

August 19, 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 constitutional initiative regarding public employee collective bargaining rights in California (A.G. File No. 11-0020).

Background

According to the U.S. Census, California state and local governments employed in March 2009 more than 1.8 million full-time equivalent employees with a monthly payroll cost of \$10 billion. These public employees include California state, higher education, K-12 education, and local public employees.

Under state law, most public employees have collective bargaining rights. Collective bargaining is a negotiation process through which an employer and exclusive employee representative bilaterally determine conditions of employment. These negotiations result in a contract, or memorandum of understanding (MOU). Among other provisions, MOUs typically establish wages, health benefits, employee retirement contributions, working hours, overtime, grievance processes, and term of contracts. Most public employees with collective bargaining rights currently are working under a collectively bargained contract. These contracts typically last for less than five years. Some employees—mostly managers and supervisors—are excluded from collective bargaining, in which case a jurisdiction's governing authority determines their employee compensation.

Major Provisions

This measure prohibits any state, school, or other local government entity from recognizing any labor union or other employee association as a bargaining agent. The measure also prohibits these public employers from entering into any agreement relating to public employees or their employment.

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, state and local agencies may be required to implement the terms of their current collective bargaining contracts, including payment of wages at specified levels, until the contracts expire. To the extent this occurred, the fiscal effect of this measure on state and local governments would be delayed.

Uncertainties Concerning Future State and Local Savings. Within a few years, virtually all existing public employee collective bargaining contracts will expire. At that time, state and local employers could establish wages and other terms of employment without securing the agreement of an employee association. In order to maintain their workforces, however, state and local government employers likely would set wages and other forms of compensation at amounts similar to those offered by other public and private employers. Whether any public agency's employee compensation costs would increase or decrease, therefore, would depend in part on the difference between its current compensation and those offered by other employers to similar employees. Because the overall effect of this measure would be to strengthen state and local governments' authority to set employee compensation at levels that are lower than that which an employee association would agree to, we would expect that some state and local agencies would experience net reductions in their employee compensation costs. The amount of these state and local government savings would depend on future actions by state and local governments.

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

- Potential state and local government employee compensation savings. The amount of savings would depend on future compensation decisions by state and local governments.

Sincerely,

Mac Taylor
Legislative Analyst

Ana J. Matosantos
Director of Finance