

Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 1364 (Durazo) – As Amended June 14, 2022

Policy Committee:	Judiciary	Vote:	8 - 2
	Labor and Employment		5 - 2

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill enforces pay standards between the University of California (UC) and a contracted vendor performing services or supplying UC with service employees.

Specifically, this bill:

- 1) Prohibits a vendor from accepting over \$1,000 in payment for prescribed services, if the vendor's employees are paid less than the total compensation rate specified in the vendor's contract or UC policy.
- 2) Requires the vendor to annually provide employees with a prescribed written notice related to their employees' compensation in comparison to UC policy and to provide, twice yearly, UC and the exclusive representative of UC employees performing the same or similar services with basic payroll information for the vendor's employees. The vendor must also make an individual employee's basic payroll information available for inspection by that employee, upon request of that employee or their authorized representative.
- 3) Authorizes a UC employee or vendor employee to provide a vendor with written notice of a violation of this bill's provisions, which the vendor must have the opportunity to correct and cure, as well as provide documentation within 30 days that the vendor's employees have been made whole, prior to the employee being able to file suit. Remedies for violations include civil penalties, restitution and attorney's fees for prevailing claimants and disqualification of the vendor, for a minimum of five years, from submitting any bid to the UC or renewing any contract.

FISCAL EFFECT:

- 1) Ongoing costs of at least tens of millions of dollars annually to UC to cover vendors' cost of compliance and exposure to litigation and penalties as a result of this bill, likely offset to a minor extent by potential penalty revenue.

UC is generally prohibited from contracting for services, but contracted services are allowed to meet exigent circumstances, with vendors required to pay their employees wage and benefit parity alongside UC employees. However, UC notes its existing policies only cover specified services and contracts valued over \$100,000, whereas this bill applies to all types of contracts valued over \$1,000. Thus, UC expects vendors willing to continue contracting would negotiate a premium to cover the cost of compliance and exposure to litigation and

penalties. Additionally, contracts with vendors not currently subject to UC's existing policies would need to be renegotiated for wage and benefit parity. Lastly, to the extent vendors are no longer willing to service UC, especially at UC's medical centers, UC anticipates significant costs to insource temporary or specialty services. (General Fund (GF))

- 2) GF or Trial Court Trust Fund (TCTF) cost pressures of an unknown, but potentially significant, amount to the courts in additional workload, by creating a new cause of action and penalties for violation of this bill's provisions. The estimated workload cost of one hour of court time is \$1,000. If additional 10 cases are filed statewide resulting in 20 hours of court time for each case, costs would be approximately \$200,000. Although courts are not funded on the basis of workload, increased pressure on the TCTF and staff workload may create a need for increased funding for courts from the GF to perform existing duties.

COMMENTS:

- 1) **Purpose.** According to the author:

[This bill] creates a fair enforcement mechanism of requiring a vendor to supply to UC and any joint labor-management committee the basic payroll information necessary to know if a vendor is abiding by UC policy. The bill would require a vendor to supply a written notice to their employees about the relevant compensation rates and would allow a contracting vendor company an opportunity to cure any discrepancies before facing any consequence. However, refusal to comply would result in employees having the right to pursue recovery of lost wages in court, and the disqualification of a violating company from doing business with UC for a five-year period.

- 2) **Support and Opposition.** This bill is supported by various labor organizations, including UC's largest employee union, AFSCME Local 3299, which argues that although UC's Equal Pay for Equal Work policy requires service contractors to pay wages and benefits equal to what UC pays its own service workers, "UC has acknowledged in writing its inability to effectively enforce that policy."

This bill is opposed by UC, regional business groups and hospital associations. UC argues this bill "would place significant financial and legal risks, and unrealistic administrative burdens, on vendors who contract with UC in the name of wage and benefit parity" and "mandates blacklisting vendors for at least five years, even for minor or technical violations."

- 3) **Equal Pay for Equal Work.** UC is one of California's largest employers, with approximately 227,000 faculty and staff system-wide. In 2019, UC Regents adopted Regents' Policy 5402, which generally prohibits UC from contracting out for services and functions that University staff could perform just as well, except under "exigent and limited circumstances." Policy 5402 also mandates any outside contracts adhere to an "Equal Pay for Equal Work" standard. This bill provides an enforcement mechanism to ensure UC compliance with Policy 5402.
- 4) **Prior Legislation.** ACA 14 (Gonzalez), of the 2019-20 Legislative Session, would have limited contract services at UC and required UC to ensure all contract workers are afforded

the same equal employment opportunity standards as UC employees performing similar services. ACA 14 failed passage on the Senate Floor.

SB 574 (Lara), of the 2017-18 Legislative Session, would have modified contractor requirements at UC, including establishing thresholds for employee compensation. SB 574 was vetoed by Governor Brown, stating:

After twice vetoing prior attempts, I am tempted to sign this measure, for no other reason than it is a well-intentioned bill that seeks to improve the financial security of contracted workers, or, alternatively, expand direct employment at the UC for lower wage workers...

Good intentions, however, aren't always enough. The mechanism to create this social change locks in cumbersome and over costly contracting rules that provide little flexibility, regardless of circumstance. This will not serve the university or the state well.

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