
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 339 (Ortega) - Local public employee organizations: notice requirements

Version: July 15, 2025

Urgency: No

Hearing Date: August 18, 2025

Policy Vote: L., P.E. & R. 4 - 1

Mandate: Yes

Consultant: Robert Ingenito

Bill Summary: AB 339 would require public agencies regulated by the Meyers-Milias-Brown Act (MMBA) to give a recognized employee organization no less than 60 days' written notice regarding contracts to perform services that are within the scope of work of job classifications represented by the recognized employee organization.

Fiscal Impact:

- By imposing specified duties on local officials, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. The magnitude is unknown, but potentially in excess of \$50,000 annually (General Fund, see Staff Comments).
- This bill would not have a fiscal impact to the Public Employment Relations Board.

Background: Current law authorizes local agencies to contract out for certain special services or temporary labor under the following circumstances:

- A county board of supervisors may contract for certain types of special services on behalf of the county, any county officer or department, or any district or court in the county, if those persons are specially trained, experienced, expert, and competent to perform those services.
- A county board of supervisors may contract with temporary help firms for temporary help to assist county agencies, departments, or offices during any peak load, temporary absence, or emergency other than a labor dispute, if the board determines that it is in the economic interest of the county to do so. Current law limits the use of temporary help to no more than 90 days for any single peak load, temporary absence, or emergency situation.
- A legislative body of a city may contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters.
- A legislative body of a public or municipal corporation or district may contract with persons performing special services in regard to financial, economic, accounting,

engineering, legal, and administrative matters if those persons are specially trained and experienced and competent to perform the special services required.

Generally, the decision to contract out for services is a public action. When a governing body awards a contract, it must be done at a public meeting, and the contract itself and other supporting documents are subject to release under the California Public Records Act (CPRA).

AB 2561 (McKinnor, 2024) requires a local public agency to present during a public hearing, at least once per fiscal year, the status of vacancies and related recruitment and retention efforts, with the affected bargaining unit's recognized employee organization also entitled to make a presentation.

Proposed Law: This bill, among other things, would do the following:

- Require the public agency to give the recognized union no less than 60 days' written notice before issuing a request for proposals, request for quotes, or renewing or extending an existing contract, to perform services that are within the scope of work of the job classifications represented by the recognized employee organization, subject to specified exceptions.
- Require the specified written notice to include (1) the anticipated duration of the contract, (2) the scope of work under the contract, (3) the anticipated cost of the contract, (4) the draft solicitation, or if not yet drafted, any information that would normally be included in a solicitation, and (5) the reason the public agency believes the contract is necessary.
- Provide that if an emergency or other exigent circumstance prevents the public agency from providing the required amount of notice the public agency shall provide as much advance notice as is practicable under the circumstances.
- Require the public agency and the union, if the union demands so, to meet and confer within a reasonable time in good faith relating to the public agency's proposed decision to enter into the contract and any negotiable effects thereof.
- Provide that the bill's provisions shall not diminish any rights of an employee or recognized union provided by law or a memorandum of understanding.
- Provide that the bill's provisions shall not invalidate any provision of a memorandum of understanding in effect on the operative date of this bill.
- Provide that no reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act.
- Recognize, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other law.

Related Legislation:

- AB 2557 (Ortega, 2024) would have placed requirements on local governmental agencies related to contracting out services, as specified. The bill was held under submission on the Suspense File of this Committee.
- AB 2561 (McKinnor, Chapter 409, Statutes of 2024) required a public agency to present the status of vacancies and recruitment and retention efforts during a public hearing before the governing board at least once per fiscal year and entitles the union for a bargaining unit to make a presentation at the public hearing, as specified.
- AB 2489 (Ward, 2024) would have required a local government that wants to contract for special services or temporary help already performed by union employees to notify, in writing, the exclusive representative of the workforce, at least 10 months before beginning a procurement process to contract for special services that are currently, or were in the previous 10 years, performed by employees of the county, any county officer or department, or any district court in the county represented by an employee organization, of its determination to begin that process. The bill was held under submission on the Suspense File of the Assembly Appropriations Committee.
- AB 1250 (Jones-Sawyer, 2017) would have prohibited a county from contracting for personal services currently or customarily performed by that county's employees unless it made specified findings. The Senate Rules Committee held this bill in committee.

Staff Comments: Staff notes that while the bill has been crafted in an effort to eliminate the potential of creating a new mandate, the Commission on State Mandates cites two decisions where the courts have determined that the evidence contradicts what is in statute. For example, *Carmel Valley Fire Protection Dist v. State of California (1987)* 190 Cal. App. 3rd 521, 541 notes: As a general defense against the order to reimburse, State insists that the Legislature itself concluded that the claimed costs are not reimbursable. This determination took the combined form of disclaimers, findings, and budget control language. State interprets this self-serving legislation, as well as the legislative and gubernatorial deletions, as forever sweeping away State's obligation to reimburse the state-mandated costs at issue. Consequently, any order that ignores these restrictions on payments would amount to a court-ordered appropriation. As we shall conclude, these efforts are merely transparent attempts to do indirectly that which cannot lawfully be done directly.

Also, *Long Beach Unified School District v. State of California (1990)* 225 Cal App. 3rd 155, 184 notes: Having concluded that certain appropriations are generally available to reimburse Long Beach Unified School District (LBUSD), we turn to an additional issue raised by the State: that the "finding" by the Legislature that the Executive Order does not impose a "state mandated local program" prevents reimbursement. Unsupported legislative disclaimers are insufficient to defeat reimbursement. (Carmel Valley.) As discussed, LBUSD, pursuant to Section 6, has a constitutional right to reimbursement of its costs in providing an increased service mandated by the state. The Legislature cannot limit a constitutional right. (*Hale v. Bohannon (1952)* 38 Cal. 2nd 458, 471 [2441 P. 2d 4]).

This bill would result in local agencies (nearly 4,000 across all cities, counties and special districts) incurring costs to (1) provide advance notice prior to procuring a contract, and (2) meet and confer with the recognized employee organization. Staff notes that this bill would apply to thousands of public contracts for services performed by private entities, including nonprofit organizations, that provide public services. Some or all of these local costs could be subject to state-reimbursement from the General Fund, should a local agency submit a successful claim with the Commission on State Mandates. Staff notes that contracting for services is a discretionary action, so it is unclear whether the local costs to comply with the bill's mandated duties are reimbursable. Ultimately, any impacts to the State General Fund would be subject to a determination by the Commission on State Mandates.

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