



August 30, 2016

## SENATE FLOOR ALERT

### **AB 1603 (Ridley-Thomas) – Meyers-Milius-Brown Act: local public agencies As Amended August 24, 2017 URGE “NO” VOTE**

AB 1603 would authorize collective bargaining for employees of private companies that contract with public agencies **WITHOUT** the consent of either the affected private employer or the public agency. The August 24 amendments do not alleviate our concerns, but rather increase them by creating an additional definition of a public employee to include any person jointly employed by a public agency and any other employer at the following locations: 1) a clinic or hospital operated for the purpose of medical education, 2) a nonprofit community clinic, and 3) the county hospital. This definition is not limited to medical professionals and injects substantial ambiguities regarding the bill’s scope and intent.

Despite our efforts with the author’s office to clarify the bill’s provisions, there remain many unaddressed and confusing issues—for both public and private sector employers, including:

- How can counties enter into collective bargaining agreements with these contracted employees, given that counties do not control their wages, hours, and terms and conditions of employment?
- How can the exclusive jurisdictional authority of the National Labor Relations Board (NLRB) be circumvented in matters governing private sector employment and employee rights?
- What terms can be negotiated by the county through collective bargaining when employment terms have already been agreed to by the employee(s) and their private employer (such as a locum tenens, temporary staffing agency or registry)?
- How to adjust for physicians, medical groups, and other medical personnel who contract with county hospitals on a part-time basis and retain a private practice, as well?
- What happens when psychiatrists contract with county Mental Health Plans on a part-time basis?
- How can there be fairness to both contracted private employees and county employees when the contracted private employees already have specified employment terms?

Although the bill is not limited to medical providers, it raises special additional difficult problems when applied to those employees, including:

- How to distinguish between an individual contract executed directly with a medical provider versus a contract executed by an entire provider group?
- How would counties collectively bargain with independent providers or provider groups that contract in multiple jurisdictions, including local and state governments?
- How to deal with contracted providers who are only projected to remain until a permanent county employee is recruited and hired?

Contracts with medical groups are, per the terms of the agreement, not “joint employment arrangements.” In this situation, the contracting agency or medical group is the employer of record. Therefore, negotiating with the medical group – a private entity – is clearly within the purview of the National Labor Relations Board (NLRB).

Further, AB 1603 requires private employers to collectively bargain under the California Meyers-Milias-Brown Act, which would force public entities to invite the employee’s private employer to participate in collective bargaining discussions. This is precedent setting – private employers would have decision-making authority over wages and salaries of public employees, a right that applies solely to public employers under Article XI of the California Constitution.

Despite the author’s intentions and ongoing dialogue, AB 1603 is fraught with pitfalls and complications and is inconsistent with federal law. The undersigned organizations urge your ‘NO’ vote.

California State Association of Counties (CSAC)

Rural County Representatives of California (RCRC)

Urban Counties of California (UCC)

County Health Executives Association of California (CHEAC)

County Behavioral Health Directors Association of California (CBHDA)

California Hospital Association (CHA)

California Association of Public Hospitals and Health Systems (CAPH)

California Psychiatric Association (CPA)

California Staffing Association (CSA)

American Staffing Association (ASA)

cc: Honorable Members, California State Senate  
The Honorable Sebastian Ridley-Thomas, Member, California State Assembly  
Charles Wright, Consultant, Office of Senate President pro Tempore Kevin de León  
Cory Botts, Consultant, Senate Republican Caucus  
Tom Dyer, Chief Deputy Legislative Secretary, Office of Governor Brown