

AMENDED IN ASSEMBLY MARCH 11, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2561

Introduced by Assembly Member McKinnor

February 14, 2024

An act to ~~amend Section 11546 of~~ *add Section 3502.3 to the Government Code, relating to state government administration: public employment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2561, as amended, McKinnor. ~~Department of Technology-Local public employees: vacant positions.~~

Existing law, the Meyers-Milias-Brown Act (act), authorizes local public employees, as defined, to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters of labor relations. The act prohibits a public agency from, among other things, imposing or threatening to impose reprisals on employees, discriminating or threatening to discriminate against employees, or otherwise interfering with specified employee rights guaranteed by the act.

This bill would require each public agency with bargaining unit vacancy rates exceeding 10% for more than 90 days within the past 180 days to meet and confer with a representative of the recognized employee organization to produce, publish, and implement a plan consisting of specified components to fill all vacant positions within the subsequent 180 days. The bill would require the public agency to present this plan during a public hearing to the governing legislative body and to publish the plan on its internet website for public review for at least one year. By imposing new duties on local public agencies,

the bill would impose a state-mandated local program. The bill would also include findings that changes proposed by this bill address a matter of statewide concern.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that a local agency or school district may pursue any available remedies to seek reimbursement for these costs.

~~Existing law requires the Department of Technology to be responsible for the approval and oversight of information technology projects, including by consulting with agencies during initial project planning to ensure that project proposals are based on well-defined programmatic needs, clearly identifying programmatic benefits, and considering feasible alternatives to address the identified needs and benefits consistent with statewide strategies, policies, and procedures.~~

~~This bill would make nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 3502.3 is added to the Government Code,*
- 2 *to read:*
- 3 3502.3. (a) *Each public agency with bargaining unit vacancy*
- 4 *rates exceeding 10 percent for more than 90 days within the past*
- 5 *180 days shall promptly meet and confer with the representative*
- 6 *of the recognized employee organization, as defined in subdivision*
- 7 *(a) of Section 3501, to produce, publish, and implement a plan to*
- 8 *fill all vacant positions within the subsequent 180 days.*

1 (b) The plan shall include an assessment of all the following
2 substantive components:

3 (1) Total number of positions and vacancies for specified job
4 classifications, organized by agency department or division.

5 (2) Applicable compensation rates, including health and welfare
6 benefits and fringe benefits, of similar positions at public and
7 private employers in the surrounding area compared to positions
8 exceeding a 10-percent vacancy rate and their relationship with
9 employee retention.

10 (3) A comparison of noneconomic terms of employment in
11 departments or divisions with vacancy rates exceeding 10 percent,
12 including scheduling flexibility and remote work options.

13 (4) An anonymous survey collected from present employees that
14 assesses workplace climate, culture, bullying, safety, recognition
15 of family responsibilities, remote work flexibilities, and leadership.

16 (5) Descriptions of any obstacles in the hiring process,
17 including, but not limited to, the following:

18 (A) Average length of the hiring process for an applicant.

19 (B) Number of applicants for vacant positions.

20 (C) Qualifications requirements for positions that have remained
21 vacant for more than 180 days.

22 (D) Success or lack of community outreach efforts to recruit
23 more applicants.

24 (E) Availability of multilingual civil service examinations for
25 vacant positions that require such an examination.

26 (F) Availability or lack of training or apprenticeship programs
27 for new hires or for career advancement for current employees.

28 (G) Other barriers to access not listed above.

29 (c) The plan shall address the identified problems in retention
30 and recruitment, as described in subdivision (b), and propose
31 specific, measurable and achievable objectives, including a
32 timeline the public agency will take to make progress toward filling
33 remaining vacancies in the following ways:

34 (1) Develop trainings, mentorship programs, or apprenticeships
35 to increase the pool of qualified applicants for vacant positions.

36 (2) Identify any necessary changes to policies, procedures, and
37 recruitment activities that lead to obstacles in the hiring process
38 described in paragraph (5) of subdivision (b).

39 (3) Identify current permanent and temporary employees who
40 could transition into a role in the bargaining unit described in

1 subdivision (a) and establish a training program to facilitate this
2 practice.

3 (4) Identify opportunities to improve compensation, working
4 conditions, and terms of employment.

5 (5) Partner with unions, community organizations, training and
6 placement programs, and stakeholders to reduce barriers and
7 improve access for applicants. The plan shall include specific
8 outreach activities the department will take to recruit applicants
9 with an equity section on a recruitment plan specific to workers
10 from underrepresented and disadvantaged communities.

11 (d) The public agency shall present this plan during a public
12 hearing to the governing legislative body.

13 (e) The public agency shall implement the plan as required in
14 subdivision (a).

15 (f) The public agency shall publish the plan, including the
16 findings detailed in subdivision (b), on its internet website for
17 public review for at least one year.

18 (g) The provisions of this section are severable. If any provision
19 of this section or its application is held invalid, the invalidity shall
20 not affect other provisions or applications that can be given effect
21 without the invalid provision or application.

22 (h) There is a statewide interest in ensuring that public agency
23 operations are appropriately staffed and that high vacancy rates
24 do not undermine public employee labor relations. The Legislature
25 finds and declares that this section constitutes a matter of statewide
26 concern and shall apply to charter cities and counties. The
27 provisions of this section shall supersede any inconsistent
28 provisions in the charter of any city or county.

29 SEC. 2. The Legislature finds and declares that Section 1 of
30 this act, which adds Section 3502.3 to the Government Code,
31 furthers, within the meaning of paragraph (7) of subdivision (b)
32 of Section 3 of Article I of the California Constitution, the purposes
33 of that constitutional section as it relates to the right of public
34 access to the meetings of local public bodies or the writings of
35 local public officials and local agencies. Pursuant to paragraph
36 (7) of subdivision (b) of Section 3 of Article I of the California
37 Constitution, the Legislature makes the following findings:

38 It is in the public interest, and it furthers the purposes of
39 paragraph (7) of subdivision (b) of Section (3) of Article I of the

1 *California Constitution, to ensure that information concerning*
2 *public agency employment is available to the public.*

3 *SEC. 3. No reimbursement shall be made pursuant to Part 7*
4 *(commencing with Section 17500) of Division 4 of Title 2 of the*
5 *Government Code for costs mandated by the state pursuant to this*
6 *act. It is recognized, however, that a local agency or school district*
7 *may pursue any remedies to obtain reimbursement available to it*
8 *under Part 7 (commencing with Section 17500) and any other law.*

9 ~~SECTION 1. Section 11546 of the Government Code is~~
10 ~~amended to read:~~

11 ~~11546. (a) The Department of Technology shall be responsible~~
12 ~~for the approval and oversight of information technology projects,~~
13 ~~which shall include, but are not limited to, all of the following:~~

14 ~~(1) Establishing and maintaining a framework of policies,~~
15 ~~procedures, and requirements for the initiation, approval,~~
16 ~~implementation, management, oversight, and continuation of~~
17 ~~information technology projects. Unless otherwise required by~~
18 ~~law, a state department shall not procure oversight services of~~
19 ~~information technology projects without the approval of the~~
20 ~~Department of Technology.~~

21 ~~(2) Evaluating information technology projects based on the~~
22 ~~business case justification, resources requirements, proposed~~
23 ~~technical solution, project management, oversight and risk~~
24 ~~mitigation approach, and compliance with statewide strategies,~~
25 ~~policies, and procedures. Projects shall continue to be funded~~
26 ~~through the established Budget Act process.~~

27 ~~(3) Consulting with agencies during initial project planning to~~
28 ~~ensure that project proposals are based on well-defined~~
29 ~~programmatic needs, clearly identifying programmatic benefits,~~
30 ~~and considering feasible alternatives to address the identified needs~~
31 ~~and benefits consistent with statewide strategies, policies, and~~
32 ~~procedures.~~

33 ~~(4) Consulting with agencies prior to project initiation to review~~
34 ~~the project governance and management framework to ensure that~~
35 ~~it is best designed for success and will serve as a resource for~~
36 ~~agencies throughout the project implementation.~~

37 ~~(5) Requiring agencies to provide information on information~~
38 ~~technology projects including, but not limited to, all of the~~
39 ~~following:~~

- 1 (A) The degree to which the project is within approved scope,
2 cost, and schedule.
- 3 (B) Project issues, risks, and corresponding mitigation efforts.
- 4 (C) The current estimated schedule and costs for project
5 completion.
- 6 (6) Requiring agencies to perform remedial measures to achieve
7 compliance with approved project objectives. These remedial
8 measures may include, but are not limited to, any of the following:
- 9 (A) Independent assessments of project activities, the cost of
10 which shall be funded by the agency administering the project.
- 11 (B) Establishing remediation plans.
- 12 (C) Securing appropriate expertise, the cost of which shall be
13 funded by the agency administering the project.
- 14 (D) Requiring additional project reporting.
- 15 (E) Requiring approval to initiate any action identified in the
16 approved project schedule.
- 17 (7) Suspending, reinstating, or terminating information
18 technology projects. The Department of Technology shall notify
19 the Joint Legislative Budget Committee of any project suspension,
20 reinstatement, and termination within 30 days of that suspension,
21 reinstatement, or termination.
- 22 (8) Establishing restrictions or other controls to mitigate
23 nonperformance by agencies, including, but not limited to, any of
24 the following:
- 25 (A) The restriction of future project approvals pending
26 demonstration of successful correction of the identified
27 performance failure.
- 28 (B) The revocation or reduction of authority for state agencies
29 to initiate information technology projects or acquire information
30 technology or telecommunications goods or services.
- 31 (b) The Department of Technology shall have the authority to
32 delegate to another agency any authority granted under this section
33 based on its assessment of the agency's project management,
34 project oversight, and project performance.