

Publishers resisting S.F. salary-data exemptions

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SACRAMENTO — A bill to exempt from public disclosure the identity of “private sector wage data” — collected by the city of San Francisco to set public-sector salaries — has been met with strong opposition from newspaper publishers as a violation of the Public Records Act.

The measure, SB 1674 by state Sen. Milton Marks, D-San Francisco, was unanimously approved by the state Senate but has been stalled in the Assembly Judiciary Committee, which postponed the bill twice and may consider it next week.

The bill was introduced because private employers “are reluctant to provide wage data without assurances that the raw data will remain confidential,” and because the San Francisco Charter requires such data in setting public salaries, committee aides said. Private employers are under no legal obligation to provide wage data.

The California Public Records Act generally mandates the disclosure of most public documents and other records. Exempt from such disclosure are pay data collected by the state Personnel Board or the Department of Personnel Administration.

Michael Bosia, Marks’ legislative coordinator, said he is working with the California Newspaper Publishers Association on amendments to keep the bill alive. He said it was introduced for the city because the Charter requires private-sector information that the state no longer provides.

“This is an urgent matter,” Bosia said. “We aren’t aware of this problem anywhere else in the state. This is the second year they haven’t gotten salary data from the state, and they are about to enter salary negotiations.”

The bill provides that when San Francisco or a joint powers agency collects private industry pay data for salary setting purposes, the source of the data may not be open to the public or admissible as evidence in any action or special proceeding.

“Until recently, this data was collected by the state Personnel Board and made available to local governments through the Cooperative Personnel Services, a joint powers agency,” the committee analysis said. Because the data was supplied by the Personnel Board, its source was confidential under the Public Records Act.

The importance of that information

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Marks' wage-data exemption bill opposed

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to the Personnel Board diminished with the growth of collective bargaining, the analysis said. "[The Personnel Board] has indicated it will no longer be involved in the distribution of this information. Therefore, local agencies which now require private industry salary data must seek the information directly from the federal Bureau of Labor Statistics or private industry."

Bosia said the city has been unable to get specific data from the Bureau of Labor Statistics without a guarantee of confidentiality.

In a letter of opposition to the bill, Michael Dorais, executive director and general counsel for the newspaper association, said the publishers "appreciate" Marks' concerns about the unique aspects of the city-county Charter and its "apparent" requirement that private employers' pay data be surveyed and considered in the setting of public-sector salaries.

Dorais warned that the bill would depart from the commitment to keep the public apprised of all fac-

tors that enter into salary-setting by public agencies, and that the setting of public salaries inevitably has an effect in turn on the private sector.

"If government pay for a position is high, private employers will have to offer more to compete with it," he told Marks in a letter.

"Masking the comparison basis probably tends to artificially drive both public and private salary levels up, because the public officials have less incentive to be conservative if they know that only they will be informed of what the basis for their judgment is," Dorais added. "Secrecy in this regard [will make] salary setting less accountable to the public and, for that reason, invite a cycle of drift toward higher salaries both in the public and private sector."

Dorais suggested that San Francisco officials "avoid this issue" by obtaining information "in a pre-aggregated summary form of suitable relevance and reliability" from the U.S. Bureau of Labor Statistics, the California Employment Development Department or the Bay Area Federated

Employers.

The bill is opposed by the Peace Officers Research Association of California, which contends that local agencies should not be permitted to keep such data confidential because officials "could purposely gather data from other agencies known to pay meager salaries and benefits in order to compress the discussion with their own peace officer association."

Bosia said amendments that may be introduced next week to salvage the bill would keep the company name confidential but disclose its size and the number of employees.

If the amendments are not acceptable, the bill could be postponed until next year's legisla-

tion. The session ends Sept. 11.

The Fourth District state appellate court ruled in *San Diego Union v. City Council of San Diego* that "salaries and other terms of compensation constitute municipal budgetary matters of substantial public interest warranting open discussion and eventual electoral public ratification."

Thus, a local governing body such as a city council may hold a closed session to decide whether a given employee is entitled to a raise by virtue of his or her performance, Dorais said, but a general discussion of budgetary or fiscal matters — including fac-