

May 2, 2024

The Honorable Buffy Wicks, Chair  
Assembly Appropriations Committee  
1021 O Street, Suite 8140  
Sacramento, CA 95814

Re: **AB 2751 (Haney): Employer communications during nonworking hours  
As amended 3/21/24 – OPPOSE  
Awaiting hearing – Assembly Appropriations Committee**

Dear Assembly Member Wicks:

On behalf of the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), the California State Association of Counties (CSAC), the League of California Cities (CalCities), the California Special Districts Association (CSDA), the Association of California School Administrators (ACSA), and Public Risk Innovation, Solutions, and Management (PRISM), we write to express our opposition to your Assembly Bill 2751, a measure that would prohibit communication between employers and employees outside of an ambiguous definition of “emergency”. Even though the bill is clearly intended to apply to public agency employers, AB 2751 raises considerable concerns, questions, and potential unintended consequences for counties, cities, and special districts and our employees. As a result, the measure has the potential to create significant uncertainty regarding the delivery of important local programs and services.

As you know, the provision of government services is a 24-hour, 7-day per week obligation. Local agencies construct their employee work periods in a collaborative manner through the collective bargaining process with duly recognized employee organizations. Those negotiations result in collective bargaining agreements that outline the terms of employment, including pay, benefits, hours, leave, job health and safety policies, as well as ways to balance work and home obligations. Even though it exempts employees subject to a collective bargaining agreement, AB 2571 would likely require reopening such agreements to negotiate new provisions associated with establishing contact outside of work hours. Further, local agencies also have employees that are not subject to a collective bargaining agreement; often these individuals have management or director responsibilities that facilitate and direct departmental activities which are inherently different from the activities of other types of employees. Other agencies, particularly smaller agencies, may not have collective bargaining agreements, or have collective bargaining agreements covering a portion of employees, while still providing important services in their communities. Agreements with these non-represented employees would also have to be amended to accommodate the provisions of the measure. AB 2751’s blanket prohibition represents a “one size fits all” approach that may not be appropriate for the government sector as it creates burdensome challenges for ensuring suitable service levels around the clock, and has implications for represented and non-represented employees.

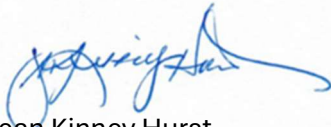
There are also a number of new definitions and references in AB 2751 that are vague and confusing. For example, we are unclear as to who is considered an “employer” and “employee” under the measure. Managers, directors, and other appointed and/or elected officials may run individual

agency departments, while the local governing body – who are clearly not employees – sets policy and direction for the local agency. Who is to assume responsibility for contacting which employees if contact is necessary after hours? The bill also does not appear to address “on-call” employees, who do not necessarily have assigned hours of work. The lack of clarity in the measure will undoubtedly create considerable challenges for public agency employers and, in doing so, potentially undermine the provision of public services.

In addition, pursuant to the California Emergency Services Act, any person employed by a county, city, state agency, or school district or special district in California is a public employee and considered a disaster service worker. This means that all public employees may be required to serve as disaster service workers in support of government efforts for disaster response and recovery efforts. AB 2751 is sufficiently vague regarding such obligations as to raise questions about how disaster service workers would be contacted outside of their normal work period for this purpose. If employees must “disconnect,” how may they be reached in an emergency? How would local agencies ensure that they have access to sufficient personnel to respond to an emergency? Also, the definition of “emergency” is likely to result in a difference of opinion as to what constitutes an emergency, creating additional confusion at what will likely be the most inopportune time.

While we appreciate the goal of ensuring that employees are able to have time for themselves and their families, we respectfully suggest that the provisions of AB 2751 are problematic for local public agencies, their employees, and the communities we serve. As a result, we are opposed to AB 2751. If you have questions about our position, please do not hesitate to reach out.

Sincerely,



Jean Kinney Hurst  
Legislative Advocate  
Urban Counties of California



Aaron Avery  
Director of State Legislative Affairs  
California Special Districts Association



Dorothy Johnson  
Legislative Advocate  
Association of California School Administrators



Johnnie Pina  
Legislative Affairs, Lobbyist  
League of California Cities



Kalyn Dean  
Legislative Advocate  
California State Association of Counties



Sarah Dukett  
Policy Advocate  
Rural County Representatives of California



Jason Schmelzer  
Legislative Advocate  
PRISM

cc: Members and Consultants, Assembly Appropriations Committee  
The Honorable Matt Haney, California State Assembly