

CALIFORNIA GOVERNOR AIMS TO SOFTEN AI'S IMPACT ON WORKERS THROUGH NEW EXECUTIVE ORDER: WHAT EMPLOYERS NEED TO KNOW

Insights
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Governor Gavin Newsom just signed a sweeping executive order right before the holiday weekend directing California state agencies to study potential workforce disruptions caused by AI so they can protect displaced workers through new policy recommendations. The May 21 order tasks the Labor and Workforce Development Agency (LWDA) with reviewing and making recommendations on a range of worker protection policies, from WARN Act revisions to severance standards to collective bargaining practices involving AI. But does any of this affect you right now? The short answer is no for California employers, but the EO still warrants close attention given how it could change things in the future.

No New Obligations Today

Executive Order N-6-26 ([which you can find here](#)) does not create any immediate legal obligations for private employers. Instead, it sets in motion a series of government reviews and analysis tasks with various deadlines, all aimed at informing potential future legislation and regulation. The directive is squarely aimed at state agencies, not businesses, and the order itself explicitly states that it creates no enforceable rights or benefits under law.

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The Governor is trying to lay the groundwork for what could eventually become significant new employer mandates. Whether those mandates ever materialize, and what form they take, will depend on the recommendations that emerge from these government reviews, and what state lawmakers do with them.

The WARN Act Review: Watch This Space

Perhaps the most consequential near-term item for employers is the order's directive that the LWDA review and provide recommendations on revisions and updates to the California WARN Act within 180 days, in a manner "responsive to, and effectively providing early warning data on, emerging industry trends."

What that ultimately means in practice is unclear and will depend entirely on what recommendations the LWDA puts forward. But the timing is notable. California already has pending legislation on this front: [SB 951, which would create a WARN Act-style notice requirement specifically tied to AI-driven workforce displacement.](#)

The executive order's 180-day review window (which runs through mid-November 2026, after Election Day) could actually work in employers' favor by supporting an argument that the Legislature should defer action on SB 951 until after the LWDA completes its analysis and issues recommendations. Rushing legislative mandates ahead of that government review and before the elections would undercut the very process the Governor just set in motion.

Severance, Equity, and Safety Net Policies

The order also directs the LWDA to review policies providing displaced workers with a safety net, including severance and other forms of compensation such as stock or equity awards, with any recommendations for incorporating such policies or strengthening existing programs. The review is to include a comparative analysis of policies in other countries.

Again, employers are not required to change severance structures or equity compensation practices as a result of this order. But if the LWDA recommends minimum severance requirements or equity-sharing standards tied to AI-driven layoffs, and the Legislature acts on those recommendations, the landscape could shift meaningfully.

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Collective Bargaining and AI: The Federal Preemption Factor

One provision of the order that has generated initial attention is its directive to review how collective bargaining agreements are addressing AI in ways tailored to the specific needs of workers and employers. This includes how workers' voices are incorporated in adoption of emerging technologies, to "identify what can be learned from unionized workplaces."

Some observers have read this as a potential precursor to mandating that employers bargain with unions over AI adoption decisions. Employers should understand an important legal limitation here: California almost certainly cannot mandate that private-sector employers bargain over AI adoption. Private-sector labor relations are governed by federal law (the National Labor Relations Act) not state law. California's labor relations jurisdiction is limited to public employees (under PERB) and agricultural employees (under the ALRB). Any attempt to impose collective bargaining obligations on private employers around AI would face serious federal preemption challenges.

But the LWDA's review of union contracts could serve a different purpose: identifying the kinds of AI-related worker protections that unions have already negotiated (like advance notice of AI deployments, impact assessments, retraining commitments, severance floors, etc.) and then using those provisions as a template for legislation that would impose similar requirements on *all* employers, union and non-union alike. That approach would sidestep federal preemption entirely, since it would operate through state employment law rather than labor relations law. In other words, California may not be able to force employers to bargain over AI, but it could simply mandate the outcome that bargaining might otherwise produce. This will be worth paying attention to in the coming months.

The Bigger Picture

The executive order arrives amid a wave of high-profile tech layoffs in which employers have cited AI as a factor. The political pressure on Newsom to act on AI workforce issues has been building, including from labor groups that have tied their support for his anticipated presidential campaign to his record on AI worker protections.

The executive order reflects that pressure. But it also reflects a deliberate choice to study first and legislate later. Whether that sequencing holds, or whether the Legislature moves independently on bills like SB 951 in the meantime, remains to be seen.

What Employers Should Do Now

While no action is required today, California employers, particularly those in industries with significant AI adoption, should take note of the following:

- **Monitor the LWDA's 180-day WARN Act review.** Recommendations are due by mid-November 2026 and could lay the groundwork for significant new notice requirements tied to AI-related layoffs.
- **Track SB 951.** This pending legislation would create AI-specific WARN Act-style obligations. The executive order may slow its momentum, but may not stop it. The best way to stay up to speed is to subscribe to [Fisher Phillips' Insight Systems](#).
- **Watch for severance and equity policy recommendations.** If the LWDA recommends minimum displacement compensation standards, legislative action could follow quickly in 2027.
- **Document your AI adoption practices.** As state and federal scrutiny of AI-driven workforce decisions increases, employers with clear, documented policies around AI use in employment decisions will be better positioned to defend those decisions.

Conclusion

Our attorneys will continue to monitor developments as the LWDA's reviews progress. Contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [AI, Data, and Analytics Practice Group](#) or in [our California offices](#) with any questions. We'll continue to track the latest developments, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox.