
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**Senator Dave Cortese, Chair****2023 - 2024 Regular**

Bill No: AB 96
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Urgency: No
Consultant: Glenn Miles

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Fiscal: No

SUBJECT: Public employment: local public transit agencies: autonomous transit vehicle technology

KEY ISSUE

Should the Legislature require public transit districts to notify, in writing, their employees' unions of the district's intention to begin any procurement process to acquire or deploy any autonomous transit vehicle technology for public transit services that would eliminate job functions or jobs of the workforce at least 10 months before beginning that procurement process?

ANALYSIS**Existing law:**

- 1) Establishes transit districts pursuant to various sections of the Public Utilities Code (PUC) for the purposes of providing public transportation services. However, cities, counties, and other local governmental entities may also establish transit agencies pursuant to their local authority under the Government Code or local charter. (PUC §§ 24501 through §§ 107025).
- 2) 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.)
- 3) 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.)

- 4) Establishes the Public Employment Relations Board (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)
- 5) 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 PUC enabling statute, in joint powers agreements, or in articles of incorporation and bylaws. (e.g., Public Utilities Code § 28500)
- 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 rely upon the courts to remedy alleged violations unless otherwise provided in their enabling statute. 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).

This bill:

- 1) Requires public transit districts to notify, in writing, their employees' unions of the district's intention to begin any procurement process to acquire or deploy any autonomous transit vehicle technology for public transit services that would eliminate job functions or jobs of the workforce at least 10 months before beginning that procurement process.

- 2) Provides that the bill's notification requirement does not supersede the union's right to disclosure of information by the public transit employer pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000)).
- 3) Requires, upon a written request by the union, that the public transit employer and the union commence collective bargaining within 30 days of the union's receipt of the notice by the employer of its intention to begin the procurement process.
- 4) Requires the union and the public transit employer to only bargain over the following subjects, or related mandatory subjects of bargaining:
 - Developing the new autonomous transit vehicle technology.
 - Implementing the new autonomous transit vehicle technology.
 - Creating a transition plan for affected workers.
 - Creating plans to train and prepare the affected workforce to fill new positions created by a new autonomous transit vehicle technology.
- 5) Makes the following definitions:
 - "Autonomous transit vehicle technology" means technology that has the capability to drive a vehicle without the active physical control by a human operator.
 - "Plan to acquire or deploy" includes any public notification that initiates acquisition or deployment of autonomous transit vehicle technology.
 - "Procurement process" means the issuance of a request for proposals, a solicitation of proposals, or a request for quotations.
 - "Public transit employer" means any local governmental agency, including any city, county, city and county, special district, transit district, or joint powers authority, that provides public transit services within the state.
 - "Public transit services" means the provision of passenger transportation services by the public transit employer to the general public, including paratransit service.
- 6) Specifies that the bill's provisions shall not be construed as creating any labor requirements that are less protective of employees than any labor requirements created pursuant to statute or a collective bargaining agreement.
- 7) Makes the bill's provisions severable and provides that if any provision or its application is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

COMMENTS

1. Need for this bill?

According to the author,

"There are no existing protections for transit workers who face displacement with the implementation of autonomous driving technology. Autonomous technologies that may

displace workers are enticing to transit agencies as it would allow them to save money on labor costs. Transit employees play a critical role in facilitating a safe and smooth passenger experience for commuters and passengers across the state. In fulfilling non-driving responsibilities, workers can increase accessibility for riders with disabilities, elderly riders, riders who speak other languages, and even younger riders.”

“As technology continues to advance, we do not need to leave workers behind. Workers deserve a seat at the table when it comes to major changes in their workplace. AB 96 will put workers and riders’ safety at the forefront of transitions to the future of work with autonomous technology in public transit.”

2. Committee Recommended Amendments

The bill language creates confusion regarding the timing between when the union can request bargaining over the employer’s intent to begin a procurement process and when the bargaining must commence. The committee recommends the following amendment:

3127. (a) Upon a written request by the exclusive employee representative, the public transit employer and exclusive employee representative shall commence collective bargaining within 30 days of the exclusive employee representative receiving the notification required by subdivision (a) of Section 3126 *or within 10 days of the public transit employer receiving the written request, whichever occurs later.*

3. Proponent Arguments

According to the California Teamsters Public Affairs Council,

“AB 96 is a comprehensive measure meant to restore and protect transit workers’ voice in the implementation of new transit service, including automated vehicles. Regrettably, public transit employers have already begun to earmark dollars or show interest in the implementation of services that displace career-sustaining jobs across the industry. These new technologies may cut labor costs in the short term but fail to recognize the importance transit employees play in facilitating a safe and smooth passenger experience for commuters and passengers across the state.”

4. Opponent Arguments:

According the Automated Vehicle Industry Association,

“As recognized by the Newsom Administration in vetoing this exact bill last year, the bill would impose onerous requirements on transit agencies that would delay the rollout of autonomous vehicles (“AV”) for use in public transit, and by doing so, would deny Californians the substantial transit-related benefits offered by AVs. In addition, we believe enactment of his bill will threaten California transit agencies’ ability to compete for federal and state funding that value innovative solutions, particularly in serving vulnerable and/or underserved populations. For these reasons, we encourage the Committee to vote against the bill.”

5. Prior Legislation:

AB 2441 (Kalra) would have required a public transit district to provide notice 12 months before "any plan to acquire or deploy" new autonomous transit vehicle technology and negotiate with employee representatives before deploying such technology. The Governor vetoed the bill.

SUPPORT

California Conference Board of the Amalgamated Transit Union (Co-sponsor)
California Labor Federation, AFL-CIO (Co-sponsor)
California Teamsters Public Affairs Council (Co-sponsor)
The California State Legislative Board of the Sheet Metal, Air, Rail and Transportation Workers
– Transportation Division (SMART-TD) (Co-Sponsor)
American Federation of State, County and Municipal Employees, AFL-CIO
California Nurses Association
California School Employees Association

OPPOSITION

Autonomous Vehicle Industry Association

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