July 3, 2017

The Honorable Richard Pan
Chair, Senate Public Employment and Retirement Committee
State Capitol
Sacramento, CA 95814

RE: Assembly Bill 1603 (Ridley-Thomas) – Oppose [As Introduced February 17, 2017]
Hearing Date: July 10, 2017 – *Senate Public Employment and Retirement Committee*

Dear Senator Pan:

The California Special Districts Association (CSDA), and the California State Association of Counties (CSAC) respectfully oppose your Assembly Bill 1603, which would expand the definition of "public employee" in the Meyers-Milias-Brown Act (MMBA) to include persons jointly employed by a public agency and private employer, allow jointly employed individuals employers to join a union bargaining unit without the approval of their employers, and place private employers under the regulatory jurisdiction of the Public Employee Relations Board (PERB) without their consent.

The bill analysis for the Assembly Public Employees, Retirement, and Social Security Committee states that AB 1603 "[c]odifies a ruling by the National Labor Relations Board (NLRB) related to joint employment relationships." However, this is simply not the case. The NLRB decision related to joint employers in *Miller and Anderson* and *Sturgis* applied to private employers. In contrast, AB 1603 only applies to public employers and those private employers that contract with them to provide joint employees. There is an apparent confusion of the regulation jurisdiction for public and private employees. The PERB has regulatory jurisdiction over public employers, not private employers, whereas under federal law, the NLRB has jurisdiction over private employers, not public employers. By seeking to regulate the labor relations of private employers subject to the NLRB's jurisdiction, the provisions of AB 1603 are pre-empted by federal law. In addition, AB 1603 would have a damaging effect the bill would have on joint employer relationships between public and private employers.

Additionally, the decision in *Miller and Anderson* reversed years of established case law and was a controversial decision that is anticipated to be overturned in the near future under a reorganized NLRB. California should not put new and controversial PERB regulations that governs both private and public employers, in statute that include elements of a decision that did not apply to public employers and is likely to be overturned.

Furthermore, regardless of the fact that AB 1603 is pre-empted by federal law, the impacts of AB 1603 would drastically alter current collective bargaining practices. Should temporary employees, that are employed by a private entity, choose to join public employee unions, public agencies may be forced to invite the temporary employees' employer (temporary agency) to participate in collective bargaining discussions with employee representatives. This would grant private employers the ability to have decision making authority over wages and salaries of public employees, a right belonging solely to public employers under Article XI of the California Constitution.

It is for these reasons that CSDA and CSAC are opposed to AB 1603. Please don't hesitate to contact Dillon Gibbons at 916-442-7887 or Dorothy Johnson at 916-650-8133 if you should have any questions about our position.

Sincerely,

Dillon Gibbons
California Special Districts Association

Dorothy Johnson
California State Association of Counties

CC: The Honorable Sabastian Ridley-Thomas
Members, Senate Public Employment and Retirement Committee
Glenn Miles, Chief Consultant, Senate Public Employee and Retirement Committee
Scott Seekatz, Consultant, Senate Republican Caucus
Camille Wagner, Legislative Affairs Secretary, Office of Governor Brown