

November 30, 2011

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Dawn McFarland
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative regarding state employees (A.G. File No. 11-0052, Amdt. #1S).

Background

The state currently employs about 217,000 full-time equivalent employees. These employees work for executive branch departments or agencies. About 83 percent of these employees are rank-and-file (primarily non-managerial). Rank-and-file employees are organized into 21 collective bargaining units. Each collective bargaining unit is represented by a union to negotiate terms and conditions of employment with the state. The remaining 17 percent of these employees are excluded from the collective bargaining process and include managers and supervisors.

The collective bargaining process for rank-and-file state employees is governed by the Ralph C. Dills Act (Dills Act). Collective bargaining is a negotiation process through which an employer and exclusive employee representative bilaterally determine conditions of employment. These negotiations result in memoranda of understanding (MOUs). Among other provisions, MOUs typically establish wages, benefit levels, benefit funding, working hours, overtime, and grievance processes. The Governor, represented by the Department of Personnel Administration, negotiates the terms and conditions of MOUs with state employee unions. Before state employee MOUs can take effect, they must be ratified by the Legislature. The Legislature ratified new MOUs for all rank-and-file state employees in 2010 and 2011. Current MOUs establish “no-strike” provisions that prohibit work slowdowns, work stoppages, or strikes. All of the current MOUs will expire by July 2013.

As the employer, the state establishes salary and benefit levels for employees who are excluded from the collective bargaining process. Although excluded from collective bargaining, these employees possess certain representational rights as outlined in statute. These rights include the right to join organizations that represent excluded employees in employment relations, including grievances, with the state. Under current law, these employees cannot strike.

Major Provisions

This measure repeals the Dills Act and related provisions regarding excluded employees. The measure prohibits state employees from engaging in strikes against a state employer.

Fiscal Effect

Fiscal Effect of Measure May Not Begin Immediately. The United States and California Constitutions have provisions safeguarding the provisions of contracts, which would likely include current collective bargaining contracts. As a result, the state may be required to implement the terms of current MOUs, including payment of wages at specified levels, until the contracts expire. To the extent this occurred, the fiscal effect of this measure on the state would be delayed.

Uncertainties Concerning Future State Impact. Within two years, all existing MOUs will expire. At that time, the state could establish wages and other terms of employment without securing the agreement of an employee association—or the Legislature could establish a new process for state employee representation (different from the Dills Act and current provisions related to excluded employees) and the state could establish wages and terms of employment through that process. Regardless of which approach the state takes, in order to maintain the workforce, the state likely would set wages and other forms of compensation at amounts similar to those offered by other public and private employers. Because the overall effect of this measure would be to strengthen the state’s authority to set employee compensation at levels that are lower than that which an employee association would agree to under current law, we would expect the state to experience net reductions in future employee compensation costs.

Fiscal Summary. This measure would have the following major fiscal impact:

- Potential employee compensation savings for the state government. The amount of savings would depend on future actions by the Legislature.

Sincerely,

Mac Taylor
Legislative Analyst

Ana J. Matosantos
Director of Finance