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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### AB 340 (Ahrens) - Employer-employee relations: confidential communications

**Version:** March 5, 2025

**Policy Vote:** L., P.E. & R. 4 - 1, JUD. 10 -  
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**Urgency:** No

**Mandate:** No

**Hearing Date:** August 18, 2025

**Consultant:** Robert Ingenito

**Bill Summary:** AB 340 would prohibit a public employer from (1) questioning an employee or employee representative regarding representation-related communications made in confidence between the employee and employee representative, and (2) compelling disclosure of such communications to a third party. These two prohibitions would not apply to a criminal investigation or supersede rights of public safety officers under investigation.

#### **Fiscal Impact:**

- This bill would result in one-time costs to the State as a direct employer, to update collective bargaining agreements and related policies and trainings, including policies regarding workplace investigations and allowable communications between represented employees and their employer. The magnitude is unknown, but minimally in the low millions of dollars (General Fund and special funds). As an example, the California Community College (CCC) Chancellor's Office estimates one-time costs between \$936,000 and \$1.6 million (costs between \$13,000 and \$22,000 per district) to implement this prohibition across its CCC's 72 districts (Proposition 98 General Fund).
- By limiting the type of information an employer may obtain, this bill additionally could result in investigation costs to the State related to preparation for an administrative or civil proceeding. The magnitude is unknown (General Fund and special funds).
- The California Department of Human Resources (CalHR) would incur first-year costs of \$169,000, and \$159,000 annually thereafter to support one additional Labor Relations Specialist position. (General Fund).
- The bill would not have a fiscal impact to the Public Employment Relations Board (PERB).

**Background:** With respect to public employees, PERB has found that communications between an employee and their employee representative are protected from disclosure to an employer in some circumstances. However, case law and statute currently has not provided an employee and employee representative with an evidentiary privilege, in which the communication cannot be compelled to be disclosed or used as evidence in a court proceeding, for their communications.

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

- Prohibit a public employer from questioning a public employee, a representative of a recognized employee organization, or an exclusive representative regarding communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.
- Prohibit a public employer from compelling a public employee, a representative of a recognized employee organization, or an exclusive representative to disclose to a third party, communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.
- Provide that it would not apply to a criminal investigation and do not supersede Government Code Section 3303, which provides public safety officers specified rights under the Public Safety Officers Procedural Bill of Rights Act when they are under investigation and subjected to interrogation, as specified.

**Related Legislation:**

- AB 1109 (Kalra) would establish an evidentiary privilege from disclosure for confidential communications between a union agent and a represented employee or represented former employee, as provided. This bill is currently pending in this Committee.
- AB 2421 (Low) would have prohibited specified public employers from questioning employees and employee representatives about communications between employees and employee representatives related to the representative's representation, with an exception. The bill was held under submission on the Suspense File of this Committee.
- AB 418 (Kalra, 2019) would have established an evidentiary privilege from disclosure for communications between a union agent and a represented employee or represented former employee. The bill died on the Senate Inactive File.
- AB 3121 (Kalra, 2018) would have established an evidentiary privilege from disclosure for communications between a union agent and a represented employee or represented former employee. The bill died on the Senate Inactive File.
- AB 729 (Hernández, 2013) would have provided a union agent and a represented employee a privilege of refusing to disclose any confidential communication between the employee or former employee and the union agent while the union agent is acting in their representative capacity, except as specified. The bill was vetoed by Governor Brown.