

Date of Hearing: May 8, 2024

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 2404 (Lee) – As Amended March 21, 2024

Policy Committee:	Public Employment and Retirement	Vote:	5 - 1
	Judiciary		8 - 2

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

SUMMARY:

This bill establishes and protects the right of public employees, except specified peace officers and emergency responders, to engage in sympathy strikes.

Specifically, this bill prohibits public employers from disciplining or otherwise engaging in any adverse action against an employee for their refusal to enter the site of a labor dispute, perform work for an employer involved in a labor dispute, or cross a picket line. The bill also prohibits a public employer from directing a public employee to engage in these activities. In addition, this bill expressly authorizes a recognized employee organization to inform employees of these rights, and to encourage employees to exercise these rights. The bill voids any provision in a public employer policy or collective bargaining agreement that limits or waives these rights. Finally, this bill specifies that its provisions do not alter existing law related to strikes by essential employees as set forth in judicial and Public Employee Relations Board decisions.

FISCAL EFFECT:

Unknown, though potentially significant, General Fund and special fund costs related to overtime, contracting, and other mechanisms that would need to be used to keep public services functioning during a sympathy strike, according to the California Department of Human Resources.

According to the Legislative Analyst's Office, the General Fund faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

COMMENTS:

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

Contract clauses that prohibit workers from exercising the right to honor picket lines go against the values and public policy of the state. The right to honor a picket line is not just a democratic right, it is a matter of conscience for many Californians. It is a choice that people make according to what they believe is morally right. In light of recent employer actions, California needs to ensure public employees' right to honor and support strikes.

- 2) **Background.** Most public employees, with the exception of peace officers and emergency responders, have the right to strike absent a contractual prohibition. Any disciplinary or adverse action taken against a striking worker, including a worker engaged in a sympathy strike, is already generally unlawful.

In 2022, during a large strike at the University of California (UC), members of unions not affiliated with UC were able to cease work at the UC during the strike, but certain UC workers represented by other campus unions were required to continue to work at UC. This was because these workers had clauses in their UC contracts preventing sympathy strikes.

This bill would prohibit the practice of preventing public employees from engaging in sympathy strikes.

- 3) **Opposition.** A coalition of entities, including the League of California Cities and the California Association of Joint Powers Authorities, oppose this bill. They collectively write:

State laws governing collective bargaining are in place to ensure a fair process for both unions and public entities. AB 2404 would upend the current bargaining processes which allow striking only in specified limited circumstances...Our organizations are not disputing the right of the employee organization to engage in the protected activity of striking. State law has created a framework for when unions can engage in protected strike activity that has been honored by local government and unions alike. Unfortunately, this bill would allow those who have not gone through the negotiation process to now refuse to work simply because another bargaining unit is engaging in striking.

The bill is also opposed by the UC Office of the President and the California State University (CSU) Chancellor's Office.

- 4) **Related Legislation.** AB 504 (Reyes) is very similar to this bill. AB 504 was vetoed by the Governor, who stated in his veto message that the bill had "the potential to seriously disrupt or even halt the delivery of critical public services, particularly in places where public services are co-located."

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