SEND TO CHRIS REEFE AND RYAN GUILLEN at chris.reefe@asm.ca.gov or ryan.guillen@asm.ca.gov

[OPTIONAL: LOGO/LETTERHEAD]

[DATE]

**RE: AB 403 (Kalra) – SUPPORT**

Dear Assemblymember Kalra:

I am writing in support of AB 403 (Kalra).

This bill amends California Labor Code 98.7 to increase the statute of limitations for retaliation claims under the Labor Code from six months to three years and adds an attorney's fee provision to Labor Code Section 1102.5 (protecting employee's right to disclose a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.)

Workplace retaliation is not only pervasive but also a growing problem in the current political climate surrounding immigration. Retaliation claims are not timely filed within the narrow six month window for various reasons— lack of awareness of the length of the statute of limitations and difficulties in finding representation, filing paperwork, and/or gathering evidence.

Specifically, claims of immigration-related workplace retaliation saw a significant uptick in 2017 according to the Labor Commissioner’s Office. In 2017, workers throughout the state filed 95 immigration-related retaliation claims with the agency—an increase from 20 in 2016 and seven in 2015—according to a Public Records Act request. In the current political climate, immigrant workers are often afraid to come forward with workplace retaliation claims, especially given, or due to lack awareness of, the short statute of limitations. Workers are further misled because the deadline to file a wage theft claim through the Labor Commissioner is three years; workers often assume that it is the same for a retaliation claim.

California Labor Code Section 98.7 states that any person who is "discharged or otherwise discriminated against in violation of any law under the jurisdiction of the Labor Commissioner may file a complaint with the division within six months after the occurrence of the violation." These retaliation claims include discharge or other discrimination for requesting unpaid wages (Labor Code Sections 98.6 and 1102.5), discharge for disclosing a health and safety violation (Labor Code Section 6310), and any immigration-related claim wherein an employee seeking unpaid wages or filing a claim with the Labor Commissioner is threatened with deportation (Labor Code 244, 1019).

By contrast, the statute of limitations is longer for other types of retaliation claims under the jurisdiction of the Labor Commission:

1. Against victims of domestic violence and victims of crime (Labor Code 230 (c)(e)(f), 230.1, and 230.2) – 1 year;

In addition, the statute of limitations for retaliation at other government agencies is longer:

1. Under the Fair Employment and Housing Act (California Government Code 12960(d)) – 1 year;
2. Under the federal Fair Labor Standards Act for unpaid wages (29 U.S.C. Section 255) – 2 years or 3 years if willful.

Furthermore, Labor Code 1102.5 does not currently provide for attorney's fees for prevailing employees which can be a burden to plaintiffs who were wronged or even a deterrent to filing altogether.

[OPTIONAL: WHY THIS BILL IS IMPORTANT TO YOU]

I applaud this legislation since it would provide employees with a three-year period of time to file a retaliation claim, aligning with the time to file a wage claim. The same statute of limitations would eliminate the confusion among employees who assume that the statute of limitations is the same for both wage claims and retaliation claims. The attorney's fee provision for prevailing employees who file claims under Labor Code 1102.5 asserts protections for workers who bring successful actions for violations. We thus urge you to pass AB 403.

Sincerely,

[SIGNATURE]