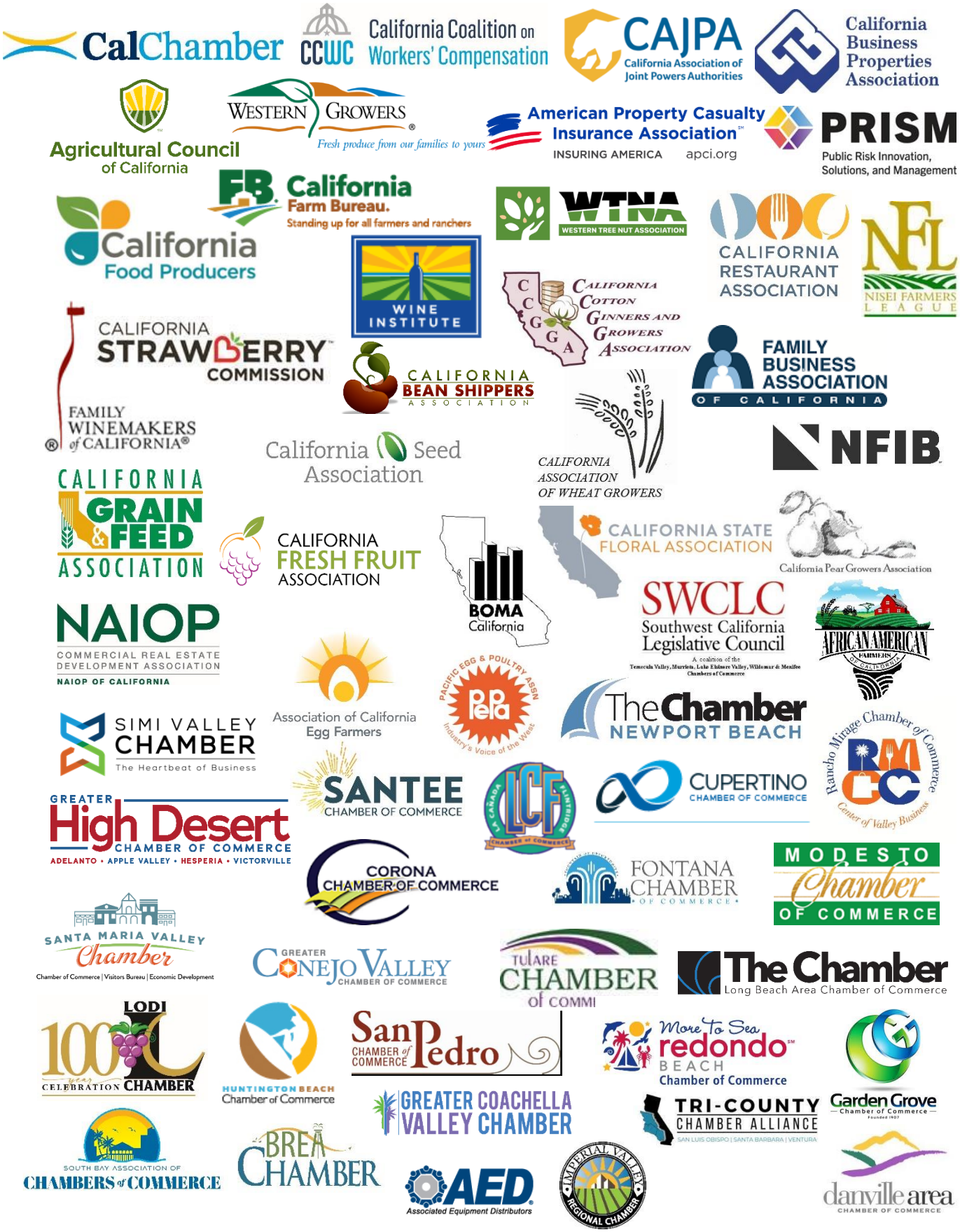
AB 1336 (ADDIS) – OPPOSE



May 9, 2025

TO: Members, Assembly Appropriations Committee

SUBJECT: AB 1336 (ADDIS) FARMWORKERS: BENEFITS
OPPOSE – AS INTRODUCED FEBRUARY 21, 2025

The California Chamber of Commerce and the organizations listed below must respectfully **OPPOSE AB 1336 (Addis).** We are unaware of data to support the presumption proposed by **AB 1336**. Further, the presumption would apply even in situations where any link between the employer's conduct and a heat-related illness or injury is tangential, at best, and appears to mandate that WCAB evaluate employer compliance with regulations created by a different state agency.

There is No Evidence Supporting the Proposed Workers' Compensation Presumption

AB 1336 would create a presumption that a heat-related illness or injury is occupational if the employer fails to comply with any one of the dozens of heat illness prevention standard provisions in Sections 6721 or 3395 of Title 8 of the California Code of Regulations.[1] It applies regardless of any causal link to the claim at issue and regardless of whether a citation was issued.

We are unaware of any data demonstrating that there is a need for a presumption for agricultural workers for heat-related illnesses and injuries. Indeed, a recent CWCI study of an identical bill last year (SB 1299 (Cortese)) shows that agriculture claims are accepted at a rate of 89% - which is higher than other industries, including other outdoor industries.[2]

Injuries occurring within the course and scope of employment are automatically covered by workers' compensation, regardless of fault. If there is ever a dispute in evidence, the law requires the evidence to be viewed in favor of the worker. As this Legislature and Administration have recognized many times,

[1] Proposed section 3212.81 provides that any injury "resulting" from an employer's failure to comply with applicable heat standards would fall under the presumption. If the worker has demonstrated that an injury "resulted" from their job, they have already met their burden of proof under the workers' compensation system and that injury would be covered without the need for a presumption.
[2] That study is attached.

presumptions should be established *sparingly*. As the Senate Committee on Labor, Public Employment, and Retirement has said:

> [T]he creation of presumptive injuries is an exceptional deviation that uncomfortably exists within the space of the normal operation of the California workers' compensation system. Rather than permit the existing system to operate in its normal course, the Legislature places its thumb on the scale: for these peace officers, for these injuries, employer must accept liability (barring unusual circumstances). As this essentially creates a set-aside microsystem within the larger workers' compensation system of automatic indemnity payments, the Legislature has historically decided to keep the number of presumed injuries and individuals who could qualify for such presumptions limited. If these exceptions were not limited, they would essentially consume and undermine the entire system, as it would create a situation where a small class of workers has more and more access to the workers' compensation system in a manner that other workers (some similarly situated) do not enjoy.[3]

This administration correctly noted in its veto messages that presumptions should only be created where there is clear and convincing evidence of the need for one:

> A presumption is not required for an occupational disease to be compensable. Such presumptions should be provided sparingly and should be based on the unique hazards or proven difficulty of establishing a direct relationship between a disease or injury and the employee's work. Although well-intentioned, the need for the presumption envisioned by this bill is not supported by clear and compelling evidence.[4]

The CWCI study demonstrates that only **0.65%** of all agriculture claims involved heat-related injuries or illnesses. That low number is consistent with other outdoor occupations. Again, 89% of agriculture claims are accepted, which is *higher* than the average for all other industries.

The reason presumptions are so rarely enacted is because a presumption essentially forces an employer to cover an injury regardless of whether it does in fact fall under the purview of workers' compensation. For example, here the presumption would also apply even if the alleged violation was tangential to any potential injury. If just one supervisor did not receive the required training, the presumption would apply to any heat-related illness or injury for any employee, even one that has no interaction with that supervisor. And pursuant to proposed section 3212.81(b), it would apply to any illness or injury that develops during the pay period, which could be up to 31 days under Labor Code section 205.

An Identical Bill Was Vetoed Last Year

The bill does not include mechanics as far as how establishing applicability of the presumption would work. The bill does not specify how it would be determined that an employer did in fact violate the applicable provisions of heat illness prevention standard. If the bill contemplates that determination being made by the Workers Compensation Appeals Board (WCAB), we have strong concerns with imparting that responsibility on an entity that specializes in workers' compensation claims, not workplace safety.[5] Indeed, this was one of the reasons for the veto of SB 1299 (Cortese) just last year.

AB 1336 Would Increase State Costs

AB 1336 appears to task judges at WCAB with the responsibility of determining whether an employer has violated a heat illness prevention standard. By our count, there are 73 applicable heat illness prevention requirements. A violation of a single one of those could trigger the presumption. Determining whether there

[3] Senate Committee on Labor, Public Employment, and Retirement Analysis of SB 893 (2020)
[4] AB 334 Veto Message (2022)
[5] A similar concern was raised in opposition to AB 594 (Maienschein) (2023), which originally authorized public prosecutors to enforce health and safety standards under the purview of Cal/OSHA. Amendments were taken to address those concerns because it is a specialized subject. See Assembly Committee on Judiciary Analysis of AB 594 (2023) at page 7.

has been a violation will be extremely time intensive for WCAB judges and staff. Cal/OSHA inspectors (who are experts in this field) generally spend hours performing inspections and must review medical reports, conduct interviews, review site data and reporting, and more. While our preliminary audits show very few claims related to heat are filed, under **AB 1336** each and every claim filed will now be increasingly more time and labor intensive given the volume of not only the medical documentation and QME reports, but now the heat illness standards inspection reports. The complexity of each allegation will likely require multiple hearings to determine the validity of the claim (i.e., whether the presumption applies), especially considering this is not WCAB's expertise. The judges are not the only state employees involved in these hearings. There will also be significant time spent by WCAB staff as well— preparing documentation, filings, assisting injured workers through the process, and ensuring that hearings run smoothly and on time. That additional time and resources will impose costs on the department.

Additionally, each of the 286 WCAB judges would need training on heat illness prevention standards and compliance, which is an addition cost of time and resources. They would likely need to be trained by Cal/OSHA itself, imposing an independent and additional cost on that department.

It is also unclear whether the fund would help with any of those costs. While we appreciate the intent behind the proposed Farmworker Climate Change Heat Injury and Death Fund is to assist workers who suffer occupational injuries, the bill does not say what the fund would cover. The language provides that it will fund "paying any administrative costs related to Section 3212.81". It is unclear if that is the workers' costs or if it is the state's administrative costs.

Further, the fund is coming from the Workers' Compensation Administration Revolving Fund. The Workers' Compensation Administration Revolving Fund is funded through workers' compensation assessments paid by all employers, including public entities. Generally, other industry-specific funds are funded by that industry alone.[6]

For these reasons, we respectfully **OPPOSE AB 1336.**

Sincerely,

Ashley Hoffman
Senior Policy Advocate
California Chamber of Commerce

African American Farmers of California
Agricultural Council of California
American Property Casualty Insurance Association (APCIA)
Associated Equipment Distributors
Association of California Egg Farmers
Brea Chamber of Commerce
Building Owners and Managers Association (BOMA)
California Association of Joint Powers Authorities (CAJPA)
California Association of Wheat Growers
California Association of Winegrape Growers
California Bean Shippers Association
California Business Properties Association (CBPA)
California Chamber of Commerce
California Citrus Mutual
California Coalition on Workers' Compensation (CCWC)
California Cotton Ginners and Growers Association
California Farm Bureau

[6] For example, DIR has a Garment Restitution Fund for garment workers who are unable to collect unpaid wages. That is funded by registration fees paid by garment manufacturers.

California Fresh Fruit Association
California Grain and Feed Association
California Hispanic Chambers
California League of Food Producers (CLFP)
California Pear Growers Association
California Restaurant Association
California Seed Association
California State Floral Association
California Strawberry Commission
California Walnut Commission
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Corona Chamber of Commerce
Cupertino Chamber of Commerce
Danville Area Chamber of Commerce
Family Business Association of California
Family Winemakers of California
Fontana Chamber of Commerce
Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Huntington Beach Chamber of Commerce
Imperial Valley Regional Chamber of Commerce
La Cañada Flintridge Chamber of Commerce
Livermore Valley Chamber of Commerce
Lodi District Chamber of Commerce
Long Beach Area Chamber of Commerce
Modesto Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
NAIOP California
National Federation of Independent Business (NFIB)
Newport Beach Chamber of Commerce
Nisei Farmers League
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Pacific Egg & Poultry Association
Paso Robles and Templeton Chamber
Porterville Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Rancho Mirage Chamber of Commerce
Redondo Beach Chamber of Commerce
Roseville Area Chamber of Commerce
San Pedro Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Santee Chamber of Commerce
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Tri-County Chamber Alliance
Tulare Chamber of Commerce
West Ventura County Business Alliance
Western Growers Association
Western Tree Nut Association
Wine Institute

cc: Legislative Affairs, Office of the Governor
Kylie Baranowski, Office of Assemblymember Addis
Consultant, Assembly Appropriations Committee
Bill Lewis, Assembly Republican Caucus

AH:am