

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
ACA 14 (Gonzalez) – As Amended June 13, 2019

Policy Committee: Labor and Employment Vote: 7 - 0

Urgency: State Mandated Local Program: No Reimbursable: No

SUMMARY:

This measure requires the Regents of the University of California (UC) to ensure contract workers paid to perform support services are provided equal employment opportunity standards provided to comparable university employees. Specifically, this constitutional amendment:

- 1) Requires UC to ensure same or equal employment opportunity standards for contract workers hired to perform support services for students, faculty, patients or the general public at any campus, dining hall, medical center, clinic, research facility, laboratory or other university location.
- 2) Defines “equal employment opportunity standards” to include the following: the right to be free from discrimination in the workplace, direct employment by the university and equal pay and benefits as university employees performing similar services.
- 3) Allows UC to contract for support services only if authorized by statute and for only limited specified exceptions.

FISCAL EFFECT:

- 1) One-time GF costs to the Secretary of State (SOS) in the hundreds of thousands of dollars for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.
- 2) Ongoing GF cost pressures to the UC, possibly in excess of \$150 million, to insource service contracts or to meet the employment standards set forth in this measure. These costs reflect the higher salary and benefit costs of UC employees relative to those hired under service contracts, though specific costs are subject to uncertainty (see comment #5).

COMMENTS:

- 1) **Background.** In July 2015, the UC adopted a Fair Wage Fair Work Plan. Under the plan, the UC established a minimum level of pay for employees with the goal of reaching a minimum wage of \$15 per hour. In addition, the UC indicates it is implementing annual compensation audits and interim audits to monitor wage and working conditions and compliance with federal, state and UC workplace laws and policies.

In May 2016, the Joint Legislative Audit Committee directed the California State Auditor (CSA) to audit the UC's contracting policies and processes and compare compensation and benefits of UC employees with contracted employees. The audit, released in August 2017, provided various findings. It found UC has not fully followed its policy for justifying its decisions to displace university employees with services contract workers. In addition, it found low wage services contract workers received hourly wages that were \$3.86 lower than comparable university employees. It also found the university generally adhered to the Office of the President's contract policy, but it could make improvements, such as ensuring standard terms and conditions are included in services contracts.

- 2) **Purpose.** According to the author, ACA 14 will address the “economic disparities faced by outsourced, low-wage workers.” The author points out that, despite UC policies that aim to mitigate negative impacts, “the UC continues to show disregard for its own policies and institutes policies that have significant deficiencies.”
- 3) **Contracting restrictions through statute.** ACA 14 aims to improve employment standards for workers hired through a contract with UC. In doing so, it is part of a history of legislative efforts to ensure labor standards are not eroded through race-to-the-bottom contracting practices. For example, existing law establishes standards around when the state can contract out for personal services. These contracts may achieve cost savings only when conditions are met, including that the agency demonstrated the contract will result in cost savings and does not result in the displacement of civil service employees.
- 4) **Contracting restrictions through bargaining.** The collective bargaining process can also lead to restrictions on contracting out for services. For example, the bargaining agreement between UC and the patient care technical unit specifies UC will not contract out services solely on the basis of savings from lower pay and benefits when those services are typically performed by employees covered by the bargaining agreement. This agreement also allows contracting out in specified instances, such as when the UC needs to obtain special services and equipment not available internally.
- 5) **UC costs.** UC estimates the current costs of affected contracts to be approximately \$523 million, \$313 million of which are labor costs. UC estimates that, under ACA 14, these labor costs would increase by \$172 million. These cost estimates assume a wage and benefit premium for UC employees compared to outside employees performing similar work. The cost estimate also assumes these affected contracts have expired and are thus covered by ACA 14.

While UC will likely see increased costs under ACA 14, the above cost estimate is subject to uncertainty. On the one hand, there may be other additional costs associated with insourcing besides increased labor costs, such as the need to purchase new equipment that would otherwise be brought in through outside contractors. On the other hand, this cost estimate also assumes existing UC staff cannot absorb any of the work performed by these outside contracts or that there would not be some offsetting savings from moving away from profit-maximizing firms. Moreover, ACA 14's exemptions may limit the number of affected employees. For example, recent amendments include a blanket exemption for per diem university employees, and this exemption is drafted broadly enough to provide UC some additional flexibility.

- 6) **Recent legislation.** ACA 14 follows previous efforts to modify UC contracting practices. AB 2361 (Weber), of the 2017-18 Legislative Session, which would have required a contractor to provide UC with specified information for each active contract in order to qualify as the lowest responsible bidder, among other provisions, was vetoed by the Governor. SB 574 (Lara), of the 2017-18 Legislative Session, which would have changed contractor requirements for qualifying as the lowest responsible bidder for a UC contract, was vetoed by the Governor. SB 959 (Lara) and SB 276 (Lara), of the 2015-16 Legislative Session, were nearly identical so SB 574, were also vetoed by the Governor.

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