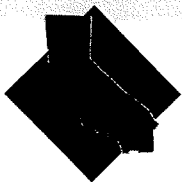


# CALIFORNIA ADVOCATES, INC.



**CONFIDENTIAL**

September 14, 2011

*Ralph F. Simoni*

The Honorable Edmund G. Brown, Jr.  
Governor, State of California  
State Capitol  
Sacramento, California 95814

*Michael D. Belote*

*Julianne A. Broyles*

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**SUBJECT: SB 857 (LIEU)--UNLAWFUL STRIKES: BAR TO REIMBURSEMENT  
REQUEST FOR VETO**

Dear Governor Brown:

*Robert G. Walters  
of Counsel*

The California Association of Joint Powers Authorities (CAJPA) respectfully requests a **VETO** of **SB 857 (Lieu)**, which is currently upon your desk awaiting action, that unreasonably seeks to prevent the Public Employment Relations Board (PERB) from reimbursing expenses resulting from unlawful strike activities that cause harm to the public and the public agencies that serve their interests.

Under existing law, a public entity facing improper strike activity must file an unfair labor practice charge with the PERB, and await its determination, before asking a court for an injunction. This procedural obligation exists even when the public agency believes the strike is unlawful because it will create a substantial and imminent threat to public health and safety.

SB 857 seeks to prohibit the PERB from assessing costs, litigation expense, and/or consequently lost revenue damages against public employees found to have engaged in unlawful conduct. This is a very significant change in the law that removes a strong incentive for public employees to refrain from engaging in illegal strikes and related actions.

Such a change also imposes a significant financial burden on the public whose tax dollars must be spent addressing such misconduct. The consequence of this change is that employee organizations and their members have little incentive to comply with their legal obligations, while engaging in unlawful tactics intended to gain bargaining concessions affecting the public trust and the public treasury. It should never be the public policy of this state to reward a party for engaging in illegal conduct.

Unlawful strikes by public employees interrupt the delivery of essential public services, including health and safety services. Not only are the involved public agencies unable to meet the public's needs, the agency is also required to incur strike response costs, replacement worker expenses, and litigation fees and costs that can substantially impact the agencies' already constrained budgets. To deny the agencies a potential right to reimbursement of such amounts, when the PERB determines that the public employees have engaged in illegal conduct, does not support the public policy of ensuring that those engaged in illegal acts pay for the damages caused by their wrongful acts.

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The Honorable Edmund G. Brown, Jr.  
**SB 857 (Lieu) – Request for Veto**  
September 14, 2011  
Page 2

**SB 857** would also substantially impair the ability of PERB to meet its important public obligations. If the PERB is unable to render decisions resolving disputes, with meaningful penalties for those parties it finds have engaged in illegally conduct, is to render the PERB less effective and relevant, particularly with respect to short-term workplace disruptions (sickouts, one day walkouts, and wildcat actions) where a public agency's ability to seek judicial intervention and protection is often unavailable. **SB 857** would eviscerate the ability of public agencies and PERB to best deal with these situations in a timely and appropriate manner that best serves the public need.

Just as PERB has the authority and obligation to make a public employee whole in the event of an unfair labor practice by a public employer, PERB, as a matter of equity and good public policy, should continue to have the same ability to make an employer whole for the loss and expenses directly resulting from an unlawful employee strikes.

For these reasons, CAJPA respectfully requests a **VETO** of **SB 857 (Lieu)** when it comes before you for action.

Sincerely,



Julianne Broyles  
On Behalf of California Association of Joint Powers Authorities