



August 16, 2016

Members of the California Legislature

**RE: Assembly Bill 2835 (Cooper) Orientations and Informational Programs
(As amended August 15, 2016)
Position – OPPOSE / Senate Third Reading**

On behalf of the undersigned organizations representing California cities, counties, special districts, law enforcement and local education agencies, we regret that we must continue to oppose Assembly Bill 2835 (Cooper). While we appreciate the series of discussions with proponents of the bill for the purpose of exploring a possible compromise on this issue, recent amendments to the bill do not remedy the serious legal, logistical, fiscal and administrative issues for our agencies that will displace our employees and threaten fundamental management responsibilities and employee rights.

By removing the flexibility for local agencies to work with their employee representatives on workable employee orientations, requiring schools and public employers to utilize additional staff to cover classes and other services, and by preventing the utilization of more cost efficient and effective methods of conducting orientations, AB 2835 would drive up state and local costs into the hundreds of millions of dollars. As noted in the Department of Finance’s fiscal analysis of AB 2835, “the requirement for new employees to receive an orientation within two months of hire will result in as many as six orientations annually, conservatively estimated at more than 3,400 easily identifiable local government worksites and more than 13,500 schools and colleges.”

On a programmatic basis, we continue to have major concerns regarding the following provisions in AB 2835:

1. Requires public employers to provide all newly hired employees an orientation within two months of the time of hiring.

Concerns: Our agencies provide comprehensive and educational orientations for our employees, even weekly in many cases, due to the magnitude of hiring taking place. However, AB 2835 does not define “orientation” – if an orientation were to be interpreted as an employer simply meeting with a new employee to provide them relevant employment information, the accompanying provisions of the bill (specifically the 30-minute presentations by the exclusive employee representative during the first half of the orientation) would place public agencies in an ever-constant mode of orienting new employees. Further, as AB 2835 also allows the union representative that is also an employee to attend the union-provided part of the orientation, it is possible that the bill’s requirements will allow this employee to spend 30 minutes on employer-paid time to attend what could be weekly orientation meetings.

2. Requires orientations to be conducted in-person, during the regular workday of employees attending. The employee representative of each bargaining unit must be given at least 10 days advance notice of any orientation provided by the employer.

Concerns: For cities, counties, school districts/county offices of education and special districts that employ those that work in public safety (emergency dispatch, maintenance and operations, corrections) and hospitals, there is no “regular work day.” Additionally, there are fixed-post staffing requirements (the position must be filled 24 hours per day, seven days per week, and 365 days per year) that lead to most local agencies paying overtime to employees in these positions to attend orientation when they are not working. Other local government employees (such as janitorial staff and those in hospitals) work swing or graveyard shifts. Accordingly, it would be a major administrative burden for our agencies to ensure such orientations happen on a regular work day without seriously jeopardizing our ability to manage employee schedules.

Many local government agencies, school districts and county offices of education cover large geographic areas, with dozens of worksites within their boundaries. Cost and logistical issues as well as major advances in technology 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, placing the logistical burden on current staff but also those new employees entering our workforces. Under AB 2835, our 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 be conducted in-person.

Further, the requirement of employers having to provide at least 10 days' notice to each bargaining unit representative of an upcoming orientation places unworkable administrative requirements on public agencies that are unwarranted, at best. Public agencies cannot account for unforeseen circumstances, such as needing to delay an orientation due to the extension of a background check

- 3. Requires, for represented employees, the exclusive representative to be provided 30 minutes, within the first half of the orientation, to make a presentation. The content of the presentation would be determined solely by the exclusive representative and not subject to negotiation.**

Concerns: Many of our agencies currently provide time to employee representatives to meet with their members. 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. Further, as currently written, AB 2835 allows each employee representative in attendance to address its members for 30 minutes. Many of our agencies have as many as 10-15 bargaining units; this would result in a significant length of time being needed to allow for the employee representative-provided section of a new employee orientation.

AB 2835 also provides that the presentation by the exclusive representative 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*).

- 4. Requires public employers to provide the exclusive representative with the name, job title, department, work location, telephone number, and home address of any newly hired employee within 30 days of that employee's date of hire. Further, requires employers to provide an exclusive representative with a list containing the name, job title, department, work location, telephone number, and home address of all employees in the bargaining unit at least every 90 days.**

Concerns: 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.

In conclusion, 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 have been no examples presented by the bill's proponents to justify a statewide mandate for employee organization-provided orientations that meet these stringent requirements. For the reasons outlined above, we respectfully oppose AB 2835.

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,

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