Date of Hearing: March 18, 2026

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT
Tina S. McKinnor, Chair
AB 1582 (Ortega) – As Introduced January 13, 2026

SUBJECT: Higher Education Employer-Employee Relations Act: collective bargaining: unfair labor practices

SUMMARY: Amends the Higher Education Employer-Employee Relations Act (HEERA) by adding other prohibited acts of a higher education employer relating to arbitration and violation of a collective bargaining agreement (CBA), among other provisions. Specifically, **this bill**:

1) Makes it an unfair practice charge (UPC) for a higher education employer to engage in the following acts regarding arbitrations over violations of a CBA that relate to the contracting out of bargaining unit work:

    a) Fail or refuse to schedule an arbitration within a reasonable period of time after the union has appealed the matter to arbitration, unless the exclusive representative has placed the grievance in abeyance, or the parties have agreed to do so.[1]
    b) Fail or refuse to implement an arbitration award or remedy in full within 60 days of a decision on the merits.
    c) Circumvent or disregard an arbitrator's decision by extending or renewing the contract or entering one or more new contracts for the same or similar services or otherwise violate the same contract term or terms already interpreted by the arbitrator to prohibit the employer's conduct. As to these matters, the Public Employment Relations Board (PERB) is prohibited from deferring repeat offenses to subsequent arbitration proceedings.
    d) Fail or refuse or remedy, in whole or in part, an arbitrator's decision that remands the remedy to be determined by the parties. As to these matters, the PERB must defer to the merits of the arbitration award, but must not defer disputes regarding the remedy to subsequent arbitration proceedings absent agreement of the parties.

2) Establishes that remedies for the above-described violations must include the charging party's attorney's fees and costs.

3) Grants discretionary authority to the PERB to award civil penalties of one thousand dollars ($1,000) per day starting on the date the UPC was filed until the violation or violations are remedied in full, if an arbitration or the PERB finds the employer to be a repeat offender, as prescribed, and requires civil penalties collected to be deposited into the state's general fund.

4) Expressly provides that nothing in this proposed statute shall limit the PERB's broad remedial authority.

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[1] In the context of this bill, "abeyance" refers to temporary inactivity or suspension.

EXISTING LAW:

1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA), but leaves it to the states to regulate collective bargaining in their respective public sectors. (Sections 151 *et seq.*, Title 29, United States Code.)

   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 have no collective bargaining rights absent specific statutory authority establishing those rights.

2) 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. Among these statutes, the HEERA governs employment relations for the California State University (CSU), University of California (UC), and UC Law San Francisco (formerly, UC Hastings College of Law).

3) Makes it unlawful for a higher education employer, and a union/employee organization, to engage in certain specified acts (Sections 3571 and 3571.1, Gov. Code, respectively.)

4) Establishes the PERB, a quasi-judicial administrative agency charged with administering various statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers, employees, and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (Sections 3541 *et seq.*, Gov. Code.)

5) Expressly grants the PERB certain authority, including, but not limited to:

   a) Authority to hold hearings; subpoena witnesses; administer oaths; take testimony or deposition of persons, and issue subpoenas *duces tecum* to require the production and examination of employer or employee organization records, books, or papers relating to any matter within its jurisdiction. (Section 3541.3(h), Gov. Code.)

   b) Authority to investigate unfair practice charges or alleged violations…, and to take any action and make any determinations in respect of the charges or alleged violations as it deems necessary. However, in actions to recover damages due to an unlawful strike, the PERB does not have authority to award strike-preparation expenses as damages, nor authority to award damages for costs, expenses, or revenue losses during, or because of an unlawful strike. (Section 3541.3(i), Gov. Code.)

   c) Authority to bring an action in a court of competent jurisdiction to enforce any of its orders, decisions, or rulings or to enforce the refusal to obey a subpoena, and to petition the court for appropriate temporary relief or restraining order upon the issuance of a complaint charging that any person has engaged in, or is engaging, an unfair practice. (Section 3541.3(j), Gov. Code.)

d) Authority to take any other action as it deems necessary to discharge its powers and duties to effectuate its purposes. (Section 3541.3(n), Gov. Code.)

e) As its exclusive jurisdiction, make the initial determination as to whether the charges of unfair practices are justified, and if so, what remedy is necessary to effectuate its purposes. (Section 3541.5, Gov. Code.)

f) Authority to issue a decision and order directing an offending party to cease and desist from the unfair practice, and to take affirmative action […]. (Section 3541.5(c), Gov. Code.)

6) Establishes that any person who willfully resists, prevents, impedes, or interferes with a PERB member or any of its agents in the performance of duties, must be guilty of a misdemeanor, and upon conviction, sentenced to pay a fine of no more than one thousand dollars ($1,000). (Section 3514.4, Gov. Code.)

FISCAL EFFECT: Unknown. This bill is flagged as fiscal by Legislative Counsel.

COMMENTS:

Background

Among other things, information provided by the author states that, "[in] December 2021, [UC Los Angeles [UCLA)] had approximately 200 vacancies in its dining halls and catering services. Instead of hiring UC employees, or giving AFSCME Local 3299 advance notice of its plans, UCLA retroactively extended contracts with vendors which supplied the campus with the equivalent of as many as 75 cooks and other food services workers per month. AFSCME Local 3299 promptly challenged those vendor contracts, alleging that UCLA was violating the prohibition on contracting out bargaining unit work. However, due to UC withholding information, it wasn't until the spring of 2023 that the parties were able to present their case to an arbitrator.

"In June 2023, after the record had closed in the first arbitration, UCLA issued a request for proposals (RFP) to solicit new contracts to perform the very same work. AFSCME 3299 immediately filed a second grievance regarding UCLA's decision to contract out the same work again. Weeks before the hearing on the second grievance, the arbitrator in the first case returned an award finding UCLA in violation of the prohibition on contracting out and ordered UCLA to cancel the contracts. Despite this arbitration decision, UC persisted in its decision to move forward with new contracts to staff its dining halls and catering services with contracted out workers, and AFSCME Local 3299 was forced to take the second grievance to arbitration in September 2023," and "[the union] prevailed again in arbitration. And[,] in March 2024, the second arbitrator ordered UCLA to cancel the contracts, again. Rather than follow the arbitration decision, UCLA continued to contract out much of the work and filed a petition in [Los Angeles] Superior Court, seeking to vacate the arbitration decision. AFSCME Local 3299 filed a competing petition to confirm the decision, and [court] confirmed it in September 2024, converting the decision into a court judgment.

"[The] UC was undeterred. Weeks after the court ruling, UCLA issued another RFP to contract out the very same food services work. AFSCME Local 3299 immediately filed another

grievance, and the parties held a third arbitration hearing in February 2025. In September 2025, the arbitrator ruled in AFSCME Local 3299's favor for the third time, and UCLA was ordered to cancel the third wave of food services contracts.

"It is wrong that it took four years, three arbitrations, a court proceeding and an enormous cost before cafeteria workers were hired directly. The union and its members have not been made whole for what they lost during those four years."

What is an Unfair Practice Under the HEERA?

The HEERA expressly prescribes unlawful acts by a higher education employer as well as acts by a labor union or employee organization. A violation of the express prohibitions thereunder may result in a complaint being filed with the PERB. Violations and resulting complaints filed are commonly referred to as an "unfair practice charge (UPC)" or "unfair labor practice (ULP)" in which grievance allegations are filed against the other party.

As to HEERA-covered employers, it is explicitly unlawful for the employer to: (a) impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by the act; (b) deny to employee organizations rights guaranteed to them by the act; (c) refuse or fail to engage in meeting and conferring with an exclusive representative; (d) dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another; (e) refuse to participate in good faith in the prescribed impasse procedure; and, (f) consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative, or for whom an employee organization has filed a request for recognition or certification as an exclusive representative until the request is withdrawn or an election has been held in which "no representative" received a majority of the votes cast, as provided. (Section 3571, *ibid.*)

As to HEERA-covered unions/employee organizations, it also is unlawful for unions/employee organizations to: (a) cause or attempt to cause the higher education employer to violate the law, as provided, (b) impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by the act; (c) refuse or fail to engage in meeting and conferring with the higher education employer; (d) refuse to participate in good faith in the prescribed impasse procedure; (e) fail to represent all employees fairly and impartially who are in the unit for which it is the exclusive representative; (f) require employees covered by a memorandum of understanding to which it is a party the payment of a fee, as a condition precedent to becoming a member of such organization, in an amount which the PERB finds excessive or discriminatory under all the circumstances, among other things, and, (g) cause, or attempt to cause, an employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed. (Section 3571.1, *ibid*.)

How Does the PERB Enforce the HEERA?

Pursuant to the HEERA, the PERB has exclusive jurisdiction as to the initial determination of a UPC and appropriate remedies. (Section 3563.2, Gov. Code.) Any HEERA-covered employer

or HEERA-covered union/employee organization may file a UPC; however, they must do so within six months after the occurrence of the alleged violation. (Section 3563.2(a), Gov. Code.)

The PERB does not have authority to enforce agreements and is prohibited from issuing complaints on any charges alleging violation of an agreement, unless the charge also would constitute a UPC. (Section 3563.2, Gov. Code.) When the PERB finds that a UPC has been committed, it has authority to issue remedies, including cease and desist orders or affirmative remedies, such as employee reinstatement with or without backpay, to effectuate the policies under the HEERA. (Section 3563.3, Gov. Code. Also refer to No. 5 under "Existing Law.")

The rulings issued by the PERB serve to give meaning to the HEERA.

What is Arbitration?

"Arbitration may be defined as a method for settlement of disputes and differences between two or more parties, whereby such disputes are submitting to the decision of one or more persons specially nominated for the purpose, either instead of having recourse to an action at law, or, by order of the court, after such action has been commenced." John P.H. Soper, *"A Treatise on the Law and Practice of Arbitrations and Awards 1."* (David M. Lawrence ed., 5th ed. 1935.) In the California public sector, arbitration is a dispute-resolution process where the disputing parties choose one or more neutral third parties to make a final and binding decision resolving the dispute. Typically, the parties to the dispute may chose a third party directly by mutual agreement, or indirectly, such as by agreeing to have an arbitration organization select the third party.

There are numerous forms or types of arbitration. As examples: "Ad hoc arbitration" (arbitration of only one issue which does not involve an arbitration provider or institution to administer the proceeding); "Compulsory, i.e., mandatory, arbitration" (arbitration required by law or contractual agreement); "Grievance arbitration" (arbitration that involves the violation or interpretation of an existing contract where the arbitrator issues a final decision regarding the meaning of contractual terms, and under labor law where an arbitration of an employee's grievance usually relates to an alleged violation of their rights under a collective bargaining agreement (CBA), or where the arbitration procedure is set forth in the CBA; "Contract arbitration" (where arbitration is mandated in an agreement between the parties and for all disputes related to the agreement); "Nonbinding arbitration" (a dispute-resolution process that resembles arbitration, except that the award is not binding on the parties);[2] and, "Interest arbitration" (involves settling the terms of a contract being negotiated between parties. In labor law, this involves arbitration of a dispute concerning what provisions will be included in a new CBA), to name a few.

What is Arbitration Under the HEERA?

As to "grievance arbitration," the HEERA authorizes the higher education employer and exclusive representative of employees to include procedures in a memorandum of understanding (MOU) for final and binding arbitration of disputes under the MOU (Section 3589, Gov. Code.), and the arbitration award that results from the grievance is final and binding on all parties

[2] The term "nonbinding arbitration" may be a misnomer by some because arbitration is usually intended to result in a final, binding award.

involved and is enforceable in a court of law. (Section 3589(c), Gov. Code.) Where a party is aggrieved by another party's failure to proceed to arbitration pursuant to the terms of the MOU, the aggrieved party may move for a court order enforcing the agreement and directing arbitration. (Section 3589(b), Gov. Code.) However, the PERB is prohibited from enforcing agreements between parties, and has no jurisdiction over grievances alleging a violation of the agreement, unless the violation, itself, would constitute a UPC. (Section 3563.2(b), Gov. Code.)

The PERB and Deferral of Arbitration

Although existing law expressly authorizes the PERB to assume jurisdiction over contractual grievance regarding an unfair practice, traditionally, it has avoided exercising jurisdiction by deferring claims of a contractual breach and an unfair practice to arbitration. Here, the PERB adopted a standard (or doctrine) by the NLRB where disputes under a collective bargaining agreement (CBA) should be deferred to arbitration for resolution. (*Collyer Insulated Wire* (1971) 192 NLRB 837.) ("*Collyer.")*

In the PERB decision *UC (San Francisco)*, the PERB held that under the HEERA, a deferral of a charge to arbitration before either party invoked grievance resolution procedures is appropriate only when the arbitration procedure in question is a product of collective bargaining, and not a unilaterally implemented policy. (*UC (San Francisco)* (1984) PERB No. Ad-139-H.)[3] If a negotiated arbitration procedure exists, the PERB will defer the unfair practice dispute to arbitration where: (i) the dispute falls within the scope of the stable CBA and there is no enmity by the respondent employer toward the employee's or union's exercise of protected rights in bringing the unfair practice charge; (ii) the respondent is ready and willing to proceed to arbitration and has waived any contract-based procedural defenses; and (iii) the contract and its meaning are at the center of the dispute. (*Dry Creek Elementary School Dist.* (1980) PERB No. Ad-81a (Educational Employment Relations Act (EERA) case adopting the deferral standard promulgated by the NLRB in *Collyer).*)[4]

Although the *Collyer* standard pursuant to an NLRB decision requires that the respondent be willing to proceed to arbitration as a condition precedent to deferral, in *Lake Elsinore*, the PERB rejected the argument raised by the union that the employer was unwilling to cooperate with the arbitration process, rendering the contractual grievance resolution procedure futile. (*Lake Elsinore School Dist.* (1987) PERB No. 646.)[5] Where the university refused to submit matters

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[3] This deferral doctrine has been codified by PERB regulations requiring that unfair practice charges arising under the HEERA that also are subject to final and binding arbitration be held in abeyance by the PERB until arbitration is concluded, then dismissed. (PERB Reg. 32620(b)(6).) *"Regulations of the PERB."* Amendments and Additions, current as of October 1, 2025. Visit: https: ://perb.ca.gov/wp-content/uploads/regulations/PERB-regulations-2025.pdf

[4] The *Collyer* standard or doctrine, named after the NLRB case, is a principle in labor law that allows the NLRB to refer disputes to arbitration if they can be resolved under the terms of a CBA. Essentially, it encourages the resolution of labor disputes through arbitration rather than through direct intervention by the NLRB, promoting adherence to agreed-upon terms between employers and unions. Although originally applied under the EERA, the PERB extended the application of this standard in *UC San Francisco, id.,* and again in *California State University* (1993) PERB No. 986-H, to mixed contractual and statutory claims under the HEERA. The PERB, however, later overruled *Dry Creek, id.,* holding that because pre-arbitration deferral of mixed claims was mandatory under the EERA, etc., the NLRB's *Collyer* standard, insofar as it interposed procedural prerequisites for deferral, was inapplicable to the EERA.

[5] Subsequently, *Lake Elsinore*, *id.,* was overruled by the PERB in *California Union of Safety Employees (Dept. of Food and Agriculture)* (2002) PERB No, 1473-S. Unlike the EERA, *inter alia,* deferral by the PERB under the

involving mixed claims to the arbitrator, the PERB held the union's sole remedy was to seek a court order enforcing the arbitration agreement, as it is authorized to do so under Gov. Code Section 3589(b) of the HEERA. Based on this rationale, the PERB deferred the case.

This Bill

Recall from earlier that the HEERA authorizes a higher education employer and exclusive representative of employees to include procedures in a memorandum of understanding (MOU) for *final and binding arbitration of disputes* under the MOU (Section 3589(c), *ibid.)*, *and the arbitration award that results from the grievance is final and binding on all parties involved and is enforceable in a court of law.* (Section 3589(c), Gov. Code.) *(Emphasis.)*

In some respects, this bill could be considered as duplicative or somewhat duplicative of Section 3589(c), *ibid.,* as both a HEERA-covered employer and HEERA-covered labor union/employee organization may seek enforcement of a final and binding arbitration award by a court of law. Further, a court of law may award the prevailing party of an arbitration matter with financial reimbursement of attorney's fees and costs by the non-prevailing party in addition to imposing fines upon the non-prevailing party (although such fines would not necessarily be directed for remittal to the state general fund by the court, as this bill proposes). However, unlike Section 3589, *ibid.,* which applies to both HEERA-covered employers and HEERA-covered unions/employee organizations, this bill: (i) solely targets HEERA-covered employers to incentivize adherence to an arbitration decision; (ii) narrowly prescribes the specific acts or conduct by such employers to which and when it's provisions would apply; (iii) prescribes certain requirements and prohibitions by, and discretionary authority to, the PERB relating to repeat employer offenses, the deferral of certain matters, and awarding of civil penalties (including directing such penalties to be remitted to the state general fund); and, (iv) expressly provides that its provisions must not limit the PERB's remedial authority. As proposed, the overall context of this bill directly relates to matters discussed under "The PERB and Deferral of Arbitration."

In other respects, although Section 3589, *ibid.,* authorizes the inclusion of final and binding arbitration provisions in a MOU, if a MOU does not include such provisions, what is proposed by this bill may provide a semblance of meaningful parity under those circumstances.

Finally, among other things, this bill proposes that it must be a UPC for a higher education employer to "fail or refuse to schedule an arbitration *within a reasonable period of time* after the union has appealed the matter to arbitration…." *(Emphasis added.)* Because the phrase "within a reasonable period of time" may be subjective, it may appear to be insufficiently clear; thus, resulting in ambiguity. For example, one might ponder whether this phrase relates to a determination of the employer or union/employee organization? If one party determines what is "within a reasonable period of time," what happens if the other party disagrees with that determination? Would, could, or should this phrasing be determined based on explicit provisions included in an agreed upon MOU by the parties thereto? Would the PERB or a court of law make this determination?

HEERA is permissive, and the *Collyer* standard has always applied to HEERA mixed cases. (*California State University* (1993) PERB No. 986-H.)

Although such reasonable questions might exist, in a legal context and generally, "reasonable time" refers to a period that is considered appropriate and fair given the specific circumstances of a situation. It is neither a fixed number of days, weeks, or months, but rather a flexible standard that courts and parties determine based on the facts and circumstances at hand on case-by-case basis.

Author's Statement

"For decades, the [UC] has contracted out its service work. In recent years, UC agreed to an arbitration process to resolve disagreements over contracting out. UC is now consistently violating that agreed upon arbitration process. As a result, when the workers win at arbitration, UC doesn't follow the arbitrator's decisions. [This bill] restores the integrity of arbitration. It does so by making it an unfair labor practice for UC to fail to schedule arbitrations in a timely manner or to circumvent or disregard an arbitrator's decision by extending or renewing an existing contract, entering into one or more new contracts for the same or similar services, or otherwise violating the same contract term or terms already interpreted by an arbitrator to prohibit the employer's conduct. The bill also requires make-whole relief for a violation of these provisions to include the charging party's attorney's fees and costs. And, if an arbitrator or PERB finds the employer to be a repeat offender, the bill would authorize PERB to award civil penalties."

Comments by Supporters

Among other things, the American Federation of State, County and Municipal Employees, Local 3299, states that, "[f]or decades [the] UC has used the practice of contracting out jobs and replacing us with cheap labor. The State Auditor has documented that [the] UC's private contractors pay less, provide fewer benefits, and mistreat workers with impunity. When we have challenged contracting out practices and prevailed in arbitration, a process agreed upon in our collective bargaining agreements, [the] UC has responded with disrespect and defiance. They extend the same prohibited contracts, enter into new agreements for identical services, and simply wait for us to go back through the arbitration process again — at our own expense and at the cost of years of delay. This cycle of deliberate noncompliance renders our collective bargaining agreements meaningless and makes a mockery of the arbitration system that both parties agreed to honor."

In part, the Federated University Police Officers Association expresses that, "…this is a matter of advocating for fair labor practices and institutional accountability in California's higher education systems. This bill also protects public sector jobs by preventing universities from using "contracting out" as a loophole to bypass legally binding union agreements. By introducing a civil penalty for repeated violations and requiring the employer to pay the workers' attorneys' fees and cost, would essentially make it financially unfeasible for institutions to break labor laws as a 'cost of doing business.'"

The Peace Officers Research Association expresses, "[The protections and grievance processes in the HEERA] are intended to ensure that agreements reached between employers and employee organizations are respected and enforced. [This bill] strengthens these protections by clarifying that it is an unfair practice for a higher education employer to circumvent or disregard an arbitrator's decision regarding the contracting out of bargaining unit work. The bill prohibits employers from renewing or entering into new contracts for the same or similar services after an arbitrator has determined that the contracting violates the collective bargaining agreement. It

also establishes appropriate remedies for repeated violations, including civil penalties and the recovery of attorney's fees and costs. By reinforcing the authority of arbitration decisions and discouraging repeated violations of negotiated agreements, [this bill] helps ensure that collective bargaining agreements are honored and that the dispute resolution process functions as intended."

Others in support express similar statements as those above.

Comments by Opponents

Among other things, the University of California states, "[This bill] will impede [the] UC's ability to meet emergency situations in our hospitals, clinics, and campuses. The bill also includes a disproportionate penalty structure that creates unacceptable levels of financial and operational risk for the University. The University values collective bargaining and works in good faith with its labor partners to resolve disputes. These longstanding partnerships have historically proven effective at resolving complex issues internally, utilizing robust grievance and arbitration procedures already established within our agreements. However, [this bill would significantly alter the language of the University's mutually agreed-upon collective-bargaining agreements by creating and imposing new statutory liabilities and penalties tied to arbitration decisions. In particular, the proposed legislation would have a significant impact on the University and AFSCME's collective-bargaining agreements and would grant remedies that far exceed the language the parties agreed to at the bargaining table in the last round of contract negotiations.

"The bill also authorizes civil penalties of $1,000 per day for employers deemed "repeat offenders" and requires mandatory attorney's fees and costs. For a large and decentralized institution such as [the] UC, these provisions would create substantial and unpredictable financial exposure. [The] UC already generally prohibits contracting for Covered Services through Regents Policy 5402 and Article 5, which requires that the University contract out sparingly, to address emergencies, and other limited exceptions. By creating a broad standard for contracting for the 'same or similar services,' [this bill] could effectively make an arbitration decision at one campus a systemwide compliance trigger, exposing other campuses to liability for routine procurement decisions made in good faith. Costly repeat violations would hinge on ambiguous language in [the bill], so that any alleged Article 5 violation could establish a subsequent dispute as a repeat violation.

"The uncertainty created by [this bill] would effectively move the University towards an across-the-board ban on contracting for Covered Services. The narrow exceptions in policy exist for a reason. UC campuses and medical centers must retain operational flexibility to contract for services when necessary to maintain continuity in essential operations, including health system staffing, laboratory support, and emergency response, to serve our students and patients."

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees, Local 3299 (Sponsor)
California Federation of Teachers – a Union of Educators & Classified Professionals, AFT, AFL-CIO
Federated University Police Officers' Association

Peace Officers Research Association of California
Teamsters California

Opposition

University of California Office of the President

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