PROANALYSIS

California AI Legislation

BY **ERIC HE AND ROSMERY IZAGUIRRE** | **05/30/2024 08:00:00 AM EDT**
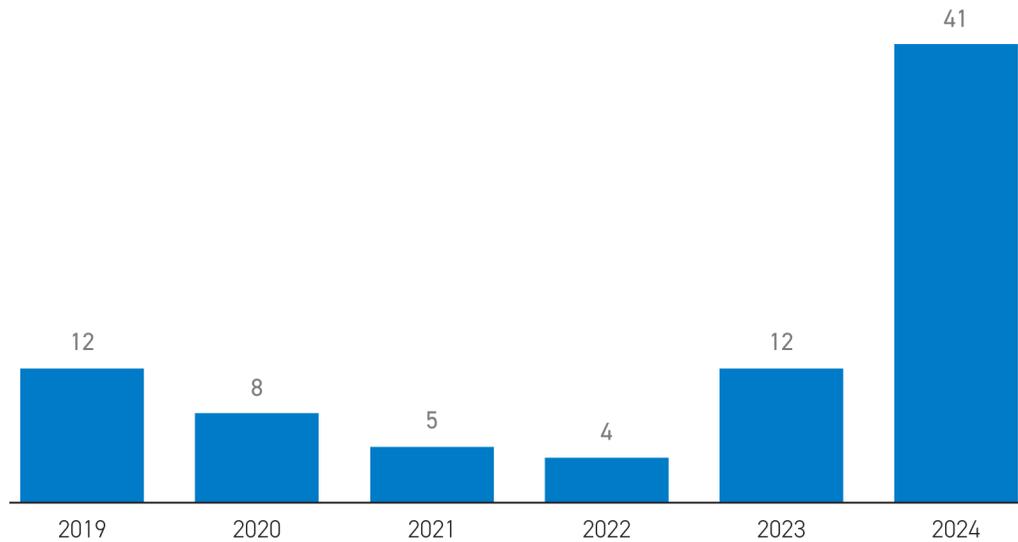**UPDATED: 05/31/2024 01:35:04 PM EDT**

ⓘ PRO POINTS

- **Artificial intelligence has catapulted into the public sphere in 2024, with the rise of ChatGPT and** other models drawing both attention and scrutiny to the industry. California — home to Silicon Valley and lawmakers eager to regulate the ever-changing tech space — has emerged as a key player in determining AI's future.

- **California lawmakers have introduced more than 40 bills related to artificial intelligence, with many** noting earlier failures to regulate social media's harmful effects. The proposals span a variety of goals, from preemptive restrictions and increasing transparency to focusing on specific impacts of the technology on elections, employment and health care.

- **Business interests have pushed back on regulation by claiming it would stifle innovation, and Gov.** Gavin Newsom has hinted at the benefits of AI. Questions remain over how AI regulations would coexist with current law.

HOW WE GOT HERE

California legislators were quick to introduce bills on artificial intelligence this year as the technology became more commonplace, signaling the Golden State's desire to lead in creating a regulatory framework. Policymakers have pointed out the consequences of failing to clamp down decades ago on social media companies, which notably are also on the forefront of the AI conversation. The proposals also span a myriad of sectors and industries, highlighting how quickly AI has burst into everyday life.

AI bills introduced in California more than tripled since last year

Artificial intelligence related bills introduced in California

Source: National Conference of State Legislatures
Rosmery Izaguirre/POLITICO

A few key bills have already passed one chamber of the Legislature, which is currently hearing bills in the second house to send to the governor's desk. The two most notable proposals — authored by two of California's most influential Democrats — seek to broadly regulate large AI systems and eliminate bias in algorithms, representing twin desires for lawmakers to both address the current harms that AI could cause and preemptively limit damages from future models.

Other bills seek to:

— Label AI-created material online

— Require greater transparency around content created by generative AI

— Regulate AI use in medical treatment

— Require disclosure of AI use in health care communications

— Place restrictions on how state agencies can use the technology

— Require agencies to inform people of AI use in communications

Another trio of measures would address election interference by:

— Requiring platforms to take down misinformation

— Implementing bans on AI use for political messaging around election time

— Requiring disclosure of AI in political advertisements

On the labor front, lawmakers are pushing proposals to:

— Provide protections for performers

— Restrict digital replicas of deceased people

— Prevent AI from replacing workers at call centers.

Other measures aim to address the impact of deepfakes, criminalize AI-generated pornography and target depictions of child sexual abuse.

While the majority of these measures would regulate AI, a few acknowledge its potential. There are also proposals to create a state research hub and a public cloud, as well as one to incorporate AI literacy in schools.

The bills so far have generally sailed through the Legislature, with little debate on either the Assembly or Senate floor. Some have been amended, but the changes have not been major. However, a few proposals were cut by the appropriations committees — including, notably, a bill that would regulate data digesters that feed AI models. Also held were proposals to address AI use in the court system and to compel platforms to verify the identity of influential users. Another measure, which would require grocery stores to complete an assessment and inform workers before replacing them with tech like self-checkouts, was amended on the Senate floor to remove references to AI.

WHAT'S NEXT

Key bills that get through the Legislature and are signed into law could be patched together to mirror something like the European Union's Artificial Intelligence Act, which passed in March. The bills have sailed through the Legislature so far, but they are expected to face greater scrutiny as they move along, given the complexity and nuance of regulating artificial intelligence.

California lawmakers are advancing 26 AI bills this year

Artificial intelligence-related bills advanced by a chamber of the Legislature

Topic	Bill	The bill would
Preemptive	**AB 2877**	Require parental consent to use kids' personal data to train AI
Preemptive	**SB 892**	Establish standards for state-approved AI services
Preemptive	**SB 1047**	Regulate large AI systems
Transparency	**AB 2013**	Require disclosure of data used to train AI
Transparency	**AB 1791**	Prohibit social media platforms from deleting certain meta data from content
Transparency	**AB 2905**	Require disclosure if a prerecorded call uses AI
Transparency	**AB 3211**	Require watermarks for generative AI use
Transparency	**SB 896**	Require state agency to inform people if AI is used in communications
Transparency	**SB 942**	Let users know when generative AI is used in content
Employment	**AB 1836**	Ban digital replicas of deceased performers
Employment	**AB 2602**	Protect against AI use in entertainment industry
Employment	**AB 2930**	Protect against discrimination by AI systems
Employment	**SB 1220**	Prevent AI from replacing call center workers
Elections	**AB 2355**	Require disclosure of AI use in political advertisements
Elections	**AB 2655**	Require platforms to block AI-generated misinformation about elections
Elections	**AB 2839**	Ban AI in political communications
Crime	**AB 1814**	Prohibit arrests based on facial recognition match
Crime	**AB 1831**	Criminalize AI-generated depictions of child sexual abuse
Crime	**AB 1856**	Criminalize distributing deepfake pornography
Crime	**SB 933**	Classify AI-generated images as computer-generated images in child pornography cases
AI Growth	**AB 2876**	Incorporate AI literacy in school curricula
AI Growth	**SB 893**	Create the California Artificial Intelligence Research Hub
AI Growth	**SB 1288**	Create a working group for AI use in schools
Healthcare	**AB 3030**	Require disclosure of AI use in healthcare communications
Healthcare	**SB 1120**	Regulate AI use in medical treatment
Other	AB 3095	Reform artificial intelligence

Other states like Connecticut and Colorado have struggled to pass similar laws, though — with federal proposals languishing — the political impetus might be greater in California to take the lead by passing the first-in-the-nation laws. Placing rules on large systems and addressing AI bias could send ripple effects across the nation if the measures pass.

While labor groups are backing some of the measures, business groups find themselves negotiating with entities that are relatively unknown to the California legislative space. Rather than the traditional labor-business split that permeates many debates in California, the fight over AI regulation has mostly been an intra-tech one between those seeking to accelerate AI's growth without checks and others wanting to proceed with more caution.

Companies like Meta and venture capital firm Andreessen Horowitz have been supportive of spurring AI innovation via open source models — something that could be addressed in the sweeping framework legislation. One of that bill's sponsors, the Center for AI Safety, has faced questions over receiving funding from organizations with ties to the AI industry. Microsoft and Workday, companies that have appeared more willing to work with lawmakers on regulation, had previously backed the legislation targeting AI bias, but neither are listed as supporters of the amended version and Workday said the company is still reviewing its stance on the bill.

Business interests are pushing for national or international AI standards rather than state-by-state regulations, and are likely to continue arguing that protections against discrimination already exist and would be applied to AI models. Now, lawmakers will have to figure out how to layer any new protections over existing laws in other regulatory frameworks, such as workplace rights. The tech industry could also end up suing over laws that they believe infringe on the First Amendment or Section 230 of the Communications Act.

Another impediment may be the veto pen. Newsom, who is generally a pro-labor governor but has vetoed labor priorities before, could also stop some of the measures that he considers too onerous on the business industry. The governor explicitly stated during a budget presentation in May that generative AI is not a job killer and noted the state is partnering with AI companies to streamline governmental processes.

Clarification: This analysis has been updated to reflect that while Workday originally supported AB 2930, they have not formally taken a stance on the amended version.

🫂 POWER PLAYERS

- **Sen. Scott Wiener** (D-San Francisco): The lawmaker — who could potentially succeed Rep. Nancy Pelosi — introduced SB 1047, which broadly regulates large AI models. Wiener is no stranger to authoring controversial bills: his other measures this year include proposing speed limiters in cars, legalizing psychedelics and wading into San Francisco's housing politics.

- **Assemblymember Rebecca Bauer-Kahan** (D-Orinda): AB 2930 is Bauer-Kahan's second attempt at regulating AI bias. This year, the Assembly Privacy chair would grab the nation's attention if she successfully shepherds through the measure.

- **Center for AI Safety**: The group backing Wiener's legislation has gotten some criticism for being funded by industry-adjacent philanthropists, though its political arm insists that any advocacy work is separate. Its statement on AI risk is signed by a who's who of the industry, including Open AI CEO Sam Altman and former Facebook executive Dustin Moskovitz.

- **Chamber of Commerce**: The Chamber, along with Technet and Computer and Communications Industry Association, make up the main lobby against AI regulatory proposals. They are at least partially serving as a voice for the platforms, who typically do not formally oppose legislation but have a huge stake in what happens next.

- **Gov. Gavin Newsom:** The governor issued a measured executive order on AI last year, and has the tall order of finding the right balance between regulating the potential harms of the technology while not stifling innovation or alienating tech interests.