

responding to petitions brought before ERB. Other employers already operating under collective bargaining agreements which include temporary and seasonal employees could be minimally affected.

Temporary Employee Definition Modification

Temporary employees are also more narrowly defined for the purposes of inclusion in an “appropriate bargaining unit”. It is likely that employers will have to review the job duties of existing temporary employees to determine if they are appropriately excluded from collective bargaining. Under the measure, to be included in an “appropriate bargaining unit” temporary employees need to be employed for the purpose of meeting emergency, nonrecurring or short-term workforce needs.

Another change the bill makes is modifying PECBA to provide that the exercise of any function of authority that is currently outlined in the definition of a “supervisory employee” does not require the conclusion that the individual exercising the functions is a supervisory employee. The change may push agencies to reevaluate some, if not all, positions to confirm the validity of their supervisory designations.

As mentioned above, the result of the modifications of these definitions will likely be that public employers will be required to perform reviews of the job duties of these positions which may lead to the reassignment of work, modified spans of control, increased use of leadwork, and movement of positions into or out of the bargaining unit. Moving positions into the bargaining unit could result in increased costs for salaries or overtime, depending on wage differentials between union and non-union pay scales and contract language regarding overtime. It is also likely that a full understanding of how these changes impact positions and collective bargaining will develop only after related petitions come before the Employment Relations Board (ERB) for its review and determination. Costs associated with the activities and outcomes noted above are indeterminate.

University Faculty Representation Elections

The measure eliminates a process – for state university faculty only – requiring one collective bargaining election ballot to deal with both the choice (yes or no) to be represented and organization selection (if yes, then which organization). This change will make the university faculty process consistent with that of other bargaining units and reduce ERB’s workload for tabulating ballots. There is no fiscal impact associated with this part of the bill.

Strike Replacements

Finally, the measure allows public employers to hire a temporary replacement, but prohibits them from hiring a permanent replacement for any public employee that is engaged in a lawful strike. ERB reports no related case law has been tested or used to set a precedent for an employer to hire a permanent replacement. It is unclear how this provision might affect a union’s inclination to go out on strike or the ability of public employers to manage during a strike.

Fiscal Impact Summary

Both state agencies and local governments have expressed concern that this bill will require additional work and result in an indeterminate fiscal impact. DAS, in particular, as the collective bargaining lead for state agencies, indicates the agency will need 1.50 positions and approximately \$330,000 Other Funds to handle an expected increase in labor relations workload. The Legislative Fiscal Office (LFO) concurs there will likely be costs associated with this measure, but believes there are too many variables associated with the bill to support anything other than an indeterminate fiscal impact.

Legal costs and staff time associated with petitions coming before ERB are also very likely; these will depend on the volume and complexity of the petitions. The Board indicates it expects workload under this bill to be minimal and part of its normal course of business. However, LFO believes it is difficult to

forecast the volume of potential hearing activity and would characterize ERB workload and fiscal impact as indeterminate.