

1 MATTHEW J. GAUGER, Bar No. 139785
 2 WEINBERG, ROGER & ROSENFELD
 3 A Professional Corporation
 4 428 J Street, Suite 520
 5 Sacramento, CA 95814
 6 Telephone (916) 443-6600
 7 Fax (916) 4420244
 8 E-Mail: mgauger@unioncounsel.net

9 Attorneys for Applicants for Intervention BLET,
 10 BMW, BRS, IBEW, NCFO, SMART-MD, and SMART-TD

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 NATIONAL RAILROAD PASSENGER CORP.,
 14 *et al.*,

15 Plaintiff,

16 v.

17 STATE OF CALIFORNIA, *et al.*,

18 Defendant.

19 and

20 TRANSPORTATION DIVISION OF THE
 21 INTERNATIONAL ASSOCIATION OF SHEET
 22 METAL, AIR, RAIL AND TRANSPORTATION
 23 WORKERS; MECHANICAL DIVISION OF
 24 THE INTERNATIONAL ASSOCIATION OF
 25 SHEET METAL, AIR RAIL AND
 26 TRANSPORTATION WORKERS;
 27 BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN;
 INTERNATIONAL BROTHERHOOD OF
 ELECTRICAL WORKERS; NATIONAL
 CONFERENCE OF FIREMEN & OILERS
 DISTRICT OF LOCAL 32BJ, SEIU;
 BROTHERHOOD OF RAILROAD
 SIGNALMEN; and BROTHERHOOD OF
 MAINTENANCE OF WAY EMPLOYEES
 DIVISION/IBT,

Applicants for
 Intervention.

Case No. 2:15-cv-00924-KJM-EFB

**ORDER FOR UNIONS' UNOPPOSED
 MOTION TO INTERVENE**

Judge: Hon. Kimberly J. Mueller
 Date: June 17, 2016
 Time: 10:00 a.m.
 Courtroom: 3

1 Before the court is an unopposed motion by the Transportation Division and the
2 Mechanical Division of the International Association of Sheet Metal, Air, Rail and Transportation
3 Workers (“SMART-TD” and “SMART-MD” respectively), Brotherhood of Locomotive
4 Engineers and Trainmen (“BLET”), International Brotherhood of Electrical Workers (“IBEW”),
5 National Conference of Firemen & Oilers District of Local 32BJ, SEIU (“NCFO”), Brotherhood
6 of Railroad Signalmen (“BRS”) and Brotherhood of Maintenance of Way Employees
7 Division/IBT (“BMWED”) (hereinafter collectively referred to as “the Unions”) requesting leave
8 to intervene in the above-captioned case pursuant to Federal Rule of Civil Procedure 24(a)(2), or,
9 alternatively, pursuant to Rule 24(b). ECF No. 34.

10 Federal Rule of Civil Procedure 24(a) provides:

11 On timely motion, the court must permit anyone to intervene
12 who . . . claims an interest relating to the property or transaction
13 that is the subject of the action, and is so situated that disposing of
14 the action may as a practical matter impair or impede the movant’s
ability to protect its interest, unless existing parties adequately
represent that interest.

15 Fed. R. Civ. P. 24(a)(2). In determining whether intervention as of right is appropriate, the court
16 applies a four-part test:

17 (1) the application for intervention must be timely; (2) the applicant
18 must have a ‘significantly protectable’ interest relating to the
19 property or transaction that is the subject of the action; (3) the
20 applicant must be so situated that the disposition of the action may,
as a practical matter, impair or impede the applicant’s ability to
protect that interest; and (4) the applicant’s interest must not be
adequately represented by the existing parties in the lawsuit.

21 *Southwest Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 817 (9th Cir. 2001) (citation
22 omitted). “In determining whether intervention is appropriate, courts are guided primarily by
23 practical and equitable considerations, and the requirements for intervention are broadly
24 interpreted in favor of intervention.” *United States v. Aerojet Gen. Corp.*, 606 F.3d 1142, 1148
25 (9th Cir. 2010) (quoting *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004)).


26 Here, the court finds that the Unions have satisfied the four requirements under
27 Rule 24(a)(2): (1) the motion is timely; (2) the Unions have a significantly protectable interest in
28 their employee members’ coverage under California’s Healthy Workplaces, Healthy Families Act

1 of 2014 (“the Act”), Cal. Labor Code §§ 245–249, which may be rendered worthless for practical
2 purposes if plaintiffs prevail and the court finds the Act is preempted by federal law, *see CSX*
3 *Transp., Inc. v. Georgia Pub. Serv. Comm’n*, 944 F. Supp. 1573, 1577–78 (N.D. Ga. 1996);
4 (3) similarly, disposition of the action may, as a practical matter, impair or impede the Unions’
5 ability to protect this interest; and (4) the Unions’ interest is not adequately represented by the
6 existing parties in the action, *see Southwest Ctr.*, 268 F.3d at 822 (setting forth three-prong test
7 for inadequacy of representation). *See generally* Mem. P. & A. Mot. Intervene, ECF No. 35 at 5–
8 8.

9 Accordingly, the court GRANTS the Unions’ unopposed motion to intervene
10 under Rule 24(a)(2).

11 IT IS SO ORDERED.

12 Dated: May 16, 2016

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16 UNITED STATES DISTRICT JUDGE
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