



## FLOOR ALERT

July 15, 2021

TO: Members, California State Senate

**SUBJECT: AB 13 (CHAU) PUBLIC CONTRACTS: AUTOMATED DECISION SYSTEMS  
OPPOSE – AS AMENDED JUNE 24, 2021**

The California Chamber of Commerce and the listed organizations must respectfully **OPPOSE AB 13 (Chau)**, as amended June 24, 2021. We appreciate the recent amendments; however, we still have concerns that the bill will: (1) discourage participation in the state procurement process; and (2) the definition of automated decision system (ADS), upon which the proposal is based, is too broad and will create confusion. The issue of automated decision system is also one of the areas subject to rulemaking by the new privacy agency, the California Privacy Protection Agency (CPPA), where details regarding definitions and application in different settings or agencies can be discussed amongst stakeholders.

**AB 13's "Encouragement" for Contractors to Submit a Detailed Impact Assessment Will Discourage Bidding.** AB 13 has been amended so that it does not require but *encourages* contractors to submit impact assessments. While we appreciate that the new language does not mandate an assessment, we are concerned it will essentially become a *de facto* requirement as any entity that bids on a contract that does not include an assessment will likely be at a disadvantage to be awarded the contract. The "encouraged" assessment requires disclosure of detailed information and even a requirement for a company to essentially admit to potential violations of the Unruh Civil Rights Act. And, there is nothing in the bill that would protect or preclude public disclosure of this assessment.

**AB 13 Does Not Adequately Define ADS.** In the bill, ADS is defined as any computational process that issues a simplified output that is used to support or replace human decision making and materially impacts natural persons. But in its attempt to be all encompassing, the definition goes too far. The recent amendments attempt to account for this overreach by creating exceptions to the rule, stating that ADS does

not include “a tool that does not automate, support, or replace human decision-making processes” and even explicitly carves out junk email filters, calculators, and spreadsheets. **AB 13**’s definition of ADS is so unclear that the exception is just a restatement of the definition with the word “not” inserted into it and some examples added. Even with this, it is still difficult for any state agency or contractor to predict with certainty whether a software falls inside or outside of the definition.

Finally, under the California Privacy Rights Act (CPRA), one of the categories for the CPPA to consider and develop regulations on is businesses’ use of automated decision making technology, including profiling, and requiring “*businesses’ response to access requests to include meaningful information about the logic involved in those decision making processes, as well as a description of the likely outcome of the process with respect to the consumer.*” See Civil Code section 1798.185(a)(16). The Legislature should wait for the new agency to develop regulations on this issue, including a potential definition of ADS, before pursuing new requirements.

For the reasons stated above, we must respectfully oppose **AB 13** as drafted.

Sincerely,



Shoeb Mohammed  
Policy Advocate  
California Chamber of Commerce  
on behalf of

Advanced Medical Technology Association  
American Council of Life Insurers  
Alliance for Automotive Innovation  
Association of California Life & Health Insurance  
Companies  
Association of National Advertisers  
California Bankers Association  
California Business Properties Association  
California Chamber of Commerce  
California Credit Union League  
California Financial Services Association  
California Grocers Association  
California Land Title Association  
California Manufacturers & Technology  
Association  
California Mortgage Bankers Association

California Trucking Association  
Consumer Data Industry Association  
Consumer Technology Association  
Electronics Transactions Association  
Insights Association  
Internet Association  
Internet Coalition  
MPA – The Association of Magazine Media  
Pacific Association of Domestic Insurance  
Companies  
Securities Industry and Financial Markets  
Association  
Silicon Valley Leadership Group  
TechNet  
Technology Industry Association of California

cc: Legislative Affairs, Office of the Governor  
Edmundo Cuevas, Office of Assemblymember Chau  
Consultant, Senate Governmental Organization Committee  
Richard Paul, Senate Republican Caucus