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**SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**  
**Senator Dave Cortese, Chair**  
**2021 - 2022 Regular**

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<b>Bill No:</b>	AB 2524	<b>Hearing Date:</b>	June 22, 2022
<b>Author:</b>	Kalra		
<b>Version:</b>	March 24, 2022		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Glenn Miles		

**SUBJECT:** Santa Clara Valley Transportation Authority: employee relations

**KEY ISSUE**

Should the Public Employment Relations Board (PERB) have jurisdiction over labor disputes between the Santa Clara Valley Transportation Authority (VTA) and its employees?

**ANALYSIS**

**Existing law:**

- 1) 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.).
- 2) 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.)
- 3) Establishes 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)
- 4) 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 Public Utilities Code (PUC) enabling statute, in joint powers agreements, or in articles of incorporation and bylaws. (e.g., Public Utilities Code § 28500)

- 5) Vests PERB with jurisdiction over unfair practice (ULP) charges for the Orange County Transit District Authority (OCTDA), the San Francisco Bay Area Rapid Transit District (BART), and the Sacramento Regional Transit District (SacRT). (PUC §§ 40122.1 and 40122.2, § 28848 – § 28863; and § 102398 – § 102418)
- 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 must rely upon the courts to remedy alleged violations. 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).
- 8) Authorizes the VTA through the Santa Clara Valley Transportation Act (SCVTA), which includes provisions governing labor relations between VTA and its employees and which provides for labor organization representation, unit determination, collective bargaining, and retirement benefits. (PUC § 100000 et seq.)

**This bill:**

- 1) Makes it a primary purpose of SCVTA to promote the improvement of personnel management and employer-employee relations within VTA by providing a uniform basis for recognizing the right of employees to join employee organizations of their own choice, to be represented, to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to afford employees a voice at work.
- 2) Grants PERB jurisdiction to enforce and apply its regulations to this bill's provisions; requires PERB to perform its duties consistent with its regulations; and authorizes it to make additional regulations.

- 3) Authorizes PERB to adopt, amend, or repeal all rules and regulations necessary to carry out the bill's provisions as emergency regulations in accordance with the Administrative Procedure Act.
- 4) Provides that there is a conclusive presumption that the adoption, amendment, or repeal of regulations is necessary for the immediate preservation of the public peace, health, safety, or general welfare, as specified.
- 5) Retains the Government Code's exclusive, transit district impasse resolution and injunctive relief procedures (GC § 3610 et seq.) and states that the bill does not displace, or supplant them.
- 6) Grants PERB jurisdiction over ULP charges for VTA employees represented by an exclusive representative, but only after the exclusive representative consents, which it may do by serving a written notice on VTA.
- 7) Grants PERB jurisdiction over the initial determination that a ULP charge is justified and, if so, the appropriate remedy except that PERB may not award strike-preparation expenses as damages in an action to recover damages due to an unlawful strike nor damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike.
- 8) Requires VTA to give reasonable written notice to an exclusive representative of its intent to make any change to matters within the scope of representation of the employees represented by the exclusive representative for purposes of providing the exclusive representative a reasonable amount of time to negotiate with VTA regarding the proposed changes.
- 9) Makes legislative findings and declarations that a special statute is necessary and that the Legislature cannot make a general statute applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need of the Santa Clara Valley Transportation Authority to efficiently and cost-effectively adjudicate ULP complaints.
- 10) Requires that state mandated costs, if any, be reimbursed according to the Commission on State Mandates process pursuant to Government Code § 17500 et seq.

## COMMENTS

### 1. Need for this bill?

According to the author:

“Public employees have collective bargaining rights and the ability to resolve employer-employee conflicts through the Meyers-Milias Brown Act (MMBA) and/or the Public Employment Relation Board (PERB). VTA is not covered under the MMBA or included in PERB's jurisdiction. Therefore, when they seek resolution to unfair labor practices (ULP), they must file a writ with the Superior Court of jurisdiction requesting a judge to review the ULP complaint. The dispute is then assigned to a judge that may or may not have knowledge of or experience with public employer-employee relations or public labor law. The courts,

already overburdened and underfunded, can take years to resolve a conflict, contributing to workplace tensions.”

## 2. Proponent Arguments

According to the American Federation of State, County and Municipal Employees:

“PERB is a more timely, accessible, and labor-focused venue to resolve any future ULP conflicts that may arise. Transit agencies should have access to the same well-regarded employer-employee conflict resolution process as most California public employees. Assembly Bill 2524 permits VTA employee organizations to move to the jurisdiction of PERB for ULP complaints. In moving to PERB, VTA will join Orange County Transportation Authority, Bay Area Rapid Transit and Sacramento Regional Transit.”

## 3. Opponent Arguments:

According to VTA:

“Presently, VTA resolves unfair labor practice (ULP) complaints through productive and collaborative relationships with all its unions. Most disputes are resolved without resort to legal processes. For those issues that cannot be resolved informally, the unions have the ability to invoke their contractual dispute resolution processes (grievance procedures) for disputes covered by their collective bargaining agreements or to file court actions for any unfair labor practice allegations not covered by the contracts. These processes have afforded both parties efficient and effective dispute resolution mechanisms for many years. The addition of PERB oversight adds a layer of administrative review not needed in the labor-management relationships at VTA. As such, we strongly disagree with the author’s premise as put forth in the bill *‘a special statute is necessary...because of the unique need of the Santa Clara Valley Transportation Authority to efficiently and cost-effectively adjudicate unfair labor practice complaints.’*”

## 4. Dual Referral:

The Senate Rules committee referred this bill to both the Senate Labor, Public Employment and Retirement committee and the Senate Judiciary committee for consideration.

## 5. Prior/ Related Legislation:

SB 975 (Laird, 2022) would transfer jurisdiction over ULP charges involving the Santa Cruz Metropolitan Transit District from the judicial system to PERB. This bill is pending consideration in the Assembly Public Employment and Retirement Committee.

SB 598 (Pan), Chapter 492, Statutes of 2021, provided exclusive employee organizations the option of transferring jurisdiction over unfair labor practices for their represented bargaining units within SacRT from the judicial system to PERB.

AB 2850 (Low), Chapter 293, Statutes of 2020, granted PERB jurisdiction over disputes relating to employer-employee relations between BART and its employees.

AB 355 (Daly), Chapter 713, Statutes of 2019, required OCTDA and its employees to adjudicate ULP charges before PERB.

AB 2305 (Rodriguez, 2018) would have extended PERB's jurisdiction to include disputes between public agencies and peace officer employee organizations, excluding those under the City and County of Los Angeles employee relations commissions' jurisdiction and disputes between public agencies and individual peace officers, as specified. The Governor vetoed this bill, reasoning:

“Over the years, the Legislature has expanded the Board's jurisdiction, but the necessary funding for the increased workload has not kept pace. This has resulted in significant backlogs at the Board – both labor and employers have complained about this problem. This Administration has recently increased the Board's funding to help correct this problem. The Board's jurisdiction should not be expanded again until the Board's ability to handle its previously expanded caseload is established.”

AB 2886 (Daly, 2018) would have transferred jurisdiction over ULP disputes for the Orange County Transit District Authority and San Joaquin Regional Transit District from the judicial system to the PERB, effective January 1, 2020. The Governor vetoed this bill for the same reason as AB 2305 (Rodriguez, 2018).

AB 530 (Cooper, 2017) would have extended PERB's jurisdiction to include Penal Code Section 830 peace officers; authorized a peace officer or labor union representing these peace officers to bring certain actions in court and, excluded employers and employees of the City and County of Los Angeles from its provisions. The Governor vetoed this bill, stating:

“This bill authorizes peace officers to bring unfair practice charges to the Public Employment Relations Board while preserving their existing right to directly petition a superior court for injunctive relief. No other group has both of these rights and I'm unconvinced that providing such a unique procedure is warranted.”

AB 3034 (Low, 2018) would have placed BART supervisory, professional, and technical employee units under the MMBA; thereby, granting them certain statutory rights related to the employer-employee relationship. The Governor vetoed this bill for the same reason as AB 2305 (Rodriguez, 2018) and AB 2886 (Daly, 2018).

### **SUPPORT**

American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO (Sponsor)  
California State Legislative Board, Smart - Transportation Division  
International Federation of Professional and Technical Engineers Local 21  
Service Employees International Union Local 1021  
Service Employees International Union Local 521

### **OPPOSITION**

Santa Clara Valley Transportation Authority

**-- END --**