



June 22, 2016

The Honorable Richard Pan, Chair
Senate Public Employment and Retirement Committee
1020 N Street, Room 568
Sacramento, CA 95814

**RE: Assembly Bill 2835 (Cooper) Orientations and Informational Programs
(As amended June 21, 2016)**

**Set for hearing in the Senate Public Employment and Retirement Committee – June 27, 2016
Position – OPPOSE**

Dear Senator Pan:

On behalf of the undersigned organizations representing California cities, counties, special districts and local education agencies, we are writing to express our strong opposition to Assembly Bill 2835 (Cooper), legislation that would place numerous new requirements in statute pertaining to mandatory employee orientations. AB 2835 would create serious legal, logistical and administrative issues for our agencies that would displace our employees and threaten fundamental management rights. We oppose the bill for the following reasons:

Expands Scope of Collective Bargaining. Employee organizations already have the right to negotiate the issue of orientations. Many, if not most, of our agencies currently provide time to employee representatives to meet with their members, many at the actual employment sites. Placing the details of employee orientations in statute would create costly logistical and administrative burdens for schools, counties, cities and special districts. If they desire orientations that vary from the requirements of AB 2835, employers would be required to negotiate an agreement with employee representatives, creating the prospect of constant meeting and conferring with employee organizations over new content. Employers are the most knowledgeable about the ever-changing requirements of information and policies that must be included in employee orientations; the requirement that employers and employee organizations agree to a presentation of new content that varies from the provisions of AB 2835 could take weeks or months.

Proposal is Overly Prescriptive. AB 2835 fails to take into consideration the varied circumstances of the public agencies that would be subject to its requirements.

- It requires that the orientation occur within two months of an employee being hired. Because many of our larger agencies hire as many as 1,000 people per year, this would create the possibility of ongoing and continuous orientation-mode, which would be costly and administratively difficult based on the requirements outlined in the bill.
- It requires that recognized employee organizations or exclusive representatives be provided with 30 minutes to present and that their presentation must occur within the first hour of the employee orientation. While we understand that employee representatives may be concerned that if they are scheduled at the end of the employer orientation their members will not be motivated to stay for their presentation, this narrow scheduling requirement puts an unreasonable restriction on the fundamental management right of how employee orientations are timed and conducted. Additionally, the proposal places no limit on the number of representatives for each bargaining unit presenting at the orientation, and allows the organization to allow an employee representative to attend the orientation on paid time. This last provision creates an unnecessary cost to our public agencies to backfill that employee's position and would be redundant in the majority of cases in which the employee organization retains paid business representatives or other business staff.
- The proposal requires that the orientation occur "during the regular work day," "at the worksite" and that the scheduling of the orientations be agreed upon with the recognized employee organization or exclusive representative and that all "newly hired public employees shall attend in person." First, for cities, counties and special districts that employ those that work in public safety (emergency dispatch, corrections) and hospitals, there is no "regular work day" (additionally, there are fixed-post staffing requirements, so these orientations would have to be done during overtime) and many of those employees are at various work sites. Further, many school districts and county offices of education cover large geographic areas, with dozens of sites within their boundaries.
- Schools and public agencies would have to provide the staff that presents at our employee orientations (human resources, Equal Employment Opportunity staff, staff participating in collective bargaining for the agency, etc.) overtime, travel pay, possibly lodging and shift differential in order to meet the requirement that the orientation take place at the employees' actual worksites. Cost and logistical issues have resulted in many of our larger school districts and other agencies conducting new employee orientations online – this proposal would eradicate that cost-effective and environmentally-friendly process for our members. Additionally, requiring agreement by management and labor for the scheduling of the orientation (i.e., each bargaining unit) is antithetical to the requirement that we provide these orientations within two months of hiring; should all units not agree on a schedule, we are unsure as to whether the orientation proceeds or the hiring of the employee gets delayed, which further infringes on an employer's fundamental management rights.
- The proposal requires that, if employees in different bargaining units are provided a combined orientation, during the employee representative's presentation, employees in each bargaining unit must be provided a separate space where the organization representing those employees can address its members. This is a major logistical hurdle for our agencies, many of which have numerous bargaining units for their employees. For example, if the work site of the employees is a hospital, does that mean that rooms would need to be found for each bargaining unit to present, even if there are a dozen or more employee organizations' members in attendance? Our smaller

municipalities and school districts, additionally, do not have the necessary space to adhere to the requirements of this bill.

Unclear Employee Representative Organization Discretion. AB 2835 provides that the content of the recognized employee organization's or exclusive representative's presentation shall be determined solely by the employee organization and shall not be subject to negotiation. It further reads that the presentation shall not include advocacy for or against a candidate for political office or ballot measure. However, nothing in the proposal prohibits the employee organization or exclusive representative from discussing internal union politics or campaigning, how to vote on upcoming incumbency elections, or prohibits the issues covered by the Public Employment Relations Board's (PERB) long-standing rule for unprotected conduct by employee representatives "that is found to be sufficiently opprobrious, flagrant, insulting, defamatory, insubordinate, or fraught with malice as to cause substantial disruption of or material interference in the workplace" (*State of California (Dept. of Corr. & Rehabilitation) (2012) PERB Dec. no. 2282-S*). Further, it would seem that if the employee organization has full participation in the determination of orientation content from the employer, the employer would have some type of review of the employee organization's presentation content, as well.

Administrative and Privacy Issues With Providing Employee Information. The proposal requires that public employers provide the recognized employee organization or exclusive representative with the name, job title, department, work location, phone number, and home address of any newly hired employee within seven days of the date of hire. Our organizations are unsure as to why the employee organizations need to receive this information so quickly after the employee has been hired; the requirement that we provide this information so quickly would be difficult because, 1) our members generally do not yet have this extensive demographic information for new employees within that time frame because they have not yet been placed into our payroll system, and 2) employers with high turnover would constantly be providing this information to the employee representatives.

Additionally, providing such information violates provisions of the Public Records Act which exempt the disclosure of records for recipients of certain benefits under the California Welfare and Institutions Code. While we appreciate the exemption for public safety officers and those victims of domestic violence, this proposal should allow public agencies to utilize the Public Records Act balancing test (Government Code §6254.5) when determining whether providing such records to employee organizations would violate our employees' right to privacy.

Prescriptive Requirements Increase Implementation Costs. The requirements in AB 2835 will significantly increase the costs for public agencies. By increasing the frequency and number of orientations, while requiring the schools and public employers to utilize additional staff to cover classes and other services during the orientation, the bill will drive up state and local costs into the hundreds of millions of dollars. The overly prescriptive requirements in AB 2835 prevent management and labor from utilizing more cost efficient and effective methods of conducting orientations.

In closing, AB 2835 would pose major burdens upon our public agencies that would slow the government process and disrupt the critical services that we provide to our residents and students. Employee organizations currently have the ability to bargain over the subject of participation in employee orientations and there is no looming threat to our employees' membership in these organizations that

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would necessitate mandatory employee organization-provided orientations that meet these stringent requirements. For these reasons, we oppose AB 2835 unless the issues outlined above are fully addressed, which would lead to orientation sessions that are informative for new employees while not being administratively burdensome to employers.

Thank you for your consideration of our views. If you have any questions regarding our position, please do not hesitate to contact Faith Conley, California State Association of Counties at (916) 327-7500 ext. 522 or Edgar Zazueta, Association of California School Administrators at (916) 444-3216.

Sincerely,

Faith Conley
California State Association of Counties

Dillon Gibbons
California Special Districts Association

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cc: The Honorable Jim Cooper, California State Assembly
Members, Senate Public Employment and Retirement Committee
Pamela Schneider, Consultant, Senate Public Employment and Retirement Committee
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