

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT

Tina S. McKinnor, Chair

AB 1677 (McKinnor) – As Amended April 18, 2023

SUBJECT: Public employment: salary classification

SUMMARY: Requires the University of California (UC) at Berkeley Labor Center (UCB Labor Center) to undertake a study of the existing salary structure and provide recommendations for alternative models, if applicable, as applied to rank-and-file scientists in State Bargaining Unit 10 (BU 10), among other provisions. Specifically, **this bill:**

- 1) Requires the UCB Labor Center to undertake a study of existing salary structure; issues currently impacting horizontal and vertical salary relationships as compared to the historical relationships; and, provide recommendations, if applicable, for alternative salary models for rank-and-file scientists in state BU 10 covered by a collective bargaining agreement.
- 2) Requires that the exclusive representative for state BU 10 (i.e., California Association of Professional Scientists) rank-and-file members, and the California Department of Human Resources (CalHR) be consulted in identifying the study's parameters and objectives.
- 3) Requires the UCB Labor Center to report to the Director of Finance, the chairperson of the Joint Legislative Budget Committee, and the chairpersons of the appropriate legislative policy and budget committees the findings of the study, including any alternative salary structures, by April 30, 2024.
- 4) Establishes that preparation of the report must not delay or prejudice the Ralph C. Dills Act (Dills Act) collective bargaining process, as specified.
- 5) Provides that the report must include, at minimum, each of the following:
 - a) The advantages of any alternative salary model or models included in the findings of the study;
 - b) The transition and ongoing costs associated with any alternative salary model included in the findings of the study;
 - c) Recommendations for appropriate salary ranges, using comparable salaries of similar professions in the state's civil service, larger local agencies, higher education, or relevant industries; and,
 - d) Ways that alternative models address issues of horizontal and vertical salary relationships as compared to the historical relationships.

- 6) Subjects any increase in compensation resulting from the study to be implemented through the Dills Act collective bargaining framework and its processes, as provided.
- 7) Includes a codified legislative finding relating to recruitment, retention, high turnover, and low morale for these purposes.
- 8) Requires the report to be submitted in compliance with existing law, as specified.

EXISTING LAW:

- 1) Establishes, pursuant to Section 9, Article IX of the California Constitution as a public trust administered by the Regents of the UC with full powers and organization of government, subject to legislative control necessary to insure the security of its funds and compliance with the terms of the UC's endowments and competitive bidding procedures as applicable to the UC by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services, among other provisions.
- 2) Requires the CalHR to establish and adjust salary ranges for each class of position within the state civil service subject to any merit limits, as provided, and that the salary range be based on the principle that like salaries must be paid for comparable duties and responsibilities. In establishing or changing these ranges, consideration must be given to prevailing rates for comparable service in other public employment and private business, and the CalHR must not make adjustments that require expenditures in excess of existing appropriations that may be used for salary increases, but may make a change in a salary range retroactive to the date of application of the change.¹
- 3) Requires the CalHR to not establish, adjust, or recommend a salary range for any employees in an appropriate bargaining unit represented by an exclusive representative under the Dills Act, as specified.²
- 4) Requires, at least six months before the expiration of a memorandum of understanding (MOU) or immediately upon reopening negotiations under the existing MOU, the CalHR must submit a report containing its findings relating to the salaries of employees in comparable occupations in private industry and other governmental agencies, to the meeting and conferring parties, as specified, and to the Legislature.³

¹ Section 19826 (a) of the Government (Gov.) Code.

² Subdivision (b), *ibid.*

³ Subdivision (c), *ibid.*

- 5) Establishes that the provisions within an MOU must be controlling if the aforementioned statutory provisions are in conflict, as provided.⁴
- 6) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors.

While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights.⁵

- 7) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Dills Act, which provides collective bargaining for state employees of the executive branch and establishes a process for determining wages, hours, and terms and conditions of employment for represented employees, and excludes managers and confidential employees from bargaining rights.⁶
- 8) Establishes the Public Employee Relations Board (PERB), a quasi-judicial administrative agency, to administer the several statewide public sector collective bargaining statutes that govern public employer-employee relations, including under the Dills Act.⁷

FISCAL EFFECT: None. This bill is keyed fiscal by Legislative Counsel.

COMMENTS: Information provided by the author states that, “[t]he California Association of Professional Scientists (CAPS) represents more than 3,000 highly educated, specially trained state-employed scientists working in over 30 state departments and 81 scientific classifications whose members protect the public from life-threatening diseases, safeguard wildlife and abundant natural resources, and protect our air and water from toxic waste and pollution.

“State scientists salaries lag their local government and federal counterparts between 15 and 40 percent. If California is going to be able to hire and retain these scientists in the competitive world we live in, it will only come by improving promotional salary relationships that will

⁴ Subdivision (d), *ibid.*

⁵ Sections 151 *et seq.*, Title 29, United States Code.

⁶ Sections 3512 *et seq.* of the Gov. Code.

⁷ Sections 3541 *et seq.* of the Gov. Code.

enable California to compete for, and retain, the scientific expertise... [required] while minimizing the costs associated with high employee turnover and low morale.”

Further, “[The] UCB Labor Center has conducted several studies on state employee pay. Most recently for SEIU Local 1000,⁸ and in 2021, the Legislature passed and the Governor signed Chapter 240, Senate Bill 170 (Skinner), and Chapter 69 (Senate Bill 129, Skinner), which appropriated \$2 million to the California State University to evaluate the salary structure of nonfaculty staff employees.”

For these purposes, information provided by the author states that, “[t]his bill will allow both CAPS and the state to enter into negotiations with a more informed understanding of what is an appropriate starting point for salary negotiations and hopefully will lead to a “chipping away” at the salary lag that currently exists.”

1) Brief Background Regarding the Dills Act

The first of California’s public sector bargaining laws was enacted in 1961. Known as the “George Brown Act” or “Brown Act,” this act originally covered all public employers and recognized employees’ right to participate and be represented by employee organizations. It also granted those organizations the right to meet and confer with the employer on matters affecting employment relations prior to action being taken on such matters.

The breadth of the Brown Act was reduced over time as subsequent statutes nearly removed all employees from coverage in favor of separate public employer-employee relations statutes recognizing the inherent differences and unique needs of the various public employers and their employees throughout the California public sector.

Among these separate statutes, proponents of collective bargaining for state employees were successful when former Senator Ralph C. Dills introduced a measure (i.e., the “Dills Act”) that only covered specific employees of the state was passed in 1977 and signed into law by former Governor Edmund “Jerry” G. Brown, Jr. in July 1978.

2) This Bill

As stated under “Existing Law,” the UC is bestowed with constitutional authority and certain autonomy, subject to specified legislative control.

a) Suggestion to the Author for Consideration

Given the UC’s express authority under, and certain limitations imposed upon the Legislature by, the California Constitution regarding the UC, because this bill requires the UCB Labor Center – an entity or subdivision within the UC to perform the provisions of this bill, the

⁸ [“State Workers Struggle to Make Ends Meet Throughout California; Women, Black, and Latino Workers are Disproportionately Affected.”](#) UCB Labor Center. March 15, 2023.

requirements may be construed as legislative intrusion affecting the UC's constitutional authority or autonomy. To the extent that its provisions in these regards may be deemed as such, the author may wish to further explore this item and appropriately amend this bill in the future to address this matter, if necessary.

3) Equity Solutions and Maximizing Benefits for Underserved and Marginalized Communities

Pursuant to House Resolution (HR) 39 (Gipson, 2021), to continue the Assembly's commitment to investing in equity solutions and maximizing benefits for underserved and marginalized communities, legislative analyses of the Assembly must discuss the equity impact that a bill will, or may, have on such communities, if any.

This bill does not present a particular focus towards addressing equity in relation to maximizing benefits for underserved or marginalized communities as articulated in HR 39.

4) Conflict Notice to the Author

Legislative Counsel has informed the committee that a conflict exists with this bill and Assembly Bill 1254 (Flora). A conflict exists when two or more bills and/or constitutional amendments amend, add, repeal, or amend and renumber the same sections, article, chapter, division, or heading. The enactment of these measures in their present form could give rise to a serious legal problem that may be avoided by appropriate amendments.

5) Prior or Related Legislation

Assembly Bill 1254 (Flora, 2023) would require comparative pay for rank-and-file state Bargaining Unit (BU) 8 firefighters employed by the California Department of Forestry and Fire Protection (CAL FIRE) similar to those of other California fire departments, as specified, and among other provisions. On April 12, 2023, this bill was unanimously passed by the Assembly Committee on Public Employment and Retirement (7-0) and is currently pending in the Assembly Committee on Appropriations.

6) Comments by Supporter

The CAPS offers statements similar to those of the author.

7) Comments by Opponents

None one file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Professional Scientists (*Sponsor*)

Opposition

None on file.

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