April 16, 2024

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

RE: Assembly Bill 2404 (Lee)
State and Local Public Employees: Labor Relations: Strikes.
OPPOSE – As Amended March 21, 2024

Dear Chair Kalra,

The Rural County Representatives of California (RCRC), League of California Cities (Cal Cities), California Association of Joint Powers Authorities (CAJPA), Association of California Healthcare Districts (ACHD), California State Association of Counties (CSAC), Public Risk Innovation Solutions, and Management (PRISM), Urban Counties of California (UCC), and California Special Districts Association (CSDA) respectfully oppose Assembly Bill 2404 (Lee). This measure is a re-introduction of last year's AB 504 (Reyes), which would declare the acts of sympathy striking and honoring a strike line a human right and, thereby, disallow provisions in public employer policies or collective bargaining agreements going forward that would limit or prevent an employee's right to sympathy strike.

State laws governing collective bargaining are in place to ensure a fair process for both unions and public entities. AB 2404 would upend the current bargaining processes which allow striking only in specified limited circumstances. Specifically, this bill states it shall not be unlawful or a cause for discipline or other adverse action against a public employee for that public employee to refuse to do any of the following:

- Enter property that is the site of a primary strike;
- Perform work for an employer involved in a primary strike; or
- Go through or work behind any primary strike line.

This poses a serious problem for public agencies that are providing public services on a limited budget and in a time of workforce shortage. Allowing any public employee, with limited exception, to join a striking bargaining unit in which that employee is not a member could lead to a severe workforce stoppage. When a labor group prepares to engage in protected union activities, local agencies can plan for coverage and take steps to limit the impact on the community. This bill would remove an agency's ability to plan and provide services to the community in the event any bargaining unit decides to strike. A local agency cannot make contingency plans for an unknown number of public employees refusing to work.

In addition, when government services are co-located, employees from a non-struck agency could refuse to work at the shared campus if employees from a different agency are on strike, as it would be considered crossing the picket line. We offered the author amendments, similar to the private sector, that allow a separate entrance to ensure the picket line would not be crossed while allowing vital services from a non-struck agency to continue. For example, there are co-located county and court services at almost every court. A county strike could potentially shut down court activities because court employees could refuse to enter the premises as it would be considered crossing the picket line.

In rural communities, it is common to see co-location of government services to ensure remote areas are served. Disrupting the services of an innocent employer as part of a strike against another employer – known in labor law as "secondary pressure" – has long been held to be an unfair labor practice that this bill should not facilitate or legalize. Public employers that bargained in good faith and have approved MOU agreements should not be penalized for sharing a business space with another government employer.

Our organizations are not disputing the right of the employee organization to engage in the protected activity of striking. State law has created a framework for when unions can engage in protected strike activity that has been honored by local government and unions alike. **Unfortunately, this bill would allow those who have not gone through the negotiation process to now refuse to work simply because another bargaining unit is engaging in striking.**

Local agencies provide critical health and safety functions including: disaster response; emergency services; dispatch; utilities; mobile crisis response; health care; law enforcement; corrections; elections; and road maintenance. Local memorandums of understanding (MOUs) provisions around striking and sympathy striking ensure local governments can continue to provide critical services. In many circumstances, counties must meet minimum staff requirements, e.g., in jails and juvenile facilities, to ensure adequate safety requirements. No-strike provisions in local contracts have been agreed to by both parties in good faith often due to the critical nature of the employees' job duties. Under current law, both primary and sympathy strikes may be precluded by an

appropriate no-strike clause in the MOU, which this bill proposes to disallow following the expiration of a collective bargaining agreement that was entered into before January 1, 2025.

We appreciate AB 2404 including language from last year's AB 504 (Reyes) in connection with issues we raised regarding existing MOUs, peace officers, and certain essential employees of a local public agency. Without additional amendments to address co-located agencies our communities may be left without needed services. Shutting down government operations for sympathy strikes is an extreme approach that goes well beyond what is allowed for primary strikes and risks the public's health and safety.

Our concerns with AB 2404 are consistent with the issues raised in response to last year's AB 504 (Reyes) and reflected in the veto message of that measure. "Unfortunately, this bill is overly broad in scope and impact. The bill has the potential to seriously disrupt or even halt the delivery of critical public services, particularly in places where public services are co-located. This could have significant, negative impacts on a variety of government functions including academic operations for students, provision of services in rural communities where co-location of government agencies is common, and accessibility of a variety of safety net programs for millions of Californians." – Governor Gavin Newsom

It is also important to note these impacts could be amplified by another pending measure concerning unemployment benefits for striking workers (Senate Bill 1116 (Portantino)) and a recently enacted measure allowing for collective bargaining for temporary employees (Assembly Bill 1484 (Zbur, 2023)).

As local agencies, we have a statutory responsibility to provide services to our communities throughout the state. This bill jeopardizes the delivery of those services and undermines the collective bargaining process. For those reasons, RCRC, Cal Cities, CSAC, CAJPA, ACHD, PRISM, UCC, and CSDA must respectfully oppose AB 2404 (Lee). Please do not hesitate to reach out to us with your questions.

Sincerely,

Sarah Dukett
Policy Advocate
Rural County Representatives of California
sdukett@rcrcnet.org

Johnnie Pina
Legislative Affairs, Lobbyist
League of California Cities
jpina@calcities.org

Kalyn Dean
Legislative Advocate
California State Association of Counties
kdean@counties.org

Jean Kinney Hurst
Legislative Advocate
Urban Counties of California
jkh@hbeadvocacy.com

Aaron A. Avery
Director of State Legislative Affairs
California Special Districts Association
aarona@csda.net

Faith Borges
Legislative Advocate
California Association of Joint Power Authorities
fborges@actumllc.com

Sarah Bridge
Legislative Advocate
Association of California Healthcare Districts
sarah@deveauburrgroup.com

Michael Pott
Chief Legal Counsel
Public Risk Innovation Solutions, and Management (PRISM)

cc: The Honorable Alex Lee, Member of the California State Assembly
Members of the Assembly Judiciary Committee
Manuela Boucher, Counsel, Assembly Judiciary Committee
Daryl Thomas, Consultant, Assembly Republican Caucus