
THIRD READING

Bill No: AB 2441
Author: Kalra (D)
Amended: 6/2/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/1/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 50-18, 4/21/22 - See last page for vote

SUBJECT: Public employment: local public transit agencies: new vehicle technology

SOURCE: California Conference Board of the Amalgamated Transit Union
California Teamsters Public Affairs Council

DIGEST: This bill requires public transit districts to notify their employees' unions of the district's determination, as specified, to initiate any procurement process or plan to acquire or deploy new vehicle technology for public transit services not less than 12 months before commencing the process, plan, or deployment and establishes a procedure to, upon written request from the union, provide specified reports and engage in collective bargaining regarding the plan.

ANALYSIS:

Existing law:

- 1) Establishes transit districts pursuant to various sections of the Public Utilities Code (PUC) for the purpose of providing public transportation services. However, cities, counties, and other local governmental entities may also establish transit agencies pursuant to their local authority under the Government Code or local charter. (PUC §§ 24501 through §§ 107025).

- 2) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights. (29 United State Code § 151 et seq.)
- 3) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Meyers-Milias-Brown Act (MMBA) which provides for public employer-employee relations between local government employers and their employees, including some, but not all public transit districts. (Government Code § 3500 et seq.)
- 4) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles, respectively, local alternatives to PERB oversight. (GC § 3541)
- 5) Does not cover California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, many transit agencies are instead still subject to labor relations provisions found in each district's specific PUC enabling statute, in joint powers agreements, or in articles of incorporation and bylaws. (e.g., Public Utilities Code § 28500)
- 6) Provides transit employees not under the MMBA with basic rights to organization and representation, but does not define or prohibit unfair labor practices. Unlike other California public agencies and employees, these transit agencies and their employees generally rely upon the courts to remedy alleged violations unless otherwise provided in their enabling statute. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of

1947 (Taft-Hartley) and the 1964 Urban Mass Transit Act, now known as the Federal Transit Act. (PUC § 24501 et seq.; 49 United State Code § 5333 (b))

- 7) Provides that the following provisions shall govern disputes between exclusive bargaining representatives of public transit employees and local agencies not covered by the MMBA:
- a) The disputes shall not be subject to any fact-finding procedure otherwise provided by law.
 - b) Each party shall exchange contract proposals not less than 90 days before the expiration of a contract, and shall be in formal collective bargaining not less than 60 days before that expiration.
 - c) Each party shall supply to the other party all reasonable data as requested by the other party.
 - d) At the request of either party to a dispute, a conciliator from the California State Mediation and Conciliation Service shall be assigned to mediate the dispute and shall have access to all formal negotiations. (GC § 3611).

This bill:

- 1) Requires a public transit employer to notify the exclusive employee representative in writing of its determination to begin, or substantive progress toward initiating, any procurement process or plan to acquire or deploy any new vehicle technology for public transit services, as specified, not less than 12 months before commencing the process, plan, or deployment.
- 2) Provides that the required notification shall apply to any new vehicle technology for services, including automated vehicles, that eliminate job functions or jobs of the workforce to which the new vehicle technology will apply.
- 3) Provides that after the required notification and upon written request by the exclusive employee representative therefore, the public transit employer shall provide within 15 days of its next regular governing board meeting to the employee representative, the following information:
 - A comprehensive analysis of the effects of new products, services, or type of operation on workers, including workers who may not be adequately skilled in their use or may be fully displaced by them.
 - The potential gaps in skills that may result from the new service on the workers to which it will apply.

- The total amount budgeted for, and descriptions of, training and retraining programs for affected workers.
- 4) Requires a public transit employer, upon a written request from the affected employees' union, to engage in collective bargaining on the following subjects:
- Developing the new product or service.
 - Implementing the new product or service.
 - Creating a transition plan for affected workers.
 - Creating plans to train and prepare the affected workforce to fill new positions created by a new service or product.
- 5) States that no one shall deem this bill to supersede the employee representative's right for disclosure of information by the public transit employer pursuant to the California Public Records Act.
- 6) Prohibits anyone from construing this bill's provision as creating any labor requirements that are less protective of employees than any labor requirements created pursuant to statute or a collective bargaining agreement.
- 7) Provides that this bill's provisions are severable. If any provision or its application is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
- 8) Defines the following terms:
- "Autonomous technology" means technology that has the capability to drive a vehicle without the active physical control by a human operator.
 - "New vehicle technology" means the following:
 - Autonomous technology.
 - Camera and voice systems whose principal purpose is to replicate customer information services currently provided by a transit worker.
 - Other new technology that pertains directly to the operation of a vehicle and eliminates jobs or job functions of the workforce to which they apply.
 - Maintenance services, as specified.
 - "Plan to acquire or deploy" includes any public notification that initiates acquisition or deployment of new vehicle technology.
 - "Procurement process" means any of the following:
 - A request for information.
 - A request for proposal.

- A request for quotation.
- Any substantially similar request that begins the process of acquiring new equipment or technology.

Comments

Author's statement. According to the author:

Autonomous technologies and other products that may displace workers are enticing to transit agencies as it would allow them to save money on labor costs. However, transit employees play a critical role in facilitating a safe and smooth passenger experience for commuters and passengers across the state. In fulfilling non-driving responsibilities, workers can increase accessibility for riders with disabilities, elderly riders, riders who speak other languages, and even younger riders.

AB 2441 rightfully recognizes these technologies often come with impacts on the existing workforce that should be reviewed. While a transit agency may score a cost-savings in labor costs, the state must be vigilant in ensuring public safety and maintaining an adequate workforce.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/2/22)

California Conference Board of the Amalgamated Transit Union (co-source)
 California Teamsters Public Affairs Council (co-source)
 American Federation of State, County and Municipal Employees
 California Alliance for Retired Americans
 California Conference of Machinists
 California Labor Federation
 California State Legislative Board, Smart Transportation Division
 Engineers and Scientists of California, IFPTE Local 20
 International Union of Operating Engineers, California-Nevada Conference
 Transport Workers Union of America
 Unite Here
 Utility Workers Union of America

OPPOSITION: (Verified 6/2/22)

California Transit Association
 Monterey-Salinas Transit

ARGUMENTS IN SUPPORT: According to the California Teamsters Public Affairs Council:

AB 2441 is a comprehensive measure meant to restore and protect transit workers' voice in the implementation of new transit services, including automated vehicles. Regrettably, public transit employers have already begun to earmark dollars or show interest in the implementation of services that displace career-sustaining jobs across the industry. These new technologies may cut labor cuts in the short term but fail to recognize the importance transit employees play in facilitating a safe and smooth passenger experience for commuters and passengers across the state.

ARGUMENTS IN OPPOSITION: According to the California Transit Association:

We recognize the bill's intent is to require notification and potentially bargaining prior to the deployment of autonomous vehicles, and we believe language entirely focused on that specific technology should be the starting place for moving forward. That said, we will note that transit agencies routinely engage in collective bargaining with their employees and the Association believes that how employees are managed vis-à-vis autonomous vehicle deployment would be subject to those processes moving forward. The Meyers-Milius-Brown Act (Government Code 3500 et seq.) already requires that transit employers 'meet and confer in good faith regarding wages, hours, and other terms and conditions of employment' and that both parties are under an 'obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its final budget for the ensuing year.' Our member agencies consider worker displacement or loss of job function to be terms and conditions of employment that would trigger the meet and confer process; therefore, we argue this bill is unnecessary.

ASSEMBLY FLOOR: 50-18, 4/21/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos,

Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago,
Stone, Ting, Villapudua, Ward, Akilah Weber, Wilson, Wood, Rendon
NOES: Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley,
Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel,
Waldron
NO VOTE RECORDED: Bennett, Bigelow, Calderon, Chen, Cooley, Cooper,
Gray, McCarty, Wicks

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6/3/22 9:49:15

**** END ****