

Date of Hearing: April 22, 2014

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Das Williams, Chair
AB 1834 (Williams) – As Introduced: February 18, 2014

SUBJECT: Higher Education Employer-Employee Relations Act: employees.

SUMMARY: Expands the definition of employees under the Higher Education Employer-Employee Relations Act (HEERA) to include student employees whose employment is contingent upon their status as students. Specifically, this bill:

- 1) Finds and declares that a majority of student employees employed by the University of California (UC), the Hastings College of Law, and the California State University (CSU) have been granted the opportunity for collective bargaining under HEERA; that it is the intent of the Legislature to expand the definition of employees under HEERA to include student employees who previously have been denied collective bargaining rights and to maintain collective bargaining rights for those students who currently have those rights.
- 2) Defines "employee" for purposes of HEERA to include student employees, whether or not their employment is contingent on their status as students.
- 3) Excludes from the scope of representation those requirements necessary for students to achieve satisfactory progress toward their degrees.

EXISTING LAW establishes HEERA to provide a statutory framework to regulate labor relations at UC, CSU, and Hastings College of Law and their employees; provides the Public Employment Relations Board (PERB) authority to enforce HEERA; defines "employees" under the HEERA and authorizes PERB to find a student employee whose employment is contingent on his or her status as a student as an employee only if the services he or she provides is unrelated to his or her educational objectives, or those educational objectives are subordinate to the services he or she performs and that coverage under the HEERA would further the purposes of the HEERA. (Government Code §3560-3599)

FISCAL EFFECT: Unknown. However, according to the Senate Appropriations Committee of SB 259 (Hancock, 2013), a substantially similar bill, approximately \$639,000 to UC for collective bargaining, annual costs to UC between \$605,959 - \$1.7 million for administering the contracts, and potential salary increases as a result of negotiations.

COMMENTS: Background. PERB's decision in *Regents of the UC & Association of Student Employees, UAW, et al* (1998) (PERB Order No. 1301-H) determined that under the current statutory language, UC's 12,000 Teaching Assistants (TAs), Readers and Tutors had bargaining rights because their employment is not contingent upon their status as students, but Research Assistants (RAs) did not. Student employees equivalent to RAs at CSU are covered under HEERA by a voluntary agreement with CSU.

Purpose of this bill. According to the author, "graduate students work at UC for 5 to 10 years while pursuing degrees. They frequently move in and out of the TA bargaining unit, since they are often employed as both teaching and research assistants. The movement between these jobs

creates a lack of continuity. When student employees work as RAs their contractual rights for workload protections, job security, grievance and arbitration procedures, family leave and other rights disappears. This bill extends the right for the 14,000 student research assistants at UC to choose to bargain collectively under HEERA.

Graduate student employment categories. Unlike RAs, TAs and Postdoctoral Scholars may enter into collective bargaining agreements under HEERA because PERB has determined that their employment is not contingent upon their status as students:

- 1) Teaching Assistants/Associates/Fellows are enrolled students, whose primary duty of appointees in these titles is assistance in all aspects of instruction (tutoring, grading, advising, sectional teaching, sectional laboratory teaching, field work teaching, limited lecturing). These duties are performed under the supervision of faculty “instructors of record” who are vested with the sole and final responsibility for course content, work assignments, performance evaluations and grading in the assigned course. TAs are paid from state funds (instructional money).
- 2) RAs are enrolled students selected for high achievement and promise as creative scholars and assist faculty members with scholarly research. Their research may directly relate to their discipline of study. RAs may not be assigned teaching, administrative, or general assistance duties; they are paid from contracts and grants generated by the faculty.
- 3) Postdoctoral Scholars are not enrolled students; they are individuals who have recently completed a doctoral degree, who seek additional scholarship and continued research training. The Postdoctoral Scholar conducts research under the general oversight of a faculty mentor in preparation for a career position in academe, industry, government, or the nonprofit sector.

UC position. UC Office of the President has not taken a position on the bill at this time, indicating that President Napolitano has committed to engage with the University of Washington to understand its experience with graduate student collective bargaining and its applicability to UC and California. UC expects these conversations to be completed shortly, and intends to adopt a position once a thorough analysis of the issues has been completed.

Author's amendment. The author has proposed the following clarifying amendment:

(e) “Employee” or “higher education employee” means any employee, including student employees, ~~whether or not their~~ whose employment is contingent on their status as students, of the Regents of the University of California, the Directors of the Hastings College of the Law, or the Trustees of the California State University. However, managerial and confidential employees and employees whose principal place of employment is outside the State of California at a worksite with 100 or fewer employees shall be excluded from coverage under this chapter.

Previous legislation. SB 259 (Hancock, 2012) was substantially similar to this bill. SB 259 was approved by this Committee but subsequently vetoed by the Governor.

REGISTERED SUPPORT / OPPOSITION:

Support

AFSCME 3299
California Labor Federation
California School Employees Association, AFL-CIO
California Nurses Association
SEIU California
UAW Local 5810
UAW Local 2865
University Council-American Federation of Teachers

Opposition

National Right to Work Committee

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