

2014 Legislative Update for Public Education Districts


Liebert Cassidy Whitmore | December 10, 2013

Presented by: Eileen O'Hare-Anderson

LCW LIEBERT CASSIDY WHITMORE


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Governance Issues



SB 751 – Brown Act

- Currently, no requirement to report vote of actions taken in open session.
 - SB 751 Requires local agencies to publicly report any action taken and the vote or abstention of each individual member present.

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AB 1030 – Student Trustees

- Governing Boards of CCDs include at least one non-voting student member.
 - AB 1030 provides that if a CCD student trustee seat becomes vacant, the governing board may authorize the officers of the student body association to appoint a student to serve the remainder of the term in accordance with procedures established by the governing board.

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SB 407 – Executive Compensation

- K12 and CCDs cannot enter into an employment contract with a “local agency executive” that provides for automatic renewal with automatic compensation increases in excess of COLA. Also a limit on buy outs.
 - SB 407 expands the definition of “local agency executive” to include a deputy or assistant chief executive officer of the local agency.

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Discrimination, Harassment and Retaliation



SB 292 – Sexual Harassment

- Expands the Definition of Sexual Harassment under FEHA
 - Clarifies that sexual harassment does not need to be motivated by sexual desire to be considered sexual harassment

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AB 556 – Military & Veteran Status

- Adds "Military and Veteran Status to List of Categories Protected Under FEHA
 - Defined as a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, United States National Guard, and the California National Guard
 - Provides an exception that allows employers to inquire into military or veteran status for the purpose of awarding veterans' preference points

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AB 263, SB 496, and SB 666

- Immigration Status
 - Prohibits certain unfair immigration related practices for exercising a right under state labor and employment laws
 - Creates a presumption that immigration-related actions within 90 days of the exercise of a protected right are retaliatory
 - SB 666 subjects attorneys to discipline for reporting or threatening to report the immigration status of a witness to a civil or administrative action, or report a family member of a witness
 - It is unclear whether the Labor Code sections regarding immigration-related practices apply to public agencies
- Unpaid Wages
 - An employer is prohibited from taking adverse action or retaliating against an employee that makes an oral or written claim for unpaid wages
 - Only applies to issues involving the state minimum wage

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AB 263, SB 496, and SB 666 Cont.

- Whistleblower Protections
 - Expands whistleblower protections to include disclosures regarding violations of local rules or regulations
 - Overrules part of *Ederly v. City of Oakland*
 - Expands the protected reporting to a person with authority over the employee or to another employee who has authority to investigate, discover, or correct the violation or noncompliance
 - Prohibits any person acting on the employer's behalf from making or enforcing any rule, regulation, or policy prohibiting reporting of violations
- Exhaustion of Administrative Remedies
 - Provides that Employees are not required to exhaust administrative remedies (i.e. filing with the Labor Commissioner) before filing in Superior Court.

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Business and Facility Issues



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AB 173 – Microbusiness and DVBE

- K12 and CCDs must bid contracts for goods and services over \$83,400.
 - AB 173 permits CCD to award a contract for goods, services, or information technology with a value of between \$5,000 and \$250,000 to a microbusiness and a disabled veteran business enterprise, without complying with certain competitive bidding requirements.
 - Must obtain price quotations from two or more certified small businesses

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AB 56 – Carbon Monoxide Devices

- AB 56 requires the California Fire Marshall to propose standards for the installation of carbon monoxide devices in school buildings
 - K-12 buildings, built before the current building code that have a fossil fuel burning furnace located inside the school building are encouraged to have a carbon monoxide device installed in the building.

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Student Issues



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AB 290 – Nutrition Training

- The California Child Day Care Act requires that at least one director or teacher at a day care center have at health and safety training.
 - AB 290 Requires at least one hour of childhood nutrition training for the director or teacher. Effective for licenses issued on or after January 1, 2016.

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AB 595 – Priority Registration

- AB 595 requires community college districts to grant priority registration to students in the Extended Opportunity Programs and Services program and to disabled students. This new provision “sunssets” January 1, 2017.

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SB 141 – Non-Resident Tuition

- Exempts US citizen living abroad from nonresident tuition if;
 - financial need
 - living abroad because parent been deported or permitted to leave
 - attended a public or private secondary school in the state for 3 or more years
 - will be in first year in higher ed, and
 - stated intent to establish residency.

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AB 449 – Report to CTC

- Creates statutory duty for superintendents to report any change in the employment status of a credential holder to the CTC
 - if the change in employment status is a result of an allegation of misconduct or while an allegation of misconduct is pending, the employee is dismissed, not reelected, resigns, is suspended, or is placed on unpaid administrative leave for more than 10 days as a final adverse action, retires, or is otherwise terminated by a decision not to employ or reemploy
 - no later than 30 days
- Failing to report misconduct to the CTC may result in serious penalties for a superintendent.

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AB 484 – Standardized Testing

- Eliminates the STAR program
- Establishes the Measurement of Academic Performance and Progress (MAPP) as the statewide assessment program to specified pupils. The MAPP will have computer-based assessments and will be aligned with California's common core curriculum.

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AB 1266 – Transgender Students

- Requires schools to offer transgender students equal access to school facilities, including and restrooms and locker rooms, irrespective of the gender listed on the pupil's student records.
- Also requires schools to allow students to participate in school programs and activities, including joining and competing on sex-segregated sports teams, that are consistent with the student's gender identify.

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AB 256 – Bullying

- Education Code defines "bullying" as severe or pervasive physical or verbal act or conduct, including by an "electronic act."
 - AB 256 defines an "electronic act" as "the creation and transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device..."

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Student Records Issues

SB 177, AB 216 – Homeless and Foster Youth

- Homeless Youth – SB 177
 - Requires that homeless children be immediately deemed to meet residency requirements for school districts.
 - Requires public schools and county offices of education to immediately enroll a homeless child seeking enrollment, except if enrollment would conflict with Education Code provisions, relating to charter school admission.
- Foster Youth – AB 216
 - School districts may exempt foster youth who transfer after the second year of HS from completing all local coursework and requirements adopted by the school board.
 - These are in addition to the statewide coursework requirements
 - Unless the district finds that the pupil is will complete the school district's graduation requirements in time to graduate.

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AB 1068, AB 643 – Pupil Records

- Access for Homeless Students
 - AB 1068 permits school district to release pupil records to a pupil when a pupil 14 years of age, is a homeless child or youth, or is an unaccompanied youth. Prohibits the release of directory information of a pupil identified as a homeless youth or child, unless a parent or eligible pupil has given written consent that such information may be released.

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AB 1068, AB 643 – Pupil Records

- Access for Child Welfare Caseworker
 - AB 643 permits access by an agency caseworker of a child welfare agency or tribal organization, who has the legal responsibility for a pupil, shall have access to that pupil's records, so long as the requester has a legitimate educational interest in the requested records. In addition, the new law will allow the agency to disclose the pupil records to an individual or entity that is authorized to address the pupil's educational needs.

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Retirement Issues



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SB 13 – PEPPA Cleanup

- Effective Immediately Clarifies that:
 - New member contributions that are greater than 50% must be collectively bargained
 - Employer may offer new defined contribution plan after January 1, 2013 even where the employer did not have one before January 1, 2013
 - Employers are not required to change vesting schedules in place before January 1, 2013 to comply with PEPPA
 - Public safety and firefighter retired annuitants returning to service within 180 days of retirement must be performing public safety or firefighter duties in order to be exempt from 180 day break in service
 - Collectively bargained multi-employer pension plans that include private and public employers are not subject to PEPPA

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SB 220 – Conforms PERL to PEPRA

- Repeals, recasts, and conforms the retired annuitant restrictions in the PEPRA to conform to the PERL
- Clarifies:
 - CalPERS has authority to administer PEPRA changes
 - New members are excluded from pre-PEPRA statutes defining "compensation earnable"
 - New members cannot receive employer-paid member contributions
 - Purchase of additional service credit no longer available for applications received after January 1, 2013
 - Requirement for employees to pay 50% of normal cost applies to new members in the 1.5% at age 65 retirement formula
 - How CalPERS will determine the retirement benefit for employees retiring before age 52 under an existing CalPER benefit schedule and a PEPRA non-safety benefit schedule

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AB 1381 – Conforms TRL to PEPRA

- Prohibits 2% at 62 members from receiving any benefits from CalSTRS in excess of the federal limit by excluding them from the Retirement Benefits Program.
- Restricts the purchase of nonqualified service in the TRL.
- Makes various changes to provisions governing postretirement employment.
- Makes various changes to provisions governing age factors and normal retirement age.

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AB 989 – STRS Account Statements

- The Teachers' Retirement Board will be permitted to electronically deliver account statements to STRS members.
- Electronic delivery can now be the default method of delivery.
- Members will be able to elect to receive statements via mail.

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AB 1379 – Administration of STRS

- AB 1379 makes technical and conforming changes to effectively administer STRS:
 - Revises and updates the references to sections of the TRL that conflict with federal law in its treatment of registered domestic partners.
 - Removes statutory references to the "2+2" program.
 - Clarifies that activities of employees performing an assignment of 24 months or less are not included in the definition of "retired member activities."
 - Eliminates a loophole allowing a member to reinstate for one year, elect, change or cancel an option, and then backdate his/her retirement date.

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Thank You!

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