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July 31, 2014

The Honorable Kevin DeLeon
Chair, California State Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, Ca 95814

RE: AB 2126 (Bonta) Meyers-Milias-Brown Act: Mediation - OPPOSE

Dear Senator DeLeon:

The Cities Association of Santa Clara County opposes AB 2126, which changes the mediation process by enabling either party to independently request mediation. If a mediator is not agreed to within five days, either party may request the Public Employee Relations Board (PERB) appoint a mediator. Under existing collective bargaining laws, employee organizations are required to *mutually agree* to a mediator. The requirement for mutual agreement to select a mediator is a fundamental aspect of any mediation process because it is the best way to ensure affected parties view the mediator as a true neutral. As drafted the bill provides preferential treatment, leverage and delay mechanisms to public employee organizations to the detriment of public employers and their responsibility to make responsible decisions for local taxpayers.

First of all, Assembly Bill 2126 fails to present a balanced mediation process. PERB is a respected organization, but as you may know, the majority of its board members come from employee organization backgrounds. Thus, this appointment process is likely to produce mediators not viewed as true neutrals by public employers. PERB nominated mediators and fact-finders will be inclined to be sympathetic with employee perspectives and have no responsibility for the financial health and stewardship of the affected local agency.

Second, this legislation expands the ability of PERB's fact-finding panels to review at the request of the employee organization. Under existing law, after parties reach impasse with a truly neutral mediator agreed upon by both sides, a PERB "fact-finding" panel could be requested after a declaration of impasse. Fact-finding panels have extremely broad powers to make inquiries and investigations, hold hearings, request information, and subpoena witnesses. While the employee organization and employer each select a

representative for a fact-finding panel, the panel is selected by PERB. In this proposed expanded capacity, when the new PERB-dominated “mediation” process fails to produce agreements satisfactory to employee organizations, those same organizations can now request a PERB-dominated fact-finding process.

Last, the changes proposed in AB 2126 would empower PERB to stall and second-guess the most basic management decisions because fact-finders would only have to be guided by criteria “*that the fact finders deem relevant to the dispute.*” Under current law, PERB fact-finding panel members must consider the following criteria when making its findings and recommendations:

- State and federal laws applicable to the employer;
- Local rules, regulations and ordinances;
- Stipulations of the parties;
- Interest and welfare of the public and the financial ability of the public agency;
- Comparison of wages, hours and conditions with employees performing similar services in comparable public agencies;
- Consumer price index of goods and services;
- The overall compensation received by employees, including vacation, pension, health and other benefits;
- Any other factors not confined to the above list.

The Cities Association provides a unified voice for the 15 cities of Santa Clara County and recognizes that cities statewide continue to face difficult budget conditions, which have been compounded by recent state takeaways including the loss of redevelopment and expanding pension and retiree health care obligations. To avoid insolvency, local agencies and their employees need to work together and collaborate to develop realistic solutions that match financial reality; creating a preferential treatment state forum for employee organizations will not produce sustainable outcomes.

For the reasons stated above, the Cities Association of Santa County opposes AB 2126.

Sincerely,

A handwritten signature in black ink that reads "Steve Tate". The signature is written in a cursive, flowing style.

Steve Tate
Mayor, Morgan Hill
President, Cities Association of Santa Clara County

Cc: Senator Jim Beall, Assembly Member Rob Bonta, Cities Association Board of Directors