



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 8/28/2017

Agenda Placement: 7B

Napa County Legislative Subcommittee Board Agenda Letter

TO: Napa County Legislative Subcommittee

FROM: Molly Rattigan for Minh Tran - Interim County Executive Officer
County Executive Office

REPORT BY: Michael Karath, Staff Assistant - BOS - 299-1477

SUBJECT: AB 1603 - Collective Bargaining for Workers Jointly Employed by Public and Private Entities

RECOMMENDATION

CEO Office seeks an oppose position, as per the Napa County Health and Human Services director, on AB 1603 (Ridley-Thomas) that seeks to authorize collective bargaining for temporary workers employed jointly by public and private entities.

EXECUTIVE SUMMARY

AB 1603 (Ridley-Thomas) seeks to 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 (temporary workers), 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.

According to the Napa County Director of Health and Human Services (HHSA), AB 1603 will increase the HHSA's cost of doing business, leading to a decrease in overall service provided. Napa County HHSA, for example, contracts with four physicians to provide part-time services: one as the EMS Medical Director (with a second EMS physician as backup), the other as the California Children's Services/Maternal Child and Adolescent Health Medical Consultant, and another as a physician consultant for the Medical Therapy Program. The HHS Director has concerns that AB 1603 introduces opportunities for collective bargaining for contract physicians that can potentially increase the costs of doing business, if they are able to successfully bargain and advocate for increased pay through this process.

CSAC: Oppose

RCRC: Pending

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

AB 1603 bill attempts to address the growing use of temporary (temp) employees in public agencies by enabling temp employees to join bargaining units together with their permanent employee colleagues.

Because temp employees are officially employed by private employers (i.e. temp agencies but also referred to as "the supplier employer") there is ongoing dispute between employer and employee representatives whether they can be organized in a bargaining unit with the public employees with whom they work and whether consent of both the temp agency and the public agency employer (also referred to as the "user employer") is required before a union can organize them into a bargaining unit.

This bill authorizes unions to organize and represent temp employees contracted through temp agencies and used by public agency employers alongside permanent public employees by clarifying that consent to form appropriate bargaining units of the "joint employers" (i.e., the supplier employer and the user employer) is not required under the Meyers-Milias-Brown Act (MMBA). The bill would accomplish this by authorizing the grouping of temp employees and permanent employees in the same bargaining units, as specified.

In addition to increased costs borne by counties, there is a legal question that clouds AB 1603. The California Public Employee Relations Board (PERB) has regulatory jurisdiction over public employers, not private employers, whereas under federal law, the National Labor Relations Board (NLRB) has jurisdiction over private employers, not public employers. Opponents claim that because AB 1603 represents an attempt by the State to regulate the labor relations of private employers that are subject to the jurisdiction of the NLRB, AB 1603 is thus preempted under long-settled federal labor law, and cannot be properly enacted, much less enforced.

CSAC: Oppose
RCRC: Pending

SUPPORTING DOCUMENTS

- A . AB 1603 - BILL TEXT - collective bargaining for jointly employed workers
- B . AB 1603 - CSAC-CSDA Oppose Letter - collective bargaining; jointly employed
- C . AB 1603 - SENATE ANALYSIS - collective bargaining; jointly employed

Recommendation: Approve

Reviewed By: Molly Rattigan