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URBAN COUNTIES OF CALIFORNIA



CSDA



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ACHD ASSOCIATION OF CALIFORNIA HEALTHCARE DISTRICTS



COMMUNITY COLLEGE LEAGUE OF CALIFORNIA



May 22, 2024

ASSEMBLY FLOOR ALERT

Assembly Bill 2421 (Low) – Employer-Employee Relations: Confidential Communications - **OPPOSED** Assembly Third Reading File

On behalf of the Rural County Representatives of California (RCRC), League of California Cities (Cal Cities), California State Association of Counties (CSAC), California Special Districts Association (CSDA), Urban Counties of California (UCC), the Association of California Healthcare Districts (ACHD), California Association of Joint Powers Authorities (CAJPA), Community College League of California, California School Boards Association (CSBA), Community College League of California, the California Association of Recreation and Park Districts (CARPD), Public Risk Innovation, Solutions, and Management (PRISM), and the Association of California School Administrators (ACSA), we write to respectfully urge your **“NO” vote on AB 2421** (Low), which would restrict an employer’s ability to conduct internal investigations to the detriment of employees’ and the public’s safety and well-being.

AB 2421 creates a new, broad privilege between public employees and an employee representative without limitation regarding how the privilege functions. While proponents claim this is not a “privilege” and is subject to limitations, nothing in the language addresses this. Limitation on an employer’s ability to inquire about conversations or events, including during civil litigation, certainly functions in practice as a privilege. Further, contrary to claims, there is nothing in the bill that outlines how this functions as to events personally witnessed by an employee representative or whether an employee or employee representative can voluntarily share information.

Under this bill, the employee or the “employee representative” could at will decide to apply privilege over virtually any work-related communication. This could be problematic regarding workplace investigations for alleged harassment or other misconduct; as the employee representative could potentially prevent an employer from completing a comprehensive investigation. Employers have a legal duty to investigate problematic behavior in the workplace. There is a strong public interest in ensuring workplaces remain safe and free of harassing or discriminatory behavior. To the extent an employer’s questioning ever became overly coercive, PERB has already made clear that this type of questioning could violate an employee’s right to representation. **AB 2421** is far broader and is unnecessary.

Prior versions of this bill have failed or have been vetoed due to concerns regarding their impact on employees and the workplace. **AB 2421** raises those same issues and would set a concerning precedent. For these reasons, our organizations respectfully **request your “NO” vote** on AB 2421.