

Date of Hearing: June 19, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Marty Block, Chair
SB 259 (Hancock) – As Amended: March 14, 2011

SENATE VOTE: 25-12

SUBJECT: Higher education: 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 Graduate Student Researchers (GSRs).

EXISTING LAW:

- 1) Establishes HEERA, which provides a statutory framework to regulate labor relations at the University of California (UC), the California State University (CSU), and Hastings College of Law and their employees. (Government Code § 3560-3599)
- 2) Establishes the Public Employment Relations Board (PERB) as the State agency that has broad authority to enforce the HEERA with regard to labor relations activities of UC, CSU, and Hastings College of Law. (GC § 3513)
- 3) Defines “employee” as any employee of the Regents of the UC, the Directors of the Hastings College of Law, or the Trustees of the CSU under the HEERA. (GC § 3562)
- 4) Provides that PERB may find a student employee whose employment is contingent on his or her status as a student is an employee only if the services he or she provides is unrelated to his or her educational objectives, or that 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. (GC § 3562)
- 5) Allows employee organizations, as defined, to represent specified employees concerning grievances, labor disputes, wages, hours and other terms and conditions of employment. (GC § 3562)

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill would result in General Fund costs for collective bargaining of \$639,000 in 2012-13 and \$6.5 million in out years and potentially \$11.6 million per year for salary compensation, dependent on collective bargaining, from a combination of General Funds (15%) and federal grants and private sources (85%).

COMMENTS: Background. HEERA provides a statutory framework to regulate labor relations between UC, CSU, and Hastings College of Law and their employees. HEERA is administered and enforced by the PERB. 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 GSRs, also

known as Research Assistants did not. UC's 6,000 Postdoctoral Scholars may also collectively bargain under HEERA. The United Auto Workers (UAW) represents UC's TAs and Postdoctoral Scholars. Student employees equivalent to GSRs at CSU are covered under HEERA by a voluntary agreement with CSU.

Purpose of this bill. By removing the limitation that a student's employment must be contingent upon their status as a student, this bill would give UC's 14,000 GSRs the ability to choose to collectively bargain under HEERA. While UC already extends to GSRs the same health insurance that TAs receive, other benefits that could be collectively bargained would include wages, work hours and conditions, grievance and arbitration procedures, etc.

Difference between GSRs, TAs and Postdoctoral Scholars. As noted previously, 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. Below is a description of these graduate student employment categories.

- 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) GSRs 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. GSRs 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.

Do GSRs move between employment categories? According to information provided by UC, at UC Berkeley in 2002-12, 18% of graduate students were employed only as a GSR; 22% of graduate students were employed as a GSR and spent one to two semesters employed as a TA; 28% of graduate students were employed as a GSR and spent three or more semesters employed as a TA; and 32% of graduate students were employed only as a TA. UC Berkeley notes that the GSRs who served as TAs usually did so at the beginning of their studies. GSRs are often recruited and enrolled specifically for research, but departments will require one or two semesters as a TA in order to meet the instructional needs of that department. The one or two semesters of as a TA also tend to occur within the first year or so of their course of study, with the GSR's focus shifting to research later on.

Arguments in support. According to UAW, the sponsor of this bill, graduate students work at UC for five to ten years while pursuing their PhDs. They frequently move in and out of the TA union, since they are employed as both TAs and GSRs during their time at UC. This movement

between jobs creates a lack of continuity, with the same group of workers having unequal rights and benefits from one term to the next. When student employees work as RAs, the contractual rights they have when they work as TAs disappear. They lose child care subsidies, family leave, workload protections, job security rights, contractual redress for non-discrimination, and health and safety, grievance and arbitration procedures and much more.

Arguments in opposition. UC states, "SB 259 would fundamentally change the relationship between faculty and GSRs from academic mentor-mentee to one of employer-employee." "Research is not 'work' in the traditional employment sense, in that it does not represent an exchange of wages for services. Academic research is also unique in that individual discoveries do not follow a set timeline. Because SB 259 fails to recognize these distinctions, the time that GSRs devote to their dissertation research could be in direct conflict with the workload provisions of a union contract. "

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda Labor Council
American Federation of State, County and Municipal Employees
California Faculty Association
California Labor Federation
California Nurses Association
California School Employees Association
California State University Employees Union
Committee of Interns and Residents/Service Employees International Union
International Union, UAW
Los Angeles County Federation of Labor
Orange County Labor Federation
Sacramento Central Labor Council
San Diego and Imperial Counties Labor Council
San Francisco Labor Council
San Mateo County Central Labor Council
Service Employees International Union
South Bay AFL-CIO Labor Council
University Council-American Federation of Teachers
University of California Student Association
University Professional and Technical Employees

Opposition

University of California

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