instrumentality.”³⁵

It is well established that under the United States Constitution, the federal government has exclusive authority over immigration law.³⁶ Given that enforcement of immigration law is exclusively a federal function, and the bill prohibits any secondary employment toward that end, a strong claim can likely be made that the bill discriminates against the federal government as an employer, without so burdening other secondary employers.

6. Related Legislation

Several bills this year seek to limit affiliation between California law enforcement agencies and federal immigration enforcement agencies, particularly in the employment context. This bill, which prohibits current California peace officers from taking up additional employment involving immigration enforcement, appears to represent the inverse of several bills that seek to prevent former or current federal immigration agents from obtaining employment as California

²⁷ SB 1421 (Skinner), Ch. 988, Stats. of 2018; SB 16 (Skinner), Ch. 402, Stats. of 2021; Pen. Code, § 832.7.

²⁸ U.S. Const., art. VI, Cl 2.

²⁹ *United States v. California* (9th Cir. 2019) 921 F.3d 865, 879.

³⁰ *N.D. v. United States* (1990) 495 U.S. 423, 435; *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839.

³¹ *United States v. Washington*, (2022) 596 U.S. 832, 838.

³² *Boeing*, *supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.

³³ *United States v. California*, *supra*, 921 F.3d at 880.

³⁴ See *United States ex rel. Drury v. Lewis*, 200 U.S. 1, 7-8 (1906); *Johnson v. Maryland*, 254 U.S. 51, 56 (1920).

³⁵ *Geo Grp., Inc. v. Newsom* (2022) 50 F.4th 745, 755.

³⁶ *Arizona v. U.S.*, (2012) 567 U.S. 387, 394.

peace officers. AB 1896 (Mark Gonzalez, Rivas) disqualifies anyone who has engaged in immigration enforcement activity between January 20, 2025 and January 20, 2029 from being employed as a state, county, or local public agency employee, including as a peace officer. AB 1896 will be heard in this Committee on the same day as this bill. SB 938 (Menjivar) provides that a person is disqualified from employment as a California peace officer if they, on or after January 20, 2025, were employed as a sworn law enforcement officer by a federal agency engaged in immigration enforcement and personally assisted with immigration enforcement, but may be eligible after a 10-year cooling off period. SB 938 is currently awaiting hearing in Assembly Public Safety Committee. Finally, AB 1627 (Avila Faris) specifies that existing laws disqualifying a person from being a peace officer if they were previously employed as a law enforcement officer and had their certification revoked, or engaged in serious misconduct that would have resulted in decertification in California, include a law enforcement officer employed by the federal government who engages in immigration enforcement. AB 1627 will be heard in this Committee on the same day as this bill.

7. Argument in Support

According to the San Francisco Public Defender's Office:

Congress has appropriated \$75 billion of our tax dollars to ICE over four years for mass deportations, and the federal administration desperately wants more ICE agents abducting our neighbors from the streets and harming members of the public across California. ICE is spending millions on ads in an attempt to recruit local police, including advertising campaigns in California markets. The state of California and the vast majority of individual law enforcement agencies already highly regulate secondary employment for law enforcement officers to prevent conflicts of interest, inefficiency, and negative impact on an agency's reputation or public trust. However, nothing in state law currently prevents law enforcement officers from accepting secondary employment that involves engaging in immigration enforcement activities. AB 1537 closes this loophole, creating a clear statewide standard. AB 1537 offers a clear and practical solution: preventing local and state law enforcement officers from clocking in to a second job that involves arresting, detaining, transporting, or deporting community members. Local and state systems should not be turned into pipelines for deportation. AB 1537 reinforces those commitments by ensuring transparency, and accountability.

8. Argument in Opposition

According to the California Police Chiefs Association:

While we appreciate the author's efforts to narrow the bill from its original form, AB 1537 continues to raise significant concerns regarding local control, officer privacy, workforce recruitment and retention, and the expansion of Peace Officer Standards and Training (POST) decertification authority into areas unrelated to an officer's performance of their official duties. Existing law appropriately allows local law enforcement agencies to regulate and approve secondary employment by their employees. Agencies throughout California maintain comprehensive policies governing off-duty employment, conflicts of interest, use of authority,

and conduct that may reflect upon the agency. AB 1537 replaces that longstanding local oversight framework with a statewide prohibition targeting a specific category of lawful off-duty employment regardless of an individual agency's policies, operational needs, or assessment of potential conflicts.

We are particularly concerned by provisions that would characterize violations of the bill as acts of dishonesty and make such conduct grounds for POST decertification. California's decertification system was created to address serious misconduct that demonstrates an officer's unfitness to serve, including dishonesty, excessive force, sexual misconduct, and criminal conduct. Expanding decertification authority to encompass otherwise lawful secondary employment activities creates a troubling precedent and risks diluting the purpose and credibility of the state's certification system.

AB 1537 also imposes new reporting, recordkeeping, and public disclosure requirements on local law enforcement agencies. Agencies would be required to track and maintain information regarding certain secondary employment opportunities and publicly disclose the names of secondary employers and the number of peace officers employed by those entities. These requirements create additional administrative burdens while raising legitimate concerns regarding officer privacy and safety. Public disclosure of employment relationships involving individual officers may unnecessarily expose personnel to harassment, targeting, or retaliation based solely on lawful off-duty activities.

In addition, the bill may further complicate relationships between local, state, and federal law enforcement partners. California law already places substantial limits on local participation in federal civil immigration enforcement. AB 1537 goes considerably further by regulating the lawful off-duty employment choices of individual officers, even where those activities occur outside the scope of their local agency employment and under separate legal authorities. At a time when law enforcement agencies throughout California continue to face significant recruitment and retention challenges, we should be cautious about imposing additional restrictions on peace officers that may discourage qualified individuals from entering or remaining in the profession. Secondary employment opportunities often provide valuable supplemental income for officers and their families and have historically been managed through local agency policies tailored to community needs.

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