

Date of Hearing: June 20, 2017

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SB 201 (Skinner) – As Amended March 13, 2017

SENATE VOTE: 26-12

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

SUMMARY: Amends the Higher Education Employer-Employee Relations Act (HEERA) to provide collective bargaining rights to student employees at the University of California (UC), California State University (CSU), and Hastings College of Law, whose employment is contingent on their status as students. Specifically, **this bill:**

- 1) Makes findings and declarations that:
 - a) A majority of the UC, CSU, and Hastings College of Law student employees have collective bargaining rights through HEERA;
 - b) The Legislature intends to expand the definition of employee under the HEERA to include certain student employees previously denied collective bargaining rights; and,
 - c) The Legislature intends to maintain collective bargaining rights for those student employees who already have them.
- 2) Amends the HEERA definition of “employee” to specifically include student employees whose employment is contingent upon their status as students.
- 3) Removes statutory language that limits the Public Employment Relations Board (PERB) from finding that student employees currently excluded from the HEERA are “employees”.
- 4) Limits the scope of representation for which a recognized employee organization can represent UC student employees to work that does not include work required 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 Sections 3560-3599).

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) UC estimates that it would incur first-year total costs ranging between \$12.2 million and \$16.6 million to implement the provisions of the bill, itemized as follows:
 - a) About \$730,000 for collective bargaining negotiations from the General Fund (GF);
 - b) Annual costs of \$1.8 million for administering the contracts (GF);
 - c) Anticipated annual costs of \$3.1 million to cover the cost of union dues contributions, assumed to be necessary to keep student employees salary-neutral (GF);
 - d) Potential salary increases as a result of negotiations ranging from \$6.5 million (assuming on 3 percent increase) to \$10.9 million (assuming a five percent increase). Approximately 85 percent of this funding comes from Federal grants and private sources, with the GF providing support for the remainder); and,
 - e) Approximately 85 percent of the funding for union dues and salary increases would likely come from Federal grants and private sources, with the GF providing support for the remainder.

To note, costs to UC would rise in the out-years, largely driven by any negotiated salary increases.

- 2) Similar to UC, Hastings indicates that its costs to administer the bill would include:
 - a) Potential compensation increases resulting from collective bargaining agreements with student employees; and,
 - b) Administrative costs to negotiate and manage a collective bargaining agreement. Hastings estimates total increased costs of up to \$150,000 annually (GF).
- 3) CSU indicates that the bill would not impact their student employees, who already have the ability to organize and are consequently covered by the collective bargaining process.

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.

To note, student employees equivalent to RAs at CSU are covered under HEERA by a voluntary agreement with CSU. Additionally, several public universities in other states including Massachusetts, Washington, Oregon, and Connecticut have granted collective bargaining rights to their RAs.

National Labor Relations Board (NLRB). For 45 years, the NLRB has held jurisdiction over private, nonprofit universities.

Last year, in *Trustees of Columbia University in the City of New York and Graduate Workers of Columbia-GWC, UAW*, Case 02-RC-143012 (August 23, 2016), the NLRB issued a decision

regarding Columbia University, finding that graduate student RAs at private universities have the right to choose collective bargaining.

Although the NLRB does not have jurisdiction over public postsecondary institutions, the *Columbia* ruling addressed a concern raised in prior opposition to bills similar in nature to this one - that extending collective bargaining rights to RAs could potentially harm the mentoring relationship between faculty and students. After citing data that more than 64,000 graduate student employees are organized in 28 institutions of higher education throughout the country, the NLRB stated, "More recent survey-based research found 'no support' for the contentions that graduate student unionization 'would harm the faculty-student relationship' or 'would diminish academic freedom...'"

Need for the measure. According to the author, "Today, approximately 16,000 TAs, Readers, and Tutors and 7,000 Postdoctoral Scholars in UC successfully bargain. However, TAs have experienced lack of continuity in rights and benefits, as they frequently move in and out of the TA bargaining units, since they are employed as both TAs and RAs during their time in the UC system, which is about five to ten years."

The author contends that the United Auto Workers (UAW) have exhausted all legal avenues to give RAs the right to bargain and that this measure will fix the inequity between RAs and other student employees.

This bill amends the HEERA definition of "employee" to specifically include student employees whose employment is contingent upon their status as students; and, removes statutory language that limits PERB from finding that student employees currently excluded by HEERA are "employees".

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.

Previous legislation. AB 1834 (Williams) of 2014, which was substantially similar to this measure, was held in the Senate Appropriations Committee.

SB 259 (Hancock) of 2012, which was substantially similar to this bill, was vetoed by the Governor, who indicated that he did not have “sufficient and persuasive evidence warranting a change to the current framework within which graduate student researchers and faculty undertake their joint intellectual inquiries.” The Governor was also reluctant to place a new mandate on the university system during the fiscal environment at that time.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees Local 3299, AFL-CIO
California Labor Federation
California Nurses Association/National Nurses United
California School Employees Association
Committee of Interns and Residents/SEIU Healthcare
Council of UC Faculty Associations
Service Employees International Union (SEIU)
Teamsters Local 2010
UAW Local 2865
UAW Local 4123
UAW Local 5810
University of California Student Association
University of Professional and Technical Employees-Communications Workers of America
Local 9119, AFL-CIO

Opposition

None on file

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