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May 7, 2024

The Honorable Buffy Wicks
Chair, Assembly Appropriations Committee
1021 O Street, Suite 8220
Sacramento, CA 95814

RE: AB 2404 (Lee), Sympathy Strikes – OPPOSE

Dear Assembly Member Wicks,

I am writing on behalf of the Kern County Board of Supervisors, in lockstep with the California State Association of Counties et al., to express our strong opposition to AB 2404 (Lee). This bill would declare the acts of sympathy striking and honoring a strike line a 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 if that public employee refuses to:

- Enter property that is the site of a primary strike.
- Perform work for an employer involved in a primary strike.
- 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 at a time when workforce shortages are prominent. Allowing any public employee, with limited exception, to join a striking bargaining unit in which that employee is not a member could lead to critical workforce stoppages. When a labor group prepares to engage in protected union activities, local agencies have the ability to plan for coverage and can take steps to limit the impact on the community. This bill would remove an agency's ability to adequately plan and provide services to the community if a bargaining unit decides to strike. Local agencies simply would not be able to make contingency plans if an unknown number of public employees refused to work via sympathy strike.

In addition, when government services are co-located, employees from a non-striking 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. Amendments were offered to the author, 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-striking agency to continue. For example, there are co-located county and court services at almost every court throughout the state. 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.

State law has already created an adequate framework that allows unions to engage in protected strike activity. That framework 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 engaged in a strike.

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 MOU provisions around striking and sympathy striking ensure local governments can continue to provide critical services. In many circumstances, counties must meet minimum staff requirements, such as in jails and juvenile facilities, to ensure adequate safety is maintained. 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.

Since amendments to address co-located agencies were not included in the bill, 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 Governor's 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.”

As a local agency, Kern County has a statutory responsibility to provide services to our communities. This bill jeopardizes the delivery of those services and undermines the collective bargaining process. For these reasons, the Kern County Board of Supervisors is strongly opposed to this legislation and respectfully requests that you vote **NO on AB 2404**.

Sincerely,

A handwritten signature in blue ink, appearing to be 'David Couch', with a stylized, cursive script.

David Couch, Chairman
Kern County Board of Supervisors

cc: Honorable Members, Assembly Appropriations Committee
Honorable Members, Kern Legislative Delegation
California State Association of Counties
Shaw Yoder Antwih Schmelzer & Lange