

CONCURRENCE IN SENATE AMENDMENTS

AB 1 (McKinnor, et al.)

As Amended September 8, 2023

Majority vote

SUMMARY

Establishes the Legislature Employer-Employee Relations Act (LEERA) for the purpose of promoting full communication between employees of the Assembly and Senate, respectively, and their employers by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment through a prescribed process for representation and collective bargaining, among other provisions.

Senate Amendments

- 1) Clarify the powers, duties, and limitations of the Public Employment Relations Board (PERB) administering the LEERA by prohibiting the PERB from intruding upon or interfering with the Legislature's core function of efficient and effective lawmaking, or the essential operation of the Legislature, including when issuing any decision or order that intrudes upon the Legislature's core function.
- 2) Exclude the following matters from the scope of representation, thereby making them not subject to collective bargaining:
 - a) Those relating to the qualifications, elections, or the holding of office, of Members of the Legislature;
 - b) Those relating to the Legislature or each house thereof choosing its officers, adopting rules for its proceedings, selecting committees necessary to conduct its business, considering or enacting legislation, or otherwise exercising the legislative power of the state;
 - c) Those relating to legislative calendars, schedules, and deadlines; and,
 - d) Those relating to laws, rules, policies, or procedures regarding ethics or conflicts of interest.
- 3) Clarify by making applicable changes to use of the terms "employee," employer," or "Legislature," where appropriate.
- 4) Add that the employer has sole and exclusive authority to designate employees as department or office leaders, confidential employees, or employees whom are excluded from LEERA coverage (i.e., "excluded employees"); except however, such employees must not collectively exceed one-third of the total employee positions authorized by the employer.
- 5) Expressly establish that the LEERA does not affect the authority of each house of the Legislature and its committees to hold closed meetings consistent with existing law, as provided.
- 6) Exempt speech and deliberations from unfair labor practice claims, as provided.

- 7) Exempt from public inspection, records relating to LEERA-governed activities that reveal the employer's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work product, theories, strategies, or that provide instruction, advice or training to employees who do not have full collective bargaining and representation rights under the LEERA.
- 8) Maintain by expressly providing that employees of the Legislature are exempt from the state civil service pursuant to the California Constitution, and add that a memorandum of understanding entered into between an employer and recognized employee organization must not prohibit the employer from separating an employee if the Member to whom the employee is assigned is not reelected, resigns, or otherwise departs from the employer.

Further, provisions added require the employer to provide a transition period for an employee if the Member departs or otherwise does not return to the Legislature, as provided; that the terms of the transition period may include, but are not limited to, length of time or opportunities to apply for vacancies with the employer, and that such matters are within the scope of representation subject to collective bargaining.

- 9) Add a legislative finding and declaration regarding public access to meetings of public bodies and their writings and the need to protect the purposes and interests served by the LEERA.

- 10) Make this bill operative on July 1, 2026, among other changes for these purposes.

COMMENTS

Please see each of the various policy and fiscal committee analyses for a full discussion of this bill, and the Assembly Concurrence in Senate Amendments analysis of Assembly Bill 504 (Reyes, 2023), as amended in the Senate on September 7, 2023.

According to the Author

"Our staff aren't looking for special treatment. They are looking for the same dignity and respect afforded to all workers. It is hypocritical as legislators that we ask our employees to staff committees and write legislation that often expands collective bargaining rights for other workers in California, but we intentionally prohibit our own workers from that same right."

Arguments in Support

Generally, supporters of this bill state, among other things, that "[i]n any workplace, an imbalance of power leaves workers with little to no recourse to make their voice heard. In recent years, various events, including the #MeToo Movement and the COVID-19 pandemic, have shed a spotlight on legislative employees' fear of retribution for voicing workplace concerns and their lack of tangible workplace protections in statute due to their at-will status. [This bill] will grant employees of the Legislature agency over the decision to form and join a union without fear of retaliation, and have a collective voice over their working conditions and protections in the workplace."

Arguments in Opposition

None.

FISCAL COMMENTS

The Senate Appropriations Committee states that this bill would result in the following:

- 1) Administrative costs to the Public Employment Relations Board (PERB) for the current version of the bill have yet to be identified (General Fund).
- 2) This bill would result in annual costs to the Legislature to establish and maintain labor and employee relations functions (General Fund). Additionally, to the extent that the bill results in salary or benefits increases resulting from collective bargaining, it could lead to increased ongoing employment costs. However, under the Constitution, the Legislature's annual spending is capped; consequently, the costs resulting from this bill could not be accommodated through budgetary increases relative to current law, and thus would likely displace existing workload and spending.

Additional comments by the Senate Appropriations Committee state that, "[t]his bill would impose new spending requirements on the Legislature resulting from collective bargaining, including (1) negotiating the MOUs, (2) administering the contracts, (3) ensuring the Legislature remains in compliance, (4) training Members and management, and (5) responding to grievances. Specific costs resulting from the bill would, among other factors, depend on the number of bargaining units formed.

"Unlike other state departments whose budgets increase annually (subject to the budget process) in response to rising caseloads and additional workload, the Legislature's ability to spend is constrained. Specifically, Proposition 140 (1990), among other things, set an annual cap on the amount of money that may be spent to support the Legislature's operations (for example, legislator and staff salaries, travel, and communications). This cap changes annually based on growth in the State's economy and population, and is completely outside the Legislature's control. Thus, this bill would impose new spending requirements on the Legislature, but not provide new resources to accommodate the additional spending. Any local government costs resulting from the mandate in this measure are not state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime."

VOTES:

ASM PUBLIC EMPLOYMENT AND RETIREMENT: 6-1-0

YES: McKinnor, Lackey, Addis, Haney, Stephanie Nguyen, Schiavo

NO: Vince Fong

ASM APPROPRIATIONS: 12-3-1

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Weber, Ortega

NO: Megan Dahle, Dixon, Sanchez

ABS, ABST OR NV: Robert Rivas

ASSEMBLY FLOOR: 68-5-7

YES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Davies, Flora, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty,

McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO: Megan Dahle, Dixon, Vince Fong, Gallagher, Sanchez

ABS, ABST OR NV: Aguiar-Curry, Essayli, Mathis, Papan, Jim Patterson, Ta, Wallis

UPDATED

VERSION: September 8, 2023

CONSULTANT: Michael Bolden / P. E. & R. / (916) 319-3957

FN: 0002416