

CONCURRENCE IN SENATE AMENDMENTS
AB 615 (Rodriguez)
As Amended July 7, 2021
Majority vote

SUMMARY

Requires a higher education employer to provide a procedure for medical and dental interns, residents, and other identified employees to challenge a termination of employment or a disciplinary action, among other provisions.

Senate Amendments

- 1) Modify the definition of "academic or clinical matters," as previously passed by the Assembly, relating to the prohibition on termination of employment or disciplinary action that are excluded from the scope of representation.
 - a) As previously passed by the Assembly, "academic or clinical matters" was defined to mean those matters that relate to an employee's acquisition of core competencies and the development of the clinical skills necessary to function at the level of the employee's credential for licensure, practice, or board certification in the academic discipline or medical specialty.
 - b) As amended in the Senate, "academic or clinical matters" is now defined to mean those matters that relate to whether the employee has developed the practice based learning and improvement, patient care and procedural skills, systems-based practice related to medical judgment, and medical knowledge competencies that are necessary to function at the current level of training, advance to the next level of training, or be assessed as eligible for graduation and board certification.
- 2) Establish that for matters submitted to arbitration, the arbitrator does not have authority to order a higher education employer to advance an employee or trainee to the next level of training, or attest that an employee or trainee is eligible for graduation or board certification.

COMMENTS

Please see the policy committee analysis for a full discussion of this bill.

According to the Author

"Currently, residents, interns and fellows (hereafter residents) can be disciplined and terminated for a matter not directly related to academic or clinical performance. Statute does not provide due process to certain medical and dental residents and trainees employed by public institutions of higher learning. [This bill] would provide that due process, while at the same time still afford the higher education employer the ability to discipline."

The author further states that, "Medical residents and interns employed by a publicly funded university lack basic due process rights that other public employees have. This oversight has left them subject to unfair disciplinary actions and even termination. Assembly Bill 615 would afford these residents and interns an impartial review of termination and disciplinary matters, thereby providing them due process. Particularly at a time when these health professionals are over worked and sacrificing so much, it is necessary to provide a basic level of fairness to them."

Arguments in Support

The California State Council of the Service Employees International Union (SEIU California) states that, "[m]any hospitals throughout California and the United States have due process review before an impartial hearing officer for their resident and intern physicians. Nationally, there were 15 discipline/termination arbitration cases impacting medical residents and interns over a 20 year period. We know these matters are infrequent but the impartial due process is available when necessary. UC already has due process before an impartial hearing officer for all other employees so they are familiar with the process and already have established procedures in place. Their long-established human resources/labor relations departments handle these matters and are very familiar with the grievance and arbitration processes."

In addition, SEIU California states that, "[c]alifornia's resident and intern physicians employed by the UC system do not enjoy the same due process rights as other public employees, including others employed by UC. This discrimination has left resident and intern physicians particularly exposed to unfair disciplines and terminations without the impartial consideration such a decision warrants. These resident and intern physicians are particularly vulnerable – competition is steep and without completion of a residency these physicians are unable to practice medicine in California. Assembly Bill 615 is neither radical nor a departure from current law. It simply provides an impartial review of disciplinary and termination matters that are unrelated to academic or clinical matters. There is no reason to continue to deny medical residents the equal treatment that is afforded to other public employees."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee, "[t]he UC indicates that it would incur annual ongoing General Fund (GF) costs ranging from \$500,000 to \$1.5 million, depending on the number of disciplinary cases that go to arbitration. Additionally, the bill would result in a one-time cost in the hundreds of thousands of dollars to UC for changes to policies and procedures (GF)."

VOTES:**ASM PUBLIC EMPLOYMENT AND RETIREMENT: 5-2-0**

YES: Cooper, Calderon, Cervantes, Cooley, O'Donnell

NO: Voepel, Seyarto

ASM APPROPRIATIONS: 12-4-0

YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

NO: Bigelow, Megan Dahle, Davies, Fong

ASSEMBLY FLOOR: 58-15-5

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, 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, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Voepel

ABS, ABST OR NV: Flora, Irwin, Maienschein, Smith, Valladares

SENATE FLOOR: 30-7-3

YES: Allen, Archuleta, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener

NO: Bates, Dahle, Grove, Jones, Melendez, Nielsen, Wilk

ABS, ABST OR NV: Glazer, Hertzberg, Stern

UPDATED

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