

The Role of Public Sector Workers in Ensuring the Responsible Adoption of AI by the State of California

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Good morning Chairman Dodd, Chairman Padilla, and Senators, and thank you for the opportunity to testify today. My name is Annette Bernhardt. I direct the Technology and Work Program at the UC Berkeley Labor Center and I am also contributing to a series of workshops that the UC Berkeley Data Science School is convening around AI governance.

I want to commend your leadership, along with that of Governor Newsom and his administration, in making California a national leader in responding to the AI revolution.

Like you, I believe that the public sector should model and embody the responsible use of artificial intelligence. It should prioritize the safety and well-being of impacted communities—especially low-income communities and communities of color—as well as public sector workers.

My perspective comes from several decades of extensive research on the U.S. labor market, including the gig economy and the changing nature of work. For the past five years, my team and I have been conducting research and policy analysis on AI and other digital technologies, with the goal of ensuring that working families are able to thrive in the 21st century economy.

Our research has documented that both private and public sector employers are increasingly using digital technologies in the workplace. They are capturing, buying, and analyzing worker data. They are electronically monitoring their workers, and using algorithms to manage them. And they are using technology to augment and automate workers’ tasks. The underlying technologies range from simple data analytics all the way to generative AI. I would similarly urge the Senators to take a wide lens on the digital technologies you are addressing.

For us, the important point is that employers are using these technologies to make highly consequential decisions – about wages and benefits, hiring and firing, job assignments, workloads, skill requirements, workplace health and safety, and other terms and conditions of employment.

And we are already seeing concerns emerge. Intense monitoring can push warehouse workers to the point of injury. Biased hiring algorithms can shut women and workers of color out of opportunity. Gig platform workers can end up making below the minimum wage after all costs are taken into account. Some employers are using surveillance to identify workers who are exercising their right to organize a union. And “just in time” scheduling software in the retail industry can wreak havoc on workers’ lives.

Such harms are not inevitable. I believe that employers can use data-driven technologies in the workplace in ways that benefit both workers and their employers; the goal is not to block innovation. In fact, we have many examples where technology has helped make jobs safer, opened up new careers, and improved the quality of products and services.

But, it will take robust guardrails to ensure that workers are not harmed by a rapidly evolving set of often unproven and untested technologies – many of which employers and even engineers themselves do not fully understand.

The need for oversight is especially urgent in the public sector, where arguably the stakes are even higher. That’s because public sector technologies are dual-facing: they impact both the public and the government workforce.

For the public, the state’s use of AI can have profound economic, social, and equity impacts. Here I am thinking about functions such as screening to determine eligibility for public benefits like unemployment insurance and MediCal; risk scoring in making decisions about families in human services programs; grading and curriculum delivery in community colleges; and high-impact decisions like sentencing in the criminal justice system.

Similarly, AI has the potential to fundamentally transform public sector work. It can affect skill requirements, interactions with clients, workers’ autonomy, and more. Here again research is already raising concerns about negative impacts. Examples include mental health stress from increased work loads, job deskilling, blurring of boundaries between home and work, inadequate training supports, and having to scramble and being blamed when new technology misfires.

So how should California respond?

We have identified four principles to help guide policymakers, as they work to implement the Governor’s Executive Order and develop legislation such as the bills sponsored by Senators Dodd and Padilla.

First, workers should participate fully in technological design and implementation because they possess the knowledge and experience to support responsible, effective use of AI in delivering public services.

We call this the “worker in the loop” principle. That is, public sector workers can play a critical role in safeguarding the public good against potential harms of government’s use of technologies capable of autonomous reasoning and decision making.

Research and past experience suggests that involving workers from the outset can make technology adoption more successful. It can help to identify and prevent harms before they occur, enable workers to do their jobs more effectively, and free up time for higher-level decision making.

Most important, public sector workers are on the front lines directly engaging with the public. They are therefore best positioned to anticipate the impacts of AI on the quality, accessibility, and equity of public services.

This principle – that the public deserves the right to meaningful human input over governmental decisions that affect their lives – is central to leading policy frameworks on artificial intelligence, including the White House’s Blueprint for an AI Bill of Rights. In the same vein, the California Government Operations Agency in its November 2023 report stressed that human review and oversight are critical for maintaining the integrity of public processes.

Second, we must invest in public sector workers to ensure they have the skills and expertise to select, administer, manage, and work alongside public sector AI.

The priority should be to build this expertise in-house, given the importance of centering the public good in a context where private sector interests often dominate. In fact, the Office of Management and Budget recently called for a fully trained public sector workforce, in its memorandum to the heads of federal agencies who are implementing President Biden’s Executive Order on AI.

Here I would flag that some of the most successful models for incumbent worker training in the U.S. have been labor-management training partnerships. In these partnerships, unions and high-road employers collaborate to solve key challenges in their industry, while ensuring the economic security of their workers.

Third, public sector workers should have the right to organize and bargain over the state’s procurement and deployment of new technologies, as a mandatory subject of bargaining. Both the Governor’s Executive Order and several proposed bills include provisions for the involvement of worker representatives, which is a good start. In practice, it will be vitally important that workers and their unions are brought in from the beginning, at the point of problem definition, not after the fact when the critical decisions about the scope of new AI systems have already been made.

Finally, California will need to adopt robust standards that protect workers, much like the public, against potential harms from AI-based systems. In a recent report from my program, we lay out a full suite of standards, including transparency and disclosure, worker rights over their data, and robust guardrails on the state in its role as an employer, to prevent harms from electronic monitoring and

algorithmic management. Importantly, workers at large private-sector employers already have some of these rights, after they gained coverage under the California Consumer Privacy Act on January 1, 2023.

In closing:

Our government's fundamental responsibility is to uphold people's rights to freedom, privacy, livelihood, and equal treatment. New technologies should be considered where they offer the greatest potential benefit to both workers and the public, and where risks can be identified and addressed. I have outlined four strategies to ensure that the impacts on public sector workers are consistently addressed throughout this process. Most important, I have argued that worker participation will be key to ensuring that the California public benefits from, and is not harmed by, the introduction of AI.

Thank you, and I'm happy to take any questions.

