

ASSEMBLY BILL

No. 2889

Introduced by Assembly Member Shelley

February 25, 2002

An act to amend Section 3502.5 of the Government Code, relating to agency shop agreements.

LEGISLATIVE COUNSEL'S DIGEST

AB 2889, as introduced, Shelley. Agency shop agreements.

Existing law provides that, notwithstanding other provisions of law, an agency shop agreement may be negotiated between a local public agency and a recognized public employee organization or may be placed in effect without a negotiated agreement upon a signed petition of 30% of the employees in the applicable bargaining unit and the approval of a majority of employees voting in a secret ballot election.

This bill would delete these provisions and instead require that an agency shop agreement shall be implemented between a public agency and a recognized public employee organization pursuant to specified rules, regulations, ordinances, and laws.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3502.5 of the Government Code is
2 amended to read:
3 3502.5. (a) Notwithstanding Section 3502 ~~or 3502.6~~, or any
4 other provision of this chapter, or any other law, rule, or regulation,
5 an agency shop agreement ~~may be negotiated~~ *shall be*

1 *implemented* between a public agency and a recognized public
2 employee organization ~~which~~ *that* has been recognized as the
3 exclusive or majority bargaining agent pursuant to reasonable
4 rules and regulations, ordinances, and enactments, in accordance
5 with this chapter. As used in this chapter, “agency shop” means
6 an arrangement that requires an employee, as a condition of
7 continued employment, either to join the recognized employee
8 organization, or to pay the organization a service fee in an amount
9 not to exceed the standard initiation fee, periodic dues, and general
10 assessments of the organization.

11 ~~(b) In addition to the procedure prescribed in subdivision (a);~~
12 ~~an agency shop arrangement between the public agency and a~~
13 ~~recognized employee organization that has been recognized as the~~
14 ~~exclusive or majority bargaining agent shall be placed in effect;~~
15 ~~without a negotiated agreement, upon (1) a signed petition of 30~~
16 ~~percent of the employees in the applicable bargaining unit~~
17 ~~requesting an agency shop agreement and an election to implement~~
18 ~~an agency fee arrangement, and (2) the approval of a majority of~~
19 ~~employees who cast ballots and vote in a secret ballot election in~~
20 ~~favor of the agency shop agreement. The petition may only be filed~~
21 ~~after the recognized employee organization has requested the~~
22 ~~public agency to negotiate on an agency shop arrangement and;~~
23 ~~beginning seven working days after the public agency received~~
24 ~~this request, the two parties have had 30 calendar days to attempt~~
25 ~~good faith negotiations in an effort to reach agreement. An election~~
26 ~~that may not be held more frequently than once a year shall be~~
27 ~~conducted by the Division of Conciliation of the Department of~~
28 ~~Industrial Relations in the event that the public agency and the~~
29 ~~recognized employee organization cannot agree within 10 days~~
30 ~~from the filing of the petition to select jointly a neutral person or~~
31 ~~entity to conduct the election. In the event of an agency fee~~
32 ~~arrangement outside of an agreement that is in effect, the~~
33 ~~recognized employee organization shall indemnify and hold the~~
34 ~~public agency harmless against any liability arising from any~~
35 ~~claims, demands, or other action relating to the public agency’s~~
36 ~~compliance with the agency fee obligation.~~

37 (c) Any employee who is a member of a bona fide religion,
38 body, or sect that has historically held conscientious objections to
39 joining or financially supporting public employee organizations
40 shall not be required to join or financially support any public



1 employee organization as a condition of employment. The
2 employee may be required, in lieu of periodic dues, initiation fees,
3 or agency shop fees, to pay sums equal to the dues, initiation fees,
4 or agency shop fees to a nonreligious, nonlabor charitable fund
5 exempt from taxation under Section 501(c)(3) of the Internal
6 Revenue Code, chosen by the employee from a list of at least three
7 of these funds, designated in a memorandum of understanding
8 between the public agency and the public employee organization,
9 or if the memorandum of understanding fails to designate the
10 funds, then to any such fund chosen by the employee. Proof of the
11 payments shall be made on a monthly basis to the public agency
12 as a condition of continued exemption from the requirement of
13 financial support to the public employee organization.

14 (d) An agency shop provision in a memorandum of
15 understanding that is in effect may be rescinded by a majority vote
16 of all the employees in the unit covered by the memorandum of
17 understanding, provided that: (1) a request for ~~such~~ a vote is
18 supported by a petition containing the signatures of at least 30
19 percent of the employees in the unit; (2) the vote is by secret ballot;
20 (3) the vote may be taken at any time during the term of the
21 memorandum of understanding, but in no event shall there be more
22 than one vote taken during that term. Notwithstanding the above,
23 the public agency and the recognized employee organization may
24 negotiate, and by mutual agreement provide for, an alternative
25 procedure or procedures regarding a vote on an agency shop
26 agreement. The procedures in this subdivision are also applicable
27 to an agency shop agreement placed in effect pursuant to
28 subdivision (b).

29 (e) An agency shop ~~arrangement~~ *agreement* shall not apply to
30 management, confidential, or supervisory employees.

31 (f) Every recognized employee organization that has agreed to
32 an agency shop provision or is a party to an agency shop
33 arrangement shall keep an adequate itemized record of its financial
34 transactions and shall make available annually, to the public
35 agency with which the agency shop provision was negotiated, and
36 to the employees who are members of the organization, within 60
37 days after the end of its fiscal year, a detailed written financial
38 report thereof in the form of a balance sheet and an operating
39 statement, certified as to accuracy by its president and treasurer or
40 corresponding principal officer, or by a certified public



1 accountant. An employee organization required to file financial
2 reports under the federal Labor-Management Disclosure Act of
3 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed
4 by this chapter, or required to file financial reports under Section
5 3546.5, may satisfy the financial reporting requirement of this
6 section by providing the public agency with a copy of the financial
7 reports.

O

