

DATE SUBMITTED August 24, 2023
 SUBMITTED BY City Manager
 DATE ACTION REQUIRED August 25, 2023

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: <p style="text-align: center;">Authorize Mayor to issue letters opposing adoption of AB 1484 and AB 504.</p>	
DEPARTMENT INVOLVED: City Manager	
BACKGROUND/SUMMARY: AB 1484: Would require local public agencies to include temporary employees in the same bargaining unit as permanent employees. If passed, our ability to provide public services would be negatively impacted. Imperial regularly hires temporary employees for our seasonal recreation programs. Imperial also utilizes temporary employees for project specific purposes. This bill discourages such hiring thereby compromising service to our community. AB 504: If passed, this bill would elevate the act of sympathy striking and honoring a strike at the expense of current law on the subject of collective bargaining and local MOU's which address the subject. Please see attached draft letters of opposition.	
FISCAL IMPACT: None if bills are not passed. Unknown if bills become law.	FINANCE INITIALS <u>DP</u>
STAFF RECOMMENDATION: Authorize Mayor to issue letters opposing AB 1484 and AB 504.	DEPT. INITIALS _____
MANAGER'S RECOMMENDATION: Approve staff recommendation	CITY MANAGER'S INITIALS <u>APM</u>
MOTION: SECONDED: APPROVED () REJECTED () AYES: DISAPPROVED () DEFERRED () NAYES: ABSENT: REFERRED TO:	



August 24, 2023

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 412
Sacramento, CA 95814

**RE: AB 1484 (Zbur): Temporary public employees – OPPOSE
As Amended May 18, 2023**

Dear Senator Portantino:

The City of Imperial must respectfully **oppose AB 1484**, which would require local public employers to include temporary employees in the same bargaining unit as permanent employees upon request of the recognized employee organization. AB 1484 would be difficult, if not impossible, for public employers to fulfill and includes provisions that conflict with existing law for permanent employees.

The bill's provisions, including restrictions on discharging temporary employees and the inevitable increases in cost to employers, would also seriously discourage public agencies from hiring temporary employees. This reduction in employment opportunities would be detrimental to Californians throughout the state who are seeking temporary work.

AB 1484 would also negatively impact public services. "Extra help" employees are often hired for seasonal or "surge" needs, such as Recreation Leaders and Lifeguards. This bill would significantly increase the costs of hiring such employees, thereby reducing levels of service to residents. Similarly, temporary employees are frequently hired to backfill permanent employees who are on leave or temporarily reassigned. This bill would discourage such hiring, leaving positions unfilled and the public unserved.

Furthermore, AB 1484 would have unintended and unpredictable consequences when applied to the myriad existing local programs and the laws governing employees. This includes retired annuitants — whose terms and conditions of employment are strictly controlled by state law in ways that would severely impair any meaningful bargaining — and workers hired through staffing agencies.

Public agencies also often offer paid student internship programs, which provide valuable work experience for the next generation of public employees. Requiring

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CITY ATTORNEY
Katherine Turner

agencies to include those positions with the bargaining unit (and give them discharge protections) would strongly discourage local governments from offering such programs.

AB 1484 would also require public agencies to inform temporary employees and the employee organization of the anticipated length of employment. However, temporary employees are often hired to fulfill an immediate need of uncertain duration, as was the case during the COVID-19 pandemic. In these cases, the agency would not be able to identify an end date that is anything more than speculation, which would serve no useful purpose and may lead to unnecessary disputes.

Most critically, AB 1484 provides temporary employees with more rights than permanent employees. Proposed Section 3507.7(b)(5) provides that "temporary employees...who have been employed for more than 30 calendar days shall be entitled to use any grievance procedure in the memorandum of understanding to challenge any discipline without cause." By contrast, the City of Imperial offers a probationary period of six (6) months for permanent employees, during which the employee may be released without cause and without triggering a grievance. This probationary period is a critical part of the hiring process. If public employers cannot use this process for temporary employees, they would be vastly less likely to hire temporary employees.

Temporary employees are hired for a temporary and urgent need. The provisions of this bill severely limit local agencies' ability to utilize this workforce, which ultimately impacts our ability to provide services. For these reasons, the City of Imperial respectfully **opposes AB 1484.**

Sincerely,

Katherine Burnworth
Mayor
City of Imperial

cc: The Honorable Rick Zbur, Member, California State Assembly
The Honorable Members, Senate Appropriations Committee
Robert Ingenito, Consultant, Senate Appropriations Committee
Scott Seekatz, Consultant, Senate Republican Caucus
Mary Hernandez, Chief Deputy Legislative Secretary, Office of the Governor
Your Cal Cities Regional Public Affairs Manager (via email)
League of California Cities, (via email: cityletters@calcities.org)



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August 24, 2023

The Honorable Anthony J. Portantino
Chair, Senate Committee on Appropriations
State Capitol, Room 412
Sacramento, CA 95814

RE: AB 504 (Reyes) State and Local Public Employees: Labor Relations: Disputes.
OPPOSE (As Amended 7/13/23)

Dear Senator Portantino:

The City of Imperial regrettably wishes to join the League of California Cities (Cal Cities), Rural County Representatives of California (RCRC), California Association of Joint Powers Authorities (CAJPA), Association of California Healthcare Districts (ACHD), California State Association of Counties (CSAC), Public Risk Innovation Solutions, and Management (PRISM), Urban Counties of California (UCC), and California Special Districts Association (CSDA) in their opposition to AB 504. This measure would declare the acts of sympathy striking and honoring a strike line a human right and thereby disallow provisions in public employer policies or collective bargaining agreements going forward that would limit or prevent an employee's right to sympathy strike.

State laws governing collective bargaining are in place to ensure a fair process for both unions and public entities. AB 504 upends the current bargaining processes which allows striking only in specified limited circumstances. Specifically, this bill states it shall not be unlawful or a cause for discipline or other adverse action against a public employee for that public employee to refuse to do any of the following:

- Enter property that is the site of a primary strike.
- Perform work for an employer involved in a primary strike.
- Go through or work behind any primary strike line.

This poses a serious problem for public agencies that are providing public services on a limited budget and in a time of a workforce shortage. Allowing any public employee, with limited exception, to join a striking bargaining unit in which that employee is not a member could lead to a severe workforce stoppage. When a labor group is preparing

to engage in protected union activities, local agencies have the ability to plan for coverage and can take steps to limit the impact on the community. This bill would remove an agency's ability to plan and provide services to the community in the event any bargaining unit decides to strike. A local agency cannot make contingency plans for an unknown number of public employees refusing to work.

In addition, when government services are co-located, employees from a non-struck agency could refuse to work at the shared campus if employees from a different agency are on strike, as it would be considered crossing the picket line. Additional provisions are needed, similar to the private sector, that allows a separate entrance to ensure the picket line would not be crossed while allowing vital services from a non- struck agency to continue. For example, there are co-located county and court services at almost every court. A county strike could potentially shut down court activities because court employees could refuse to enter the premises as it would be considered crossing the picket line. In rural communities, it is common to see co- location of government services to ensure remote areas are served. Disrupting the services of an innocent employer as part of a strike against another employer – known in labor law as – "secondary pressure" – has long been held to be an unfair labor practice that this bill should not facilitate or legalize. Public employers that bargained in good faith and have approved MOU agreements should not be penalized for sharing a business space with another government employer.

Our organizations are not disputing the right of the employee organization to engage in the protected activity of striking. State law has created a framework for when unions can engage in protected strike activity that has been honored by local government and unions alike. Unfortunately, this bill would allow those who have not gone through the negotiation process to now refuse to work simply because another bargaining unit is engaging in striking.

Local agencies provide critical health and safety functions, including disaster response, emergency services, dispatch, utilities, mobile crisis response, health care, law enforcement, corrections, elections, and road maintenance. Local memorandums of understanding (MOUs) provisions around striking and sympathy striking ensure local governments can continue to provide critical services. In many circumstances, counties must meet minimum staff requirements, e.g., in jails and juvenile facilities, to ensure adequate safety requirements. No-strike provisions in local contracts have been agreed to by both parties in good faith often due to the critical nature of the employees' job duties. Under current law, both primary and sympathy strikes may be precluded by an appropriate no-strike clause in the MOU, which this bill proposes to disallow following the expiration of a collective bargaining agreement that was entered into before January 1, 2024.

While we appreciate the recent amendments that seek to address issues regarding, existing MOUs, peace officers, and certain essential employees of a local public agency, we look forward to continuing to work with the author and sponsors to amend the language in order to ensure our communities are not left without essential services. Unfortunately, the recent amendments do not address the issue of public employees

with job duties that require work in a multi-jurisdiction function, like a law enforcement task force, where one entity is on strike. Shutting down government operations for sympathy strikes is an extreme approach that goes well beyond what is allowed for primary strikes and risks the public's health and safety.

As local agencies, we have a statutory responsibility to provide services to our communities throughout the state. This bill jeopardizes the delivery of those services and undermines the collective bargaining process. For those reasons, Cal Cities, RCRC, CAJPA, ACHD, CSAC, PRISM, UCC, and CSDA must oppose AB 504. Please do not hesitate to reach out to us with your questions.

Sincerely,

Katherine Burnworth
Mayor
City of Imperial

CC: Assemblymember Eloise Gómez Reyes, Assembly District 5
Members and Staff, Senate Committee on Appropriations
Robert Ingenito, Consultant, Senate Committee on Appropriations
Scott Seekatz, Policy Consultant, Republican Caucus
Mary Hernandez, Chief Deputy Legislative Secretary, Office of the Governor