



May 6, 2021

TO: State Association of County Retirement Systems
FROM: Edelstein Gilbert Robson & Smith, LLC
RE: **Legislative Update – May 6, 2021**

April 30 marked the first significant legislative deadline of the 2021 legislative session whereby bills had to pass out of policy committees in the house of origin before being considered by the fiscal committee. This session, consistent with recent years, we have seen a plethora of employment-related legislation that would impose various requirements on all California employers, public and private. With the pandemic, bills of this nature have increased, with legislators proposing expansion of leave offered to employees and additional services, benefits and workplace protections under the umbrella of COVID-19 response.

With the Legislature and legislative committees dominated by labor union-friendly Democrats, many of these bills have easily passed the first policy committee on party line votes.

The following is an update on some of the major employment bills after the first four months of the legislative session. The report also includes an update on the various public meeting bills that have been introduced this session in response to the COVID-19 pandemic.

Employment Bills

AB 95 (Low) - Unpaid Bereavement Leave. This bill would require employers with 25 or more employees to allow employees to take up to ten days of unpaid bereavement leave for the death of a family member. For employers with less than 25 employees, the employer is required to grant up to three days of bereavement leave for this purpose.

This is a reintroduced version of AB 2999 (Low) of 2020 that fell by the wayside due to the truncated legislative session during the peak of the pandemic.

AB 995 (Gonzalez) - Expanded Sick Leave. This bill would allow employees to take five paid sick leave days per year. Current law allows for three days. The author framed the need for the bill around COVID-19, noting that the bill is necessary so employees that are sick can stay home and reduce the risk to their coworkers.

AB 1041 (Wicks) - Expanded Leave for Non-Family Relationships. This bill would expand the list of people an employee can take leave to care for to include an individual

with close association to the employee. The author's intent for this bill is to ensure those that do not have conventional family relationships are still able to take the same leave for their loved ones.

After heavy lobbying against the bill, it was substantially narrowed to allow an employee to designate one person annually to take this leave for and allows the employer to require documentation of that designated person's caretaking needs.

AB 1119 (Wicks) - Family Responsibility Discrimination. This bill would expand the list of protected characteristics under FEHA discrimination protections to include "family responsibilities." Under the bill, family responsibilities include the obligation to provide ongoing care to a minor child or "care recipient" which is a person who lives with the employee and relies on them for care. Expanding FEHA to cover these obligations would allow employees to have a cause of action against an employer who discriminated against the employee because of their family responsibilities.

Because the bill allows for a private right of action, employer groups are strongly opposed and have been working to narrow the language that would allow for an accommodation for family responsibilities.

AB 1179 (Carrillo) - Backup Childcare. This bill would require all employers with more than 1,000 employees in California to provide 60 hours of backup childcare benefits to their employees. Interestingly, the labor unions that typically engage on bills of this nature do not have a position on this bill.

To make this bill more workable for employers, the employer associations are seeking to work with the author to propose a more comprehensive strategy to deal with childcare that includes government support for childcare programs, especially considering the federal stimulus dollars already allocated to states for childcare purposes.

Public Meeting Bills

Three public meeting bills have been introduced relating to the pandemic and teleconference/virtual meetings.

AB 361 (Rivas)- Virtual Meetings for Declared Emergencies Only. This bill is sponsored by the CA Special Districts Association and would codify the Governor's Executive Order allowing for teleconference for declared emergencies. The bill would require local agencies to re-declare an emergency every 30 days that would then allow them to continue meeting remotely.

Because it is not a fiscal bill, it can be heard after the policy committee deadline. The bill passed out of the Assembly Local Government Committee this week.

AB 339 (Lee) - Mandatory Virtual Meetings with Translation Services – As introduced, this bill would have required the Legislature and public boards to continue to provide virtual access for the public, even if all of the members attended in-person, included requirements for translation services upon request and posting instructions in

the 2 most spoken languages in the jurisdiction. The bill is sponsored by the Leadership Counsel for Justice & Accountability and the ACLU of California.

Due to opposition from public agency groups, the bill was amended to limit the bill's applicability to city councils and boards of supervisors in jurisdictions with over 250k residents, limit the public access to phone or internet (not both), remove all translation requirements, and add a sunset date, among other changes.

The bill passed out of its first policy committee unanimously and will be heard next in the Assembly Appropriations Committee.

AB 703 (Rubio) - Continues Option for Virtual Meetings beyond pandemic. This bill codifies the Governor's Executive Order allowing for teleconference meetings after the pandemic is over. However, the author's office has confirmed that this bill is a two-year bill that will not be moving further this year of session.