Using Past Tech Transitions As A Lens For Calif. Worker AI Bill

By **Steven Porzio, Ryne Posey and Anthony Guzman** (June 12, 2026)

Steven Porzio

Ryne Posey

Anthony Guzman

California's proposed S.B. 951 — which was most recently amended last month — would impose new notice, disclosure, first bid and remedial obligations on certain employers for layoffs and cessations in hiring caused by artificial intelligence or other automated technology. But its significance reaches further.

S.B. 951 is among the first state legislative efforts to answer a question that lawmakers and companies will face with growing frequency: As AI adoption rapidly expands, how should the law address this technological innovation while managing the workforce disruption it may cause?[1]

This question is not new. U.S. labor law has repeatedly confronted moments when new technology promised efficiency while threatening job stability. The pattern is familiar: New technology alters the economics of production; employers seek efficiency and flexibility; workers seek protection; and the legal system must decide how much of that disruption should be left to the market, public regulation or the bargaining table. S.B. 951 attempts to strike this balance.

While earlier automation battles supply no ready-made answer for AI, they do reveal what S.B. 951 is trying to do; where this kind of legislation may prove difficult to administer; and how lawmakers, companies and practitioners can best prepare before these laws are enacted.

Historical Backdrop

Few episodes illustrate the struggle between innovation and workforce stability more clearly than the longshore industry's move to containerization in the 1960s — a technological shift that cut the labor needed to load and unload cargo ships by more than 90%.[2]

By the late 1950s, standardized shipping containers were poised to transform cargo handling. The tension was obvious. Employers wanted freedom to deploy shipping containers, while the International Longshore and Warehouse Union wanted to preserve job security and transition protections for its members.

The now-historic 1960 mechanization and modernization agreement attempted to balance these objectives. Employers got flexibility to increase efficiency through new machinery, while union workers got layoff protections and transition benefits funded through an ongoing mechanization fund.

By several measures, it worked: Tonnage rose 32% while worker hours remained flat, cost per ton fell despite higher wages, and employer gains exceeded $120 million net of fund contributions.[3]

Yet later disputes and commentary acknowledged that this carefully bargained transition framework left difficult questions unresolved — resulting in decades of litigation and significant labor disruptions, including the longest longshore strike in U.S. history in 1971.[4]

That history reveals a recurring set of questions that AI regulation now faces directly: who is protected, what counts as displacement, who pays for the impact and whether displaced workers may have a path into the new work that AI creates.

S.B. 951

S.B. 951 enters at a comparable moment of technological disruption. As of its last amendment on May 14, S.B. 951 would establish the California Worker Technological Displacement Act, creating a framework for notice, layoff protection and first bid rights for affected workers — including both employees and independent contractors who have worked for at least six of the last 12 months before the notice.

Under that framework, covered employers must provide at least 60 days' written notice to affected workers, the Employment Development Department and local officials before any "technological displacement" — which is defined as the elimination of employment positions resulting in layoffs that were "caused in whole by" AI or other automating technology — affecting 25 or more workers in any 30-day period.

Among other things, the notice must identify the displacing AI or automating technology; the vendor that developed, sold or leased it; the job functions being automated; the employer's justification; and any retraining options.

During the 60-day notice period, the employer may not discharge an affected worker without "reasonable and substantiated cause." Employers with more than 100 workers must also extend a right of first bid on other positions to affected workers, except where it conflicts with a collective bargaining agreement.

Similar to the California Worker Adjustment and Retraining Notification Act, noncompliance triggers back pay and benefits liability capped at 60 days, civil penalties of up to $500 per day, and prevailing party attorney fees — including through representative enforcement actions by local governments and worker representatives.

Covered employers must also provide a technology hiring disruption notice to the Employment Development Department if a permanent cessation in hiring for an occupation or position is caused in whole by AI or other automation. However, the current draft of S.B. 951 clarifies that a technological cessation in hiring does not mean an overall reduction in employment positions.

Like the displacement notice, the hiring disruption notice must identify the affected occupation or position; the displacing AI or automating technology; the vendor that developed, sold or leased the technology; the employer's justification for the decision; and any retraining options, among other things.

S.B. 951 also establishes a Technological Displacement Act fund. Unlike the M&M agreement's mechanization fund, which was the agreement's central innovation by using some of the efficiency gains of shipping containers to cushion workers affected by the transition, S.B. 951's TDA fund is financed only by recovered penalties and reserved for enforcement.

However, on May 21, Gov. Gavin Newsom issued Executive Order N-6-26, directing the state's Labor and Workforce Development Agency — which would be responsible for enforcing the California Worker Technological Displacement Act, if passed — and other agencies to study collective bargaining responses to AI, worker retraining, AI company revenue share programs and worker ownership models that "build wealth from productivity gain among workers."

Read together, the proposed bill and executive order suggest that California may be developing both halves of its AI transition regime at once: S.B. 951 creates the notice, disclosure, layoff protection and enforcement architecture, while the executive process studies whether that architecture should include the redistributive tools that gave the M&M agreement much of its force.

Lessons From the Past

In several respects, S.B. 951 attempts to address the lessons learned from earlier automation battles. The bill draws from past architecture: It balances innovation against stability, through procedural protections and guardrails.

Its 60-day notice requirement and discharge restrictions also echo the interim job protections that were designed to help affected workers absorb the transition, while the bill's deference to greater protections secured through CBAs reflects the collective bargaining roots of earlier transition frameworks.

But that architecture also leaves several lessons only partially absorbed, which may cause S.B. 951 to encounter the same issues that arose during the longshore transition.

For example, like the M&M agreement, S.B. 951 focuses on the incumbent workforce more clearly than indirectly displaced workers — leaving companies and courts to divine how far technological displacement reaches or whether it captures layoffs at peripheral employers whose workforces contract in tandem with automation at associated businesses.

S.B. 951 also does not resolve where the new work goes. While its first bid right applies to "other positions with the employer," it does not state whether employers must keep the resulting AI-adjacent work in-house or retrain affected workers to qualify for those jobs.

These questions are similar to those that led to two U.S. Supreme Court decisions in NLRB v. International Longshoremen's Association in 1980 and 1985, and one of the longshore industry's most enduring case lines on technological transitions.[5]

Perhaps most importantly, the M&M agreement shows that the hardest fights often begin after the transition framework is in place. S.B. 951 may do the same, with the following three additional disputes appearing likely.

Causation Disputes and Trade Secret Concerns

Because liability turns on whether displacement was caused in whole by AI — and while the bill expressly endorses the use of statements by employer officials, U.S. Securities and Exchange Commission filings and shareholder reports — plaintiffs will have both incentive and justification to seek discovery into internal AI deployment decisions, return on investment projections, vendor contracts, pilot studies and other sensitive information.

The result is a recurring collision between S.B. 951's enforcement design and employer concerns about trade secrets, confidentiality and competitive disclosure.

Standing Disputes and Representative Litigation

S.B. 951 authorizes civil actions by any "person, including a local government or a worker representative … on behalf of the person, other persons similarly situated, or both" — language that appears to confer standing on local governments, unions, and potentially advocacy organizations and competitors, with no apparent requirement that the person has been personally aggrieved.

Expect threshold litigation over what injury such persons must allege, the definitional reach of worker representatives, and whether the bill creates a type of representative lawsuit that bypasses traditional class action requirements.

Aggregation Disputes

S.B. 951 triggers notice obligations for displacement affecting 25 or more workers in any 30-day period, and limits the right of first bid to employers with more than 100 workers. Expect litigation over how to count workers across affiliates, staffing arrangements and multistate employers — exactly the kind of aggregation dispute that has dominated WARN Act litigation for two decades.

These unresolved questions have direct consequences for employers preparing to operate under the bill.

Takeaways for Employers

S.B. 951 carries unusually high stakes because it would do more than require notice. It would make AI-related workforce decisions visible to workers, regulators, local governments and potential representative plaintiffs — all against the backdrop of unresolved questions about causation, standing, aggregation and the scope of its key definitions.

The real work therefore begins long before the 60-day notice period — when employers select the tool, build the business case, sign vendor contracts, make public statements about the tool's use and model workforce impacts.

Employers that treat AI deployment as a legal, labor and workforce planning exercise from the start will be better positioned both under S.B. 951 and whatever follows in other states. In particular, the following three steps deserve consideration for immediate attention.

Build a technology displacement decision file now.

Employers that are considering AI or automation deployments should contemporaneously document the facts that S.B. 951 would require in a notice: the AI system's category and type, the vendor that is involved, the job functions that it automates, the business justification, and any retraining options.

For workforce reductions that are not caused in whole by AI, the file should document those mixed justifications carefully. Building that record should support causation defenses, address the "reasonable and substantiated cause" discharge restriction, and preserve the factual basis for any good faith argument about whether S.B. 951 even applies.

Leverage union negotiations before the statute takes effect.

S.B. 951 preserves greater protections that are provided by CBAs, while yielding the statutory first bid right where CBAs conflict.

Together, these provisions give unionized employers a preemptive opportunity to shape how S.B. 951 would actually operate in their workplaces if passed, such as through negotiated disclosure protocols that route sensitive AI system information through confidential union channels or bidding procedures that are tailored to existing seniority structures.

Preserve AI-adjacent work in-house.

The M&M agreement's deepest disruptions came not from automation itself, but from work flowing to outside vendors and employers while displaced workers had no path into what replaced their jobs.

Employers that retain AI-adjacent functions internally and cross-train affected workers to perform these new jobs, if feasible, may reduce layoff counts below the statute's coverage thresholds, improve employee relations, and mitigate both litigation exposure and the reputational consequences of broad displacement.

Conclusion

Ultimately, many of S.B. 951's hardest questions remain unanswered: What counts as AI displacement? Who can enforce the bill? How will competitive business information be protected? And will displaced workers have any realistic path into the new work that AI creates?

The longshore experience teaches that the law of technological transition is rarely settled at the moment of first compromise. When technology changes the work, the law eventually has to decide who receives warning, who receives protection and who pays when those questions go unanswered. California has begun asking those questions. Employers should consider doing the same.

Those that use the period before S.B. 951 takes effect to shape their AI transitions — rather than waiting for litigation, legislation or labor conflict to do it for them — will be far better positioned to help determine whether this generation's technological revolution finds a workable balance or just becomes another lesson for the next one.

Steven J. Porzio and Ryne C. Posey are partners, and Anthony E. Guzman II is an associate, at Skadden Arps Slate Meagher & Flom LLP.

[1] The New York legislature has proposed a similar bill (AB A9533A) that, if enacted, would require certain employers to provide 90 days advanced notice of a "technological displacement" affecting 25 or more employees. A second proposed bill in New York (AB A9581A) would require New York employers with more than 100 employees or publicly

traded entities doing business in New York to submit annual reports to the state's Department of Labor regarding the impact of AI on hiring, discharges, and position eliminations.

[2] Volkswagenwerk Aktiengesellschaft v. Fed. Mar. Comm'n, 390 U.S.261, n.14 (1968) (collecting authorities).

[3] Max D. Kossoris, 1966 West Coast Longshore Negotiations, 89 Monthly Lab. Rev. 1067, 1068–69 (1966).

[4] The ILWU Story, Int'l Longshore & Warehouse Union, https://www.ilwu.org/history/the-ilwu-story/ (last visited June 3, 2026).

[5] See NLRB v. Int'l Longshoremen's Ass'n (ILA I), 447 U.S.490, 507–10 (1980) (addressing how the "complex case of technological displacement" requires analysis of traditional work patterns and the relationship between work before and after the technological change); NLRB v. Int'l Longshoremen's Ass'n (ILA II), 473 U.S.61, 80–82 (1985) (addressing how work-preservation agreements can lawfully address work made unnecessary by technological innovation).