



Judicial Council of California

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September 7, 2007

Hon. Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 553 (Hernandez) – Request for Veto

Dear Governor Schwarzenegger:

The Judicial Council respectfully requests your veto of AB 553 because it will eliminate or delay the courts' ability to seek injunctive relief when court employees strike or when county employees strike and essential court employees will not cross a picket line. Currently, when court employees engage in a strike or when county employees, such as from the public defender's office or other county agency, stage a job action that results in court employees declining to cross a picket line, the court, as an employer, has been able to seek relief in Superior Court by requesting that a limited number of essential employees, such as court reporters, be required to return to work to handle the most essential calendars. If AB 553 is approved, the court will instead be able to seek relief only from Public Employment Relations Board (PERB) and will be precluded from seeking injunctive relief independent of PERB. If PERB, for any reason, chooses not to seek an injunction on behalf of the court, the court will have no relief available. If PERB does go forward, there would be an additional delay not currently faced when the court can proceed on its own.

Although the legislation states that it is technical in nature and only clarifying existing law, we believe exclusive jurisdiction over injunctions is a significant expansion of PERB authority. Currently, under the Supreme Court opinion in County Sanitation District No. 2 of Los Angeles

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County v. Los Angeles County Employees Association (1985) 35 Cal.4th 564, a public entity can seek an injunction when an employee strike jeopardizes public health and safety. If the court, as the employer, is not able to obtain an injunction to require essential employees return to work, trial courts would be unable to perform critical judicial functions necessary for the public health and safety. This could result in the inability to conduct proceedings, which could preclude processing of criminal cases facing constitutional deadlines. The only alternative to dismissal of cases would be for the Chief Justice to issue an emergency order to close the court. Relying on the Chief Justice's powers to close the court is not an appropriate course of action to resolve labor disputes. In addition, urgent matters such as domestic violence petitions would be delayed, potentially jeopardizing the safety of families at risk.

The proponents of AB 553 call this bill a "clarification of existing law" and argue that previous legislation already transferred from the Superior Court to PERB the exclusive jurisdiction for resolving public sector labor disputes, which includes the authority to determine whether to seek injunctive relief. The opponents (the California State Association of Counties and the League of Cities) dispute these contentions. The issue of whether PERB has exclusive authority to seek injunctive relief in Superior Court has been challenged and is pending in cases in at least three appellate courts.

For these reasons, the Judicial Council requests your veto of AB 553.

Sincerely,



Eraina Ortega
Manager

EO/lb

cc: Hon. Ed Hernandez, Member of the Assembly

Mr. Michael Pro시오, Chief Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Brent Jamison, Acting Director of Legislation, Governor's Office of Planning and Research