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KATHLEEN KRAUSE
Clerk of the Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301
Telephone (661) 868-3585
TTY Relay (800) 735-2929

April 3, 2024

The Honorable Tina McKinnor
Assembly Member, District 61
1021 O Street, Suite 5520
Sacramento, CA 95814

Re: AB 2561 (McKinnor), Mandate to fill all vacant public agency positions – OPPOSE

Dear Assembly Member McKinnor,

I am writing on behalf of the Kern County Board of Supervisors to express our strong opposition to AB 2561, which would require local agencies with bargaining unit (BU) vacancy rates exceeding 10% for more than 180 days (approximately 6 months) to produce, implement, and publish a plan to reduce their vacancy rates to 0% within the subsequent 180 days.

Growing vacancy rates are not unique to local agencies. Universally, employers across the U.S. have experienced a tight labor market and increased turnover since the onset of the COVID-19 pandemic. These trends have been exacerbated by experienced workers retiring and a low supply of qualified workers to fill some positions. A January 2023 report from the Federal Reserve Bank of Atlanta noted that there were, at that point, 1.7 job openings in the U.S. for every available worker. A retirement boom coupled with a shrinking pool of younger people means the labor force is not replenishing itself. Those demographic factors alone explain fully half of the gap between labor supply and demand¹.

Market factors aside, tracking vacancy data and reporting on the metrics as required by AB 2561 poses serious challenges for local agencies. There is a myriad of job classifications in each BU with some having a high turnover rate that could erroneously skew the data reported. Employees quit, retire, move, etc. and taking a snapshot at one point in time does not accurately depict an agency's ongoing efforts to reduce its vacancy rates. Those rates change every single day through the normal attrition process. Creating a report and proposed cure for high vacancy rates during one reporting period could be followed by a perpetual cycle of reporting and meet and confer processes with labor unions if the BUs contain classifications that experience high turnover rates. The fatal flaw of this legislation is that it seeks to glean a single solution to a complex problem that is ongoing and presents a moving target.

¹ <https://www.atlantafed.org/economy-matters/economic-research/2023/01/12/we-re-getting-older-and-the-labor-market-shows-it>

Likewise, public agencies will have the unique challenge of managing the common practice of funding positions through the budget process but holding those positions vacant for a variety of reasons. One example of this practice is illustrated by Kern's recent efforts to increase public protection with the addition of several new Park Ranger positions. The positions were approved through the budget process, yet they will remain vacant until the full hiring process is complete. In this small, but telling example, the vacancy rate for the BU will artificially be skewed high because of the added positions. In BUs that contain thousands of positions and dozens or even hundreds of classifications, each with its own unique set of challenges and circumstances for filling those vacancies, the one-size-fits-all approach of AB 2561 sets local agencies up for failure.

This problem is not unique to local government. The Legislative Analyst's Office (LAO) reported last month that the Governor could cut vacant state worker jobs to solve the budget deficit. Vacant positions that departments have funding for, but have not filled for whatever reason, could be part of a "vacancy sweep" that would save the State General Fund an estimated \$762 million. Departments would argue that those positions are necessary to conduct the people's business and maintain adequate service levels for the public.

The LAO report also acknowledges the market constraint all employers are grappling with, stating that vacancies have been unusually high across the board. While the statewide vacancy rate has consistently hovered *above 10%* for at least 20 years, vacancies in recent years have at times ballooned to more than 20%. As of March 2024, about one in five state jobs was vacant.

With that reality in mind, this bill may force local agencies to delete all of their vacant, funded positions to become compliant with AB 2561. In that case, local unions will lose out on potential membership, citizens will feel the impact of diminished services, and the budgetary and hiring decisions made by local agencies to best meet the needs of their citizens will be usurped by policymakers in Sacramento.

For these reasons, the Kern County Board of Supervisors must oppose this legislation.

Sincerely,



David Couch, Chairman
Kern County Board of Supervisors

cc: Honorable Members, Assembly Committee on Public Employment & Retirement
Honorable Members, Kern Legislative Delegation
California State Association of Counties
Kern County Human Resources Division
Shaw Yoder Antwih Schmelzer & Lange