

Senate Bill No. 128

CHAPTER 270

An act to amend Sections 71601, 71623.5, 71626.5, 71627, 71628, 71629, 71632.5, 71637.1, 71639.1, 71650, and 71657 of, and to add Section 71675 to, the Government Code, relating to courts.

[Approved by Governor September 8, 2001. Filed with Secretary of State September 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 128, Burton. Trial court: employees.

Existing law establishes a trial court employee personnel system, as specified, governing, among other things, the authority to hire trial court personnel, and to regulate their classification and compensation, labor relations, personnel selections and advancement, employment protection, retirement, and personnel files.

This bill would make various technical and clarifying changes in these provisions. The bill would also require specified agency shop elections to be conducted by the Division of Conciliation of the Department of Industrial Relations if the parties fail to select a neutral person or entity to conduct the election within 10 days of the election petition. The bill would specify, as to an agency fee agreement other than in an agreement that is in effect on January 1, 2002, the recognized employee organization shall hold the court harmless and defend and indemnify the court, as specified.

The bill would provide for specified procedures for the release of budget and management information by the trial courts and the Judicial Council, including a hearing and appeal process.

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

SECTION 1. Section 71601 of the Government Code is amended to read:

71601. For purposes of this chapter, the following definitions shall apply:

(a) "Appointment" means the offer to and acceptance by a person of a position in the trial court in accordance with this chapter and the trial court's personnel policies, procedures, and plans.

(b) "Employee organization" means any organization that includes trial court employees and has as one of its primary purposes representing those employees in their relations with the trial court.



(c) “Hiring” means appointment as defined in subdivision (a).

(d) “Mediation” means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the trial court and the recognized employee organization or recognized employee organizations through interpretation, suggestion, and advice.

(e) “Meet and confer in good faith” means that a trial court or representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for resolution are contained in this chapter or in a local rule, or when the procedures are utilized by mutual consent.

(f) “Personnel rules,” “personnel policies, procedures, and plans,” and “rules and regulations” mean policies, procedures, plans, rules, or regulations adopted by a trial court or its designee pertaining to conditions of employment of trial court employees, subject to meet and confer in good faith.

(g) “Promotion” means promotion within the trial court as defined in the trial court’s personnel policies, procedures, and plans, subject to meet and confer in good faith.

(h) “Recognized employee organization” means an employee organization that has been formally acknowledged to represent trial court employees by the county under Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by the trial court under Rules 2201 to 2210, inclusive, of the California Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3 (commencing with Section 71630) of this chapter.

(i) “Subordinate judicial officer” means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, juvenile referee, and judge pro tempore.

(j) “Transfer” means transfer within the trial court as defined in the trial court’s personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) “Trial court” means a superior court or a municipal court.

(l) “Trial court employee” means a person who is both of the following:



(1) Paid from the trial court’s budget, regardless of the funding source. For the purpose of this paragraph, “trial court’s budget” means funds from which the presiding judge of a trial court, or his or her designee, has authority to control, authorize, and direct expenditures, including, but not limited to, local revenues, all grant funds, and trial court operations funds.

(2) Subject to the trial court’s right to control the manner and means of his or her work because of the trial court’s authority to hire, supervise, discipline, and terminate employment. For purposes of this paragraph only, the “trial court” includes the judges of a trial court or their appointees who are vested with or delegated the authority to hire, supervise, discipline, and terminate.

(m) A person is a “trial court employee” if and only if both paragraphs (1) and (2) of subdivision (l) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 810 of the California Rules of Court. The phrase “trial court employee” includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase “trial court employee” does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed.

SEC. 2. Section 71623.5 of the Government Code is amended to read:

71623.5. (a) As of July 1, 2001, trial courts shall provide workers’ compensation coverage for trial court employees under a workers’ compensation program established by the Administrative Office of the Courts or a program selected or approved by the Administrative Office of the Courts. The Judicial Council shall adopt rules of court requiring the Administrative Office of the Courts to establish a workers’ compensation program for the trial courts and to provide guidance to the trial courts to ensure that the courts’ workers’ compensation coverage, including workers’ compensation employer liability coverage, meets all legal requirements and is cost-efficient.

(b) If, as of the implementation date of this chapter, the county provides workers’ compensation coverage for trial court employees, the county shall continue to provide the coverage, under the same terms and conditions as coverage was provided immediately preceding implementation of this chapter. This coverage shall continue for a transition period of up to 24 months after the implementation date of this chapter, unless the court gives the county 60 days’ notice, or a mutually



agreed to period of notice, that the court no longer needs the county to provide the coverage. Subject to approval by the Administrative Office of the Courts, the parties may mutually agree to county-provided coverage beyond the 24-month transition period.

(c) County provision of workers' compensation coverage for trial court employees shall not be construed to create a meet and confer obligation between the county and any recognized employee organization.

SEC. 3. Section 71626.5 of the Government Code is amended to read:

71626.5. (a) As of the implementation date of this chapter:

(1) If a trial court employee receives county retiree group insurance benefits pursuant to Section 71626 and that county funds retiree group insurance benefits from excess funds in the county's retirement system, or prefunds retiree group insurance benefits, the county or county retirement board shall administer retiree group insurance benefits to trial court employees who retire from the county retirement system. However, the county and the trial court may agree to an alternative arrangement to administer retiree group insurance benefits.

(2) In all other counties in which the trial court exercises its authority to provide retiree group insurance benefits to its employees, (A) if the trial court administers retiree group insurance benefits to trial court employees separately from the county, the trial court shall continue to administer these benefits as provided under existing personnel policies, procedures, plans, or a trial court employee memorandum of understanding or agreement; and (B) if the county administers retiree group insurance benefits to trial court employees or if the trial court contracts with the county to administer retiree group insurance benefits to trial court employees, the county may continue to administer retiree group insurance benefits to trial court employees pursuant to subdivision (c) of Section 71626 or the trial court may administer retiree group insurance benefits to trial court employees pursuant to the following transition process:

(i) While an existing memorandum of understanding or agreement remains in effect or for a transition period of up to 24 months, whichever is longer, the county shall administer retiree group insurance benefits for represented trial court employees who retire during that period, as provided in the applicable memorandum of understanding or agreement, unless the county is notified by the trial court pursuant to subparagraph (iv) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits.



(ii) For a transition period of up to 24 months after the implementation date of this chapter, the county shall administer retiree group insurance benefits for unrepresented trial court employees who retire during that period, unless notified by the trial court pursuant to subparagraph (iv) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits. During the 24-month transition period, if the county decides to change how it administers unrepresented trial court employees' retiree group insurance benefits, the county shall provide the trial court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in the administration of the benefits is implemented so the trial court can decide whether to accept the county's change or consider alternatives and arrange to administer or provide benefits on its own.

(iii) If, during the 24-month transition period, the trial court decides to offer particular retiree group insurance benefits different from what the county is administering, the trial court shall be responsible for administering those particular retiree group insurance benefits.

(iv) If the trial court intends to give notice to the county that it no longer needs the county to administer specified retiree group insurance benefits to trial court employees, the trial court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.

(b) A county's agreement to administer retiree group insurance benefits shall not be construed to create a meet and confer obligation between the county and any recognized employee organization.

(c) Nothing in this section precludes a trial court from offering a different retiree group insurance benefits plan for trial court employees that is separate from the county retiree group insurance benefits plans, subject to the terms of a memorandum of understanding or agreement for represented employees, or the terms of trial court policies, procedures, or plans, for unrepresented employees.

SEC. 4. Section 71627 of the Government Code is amended to read: 71627. Notwithstanding any other provision of law:

(a) As provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the level of federally regulated benefits provided to a trial court employee. The level of federally regulated benefits provided to a trial court employee as of the implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (b). If the same federally regulated benefits are not permitted by law or by the vendor, the same level of federally regulated benefits shall be provided by the trial court subject to the provisions of subdivision (b).



(b) (1) For employees who are represented by a recognized employee organization, (A) the level of federally regulated benefits accruing to a trial court employee pursuant to the terms of a memorandum of understanding or agreement is subject to modification only pursuant to the terms of that memorandum of understanding or agreement, and upon expiration of that memorandum of understanding or agreement, those federally regulated benefits may not be modified except pursuant to a subsequent memorandum of understanding or agreement; and (B) the level of federally regulated benefits accruing to a trial court employee pursuant only to personnel, policies, procedures, and plans may be modified by the trial court, subject to meet and confer in good faith.

(2) For employees who are not represented by a recognized employee organization, the level of federally regulated benefits may be revised by the trial court.

(c) If the county administers federally regulated benefits to trial court employees, or if the trial court contracts with the county to administer federally regulated benefits to trial court employees, a trial court employee shall be eligible to participate in federally regulated benefits subject to federally regulated benefit regulations, policies, terms, and conditions, and subject to both of the following requirements:

(1) A trial court employee shall have the right to receive the same level of federally regulated benefits as county employees in similar classifications, as designated by the trial court subject to the obligation to meet and confer in good faith, without the opportunity to meet and confer with the county as to those benefits.

(2) The level of federally regulated benefits accruing to a trial court is subject to modification by the county if the county changes the level of federally regulated benefits of county employees in classifications that have been designated as similar classifications pursuant to paragraph (1).

(d) For purposes of this section, “federally regulated benefits” means benefits that provide tax-favored treatment for employees pursuant to federal laws or regulations, including, but not limited to, cafeteria plans under Section 125 of the Internal Revenue Code, educational assistance benefits under Section 127 of the Internal Revenue Code, and fringe benefits under Section 132 of the Internal Revenue Code, but not including federally-regulated deferred compensation plan benefits provided to trial court employees pursuant to Section 71628.

(e) As of the implementation date of this chapter:

(1) If the trial court administers federally regulated benefits for trial court employees separately from the county, the trial court shall administer these benefits as provided under existing personnel policies,



procedures, plans, or a memorandum of understanding or agreement applicable to trial court employees.

(2) If the county administers federally regulated benefits for trial court employees, or if the trial court contracts with the county to administer federally regulated benefits, the following provisions govern the transition of responsibility for administering these benefits to the trial court:

(A) Until the effective date of the transition of responsibility, the county shall continue to administer represented trial court employees' federally regulated benefits as provided in the memorandum of understanding or agreement and unrepresented trial court employees' federally regulated benefits as provided in personnel policies, procedures, and plans.

(B) During the period of time between the implementation date of this chapter and the effective date of the transition of responsibility, both the trial court and the county shall cosponsor the federally regulated benefit plan. Cosponsorship shall continue as long as trial court employees are governed by a plan not offered by the trial court, but in no event longer than 18 months after the implementation date of this chapter, or the term of the memorandum of understanding or agreement applicable to trial court employees, whichever is longer, unless the trial court and the county agree to continued cosponsorship.

(C) If during the cosponsorship period the trial court decides to offer particular benefits that are different from what the county is administering, then the trial court shall be responsible for administering those particular benefits unless the trial court and county agree otherwise.

(D) The effective date of the transition of responsibility shall coincide with the first day of the applicable federally regulated benefits plan year to ensure that there is no financial impact on the employee or on either employer.

(f) To facilitate trial court employee participation in county federally regulated benefits plans, the trial court and county may mutually agree that the county shall administer the payroll for trial court employees.

(g) The trial court shall reimburse the county for the cost of any coverage of trial court employees in county federally regulated benefit plans.

(h) A county shall have authority to cosponsor federally regulated benefits with a trial court to provide those benefits to trial court employees if those benefits are requested by the trial court subject to county agreement to cosponsor those benefits. A county's agreement to cosponsor those benefits shall not be construed as creating a meet and



confer obligation between the county and any recognized trial court employee organization.

(i) Nothing in this section shall prevent a trial court from offering to trial court employees a future option of participating in other federally regulated benefit plans that may be developed subject to the obligation to meet and confer in good faith.

SEC. 5. Section 71628 of the Government Code is amended to read: 71628. Notwithstanding any other provision of law:

(a) As provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the level of deferred compensation plan benefits provided to a trial court employee.

If the same deferred compensation plan benefits are not permitted by law or the plan vendor, the trial court shall provide other deferred compensation plan benefits at the same level, subject to the provisions of subdivision (b). The level of deferred compensation plan benefits provided to a trial court employee as of the implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (b).

(b) (1) For employees who are represented by a recognized employee organization, (A) the level of deferred compensation plan benefits accruing to a trial court employee pursuant to the terms of a memorandum of understanding or agreement is subject to modification only pursuant to the terms of that memorandum of understanding or agreement, and upon expiration of that memorandum of understanding or agreement, those deferred compensation plan benefits may not be modified except pursuant to a subsequent memorandum of understanding or agreement; and (B) the level of deferred compensation plan benefits accruing to a trial court employee pursuant only to personnel, policies, procedures, and plans may be modified by the trial court, subject to meet and confer in good faith.

(2) For employees who are not represented by a recognized employee organization, the level of deferred compensation plan benefits may be modified by the trial court.

(c) If the county administers deferred compensation plan benefits to trial court employees, or if the trial court contracts with the county to administer deferred compensation plan benefits to trial court employees, a trial court employee shall be eligible to participate in deferred compensation plan benefits subject to deferred compensation plan regulations, policies, terms and conditions, and subject to both of the following:

(1) A trial court employee shall have the right to receive the same level of deferred compensation plan benefits as county employees in similar classifications, as designated by the trial court subject to the



obligation to meet and confer in good faith, without the opportunity to meet and confer with the county as to those benefits.

(2) The level of deferred compensation plan benefits accruing to a trial court employee is subject to modification by the county if the county changes the level of deferred compensation plan benefits of county employees in classifications that have been designated as similar classifications pursuant to paragraph (1).

(d) If the implementation of this chapter causes a change in deferred compensation plans and requires the transfer of trial court employees' plan balances to the trial court's deferred compensation plan, trial court employees shall not suffer a financial loss due to transfer-related penalties, such as deferred sales charges, and any financial loss due to transfer-related penalties shall be borne by the trial court.

(e) Trial court employees shall continue to be eligible to receive deferred compensation plan benefits from the county or the trial court. For purposes of deferred compensation plans established under Section 401(k) or 457 of the Internal Revenue Code, one of the following shall apply:

(1) If permitted by federal law and deferred compensation plan vendors, trial court employees shall continue to receive federal 401(k) or 457 deferred compensation plan benefits through county plans unless the trial court modifies its plan benefits pursuant to personnel rules, subject to meet and confer in good faith.

(2) If not permitted by federal law or deferred compensation plan vendors, the trial court shall provide deferred compensation plan benefits at the same level subject to meet and confer in good faith, in which case upon transition to the new deferred compensation plan, (A) to provide the trial court time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which trial court employees shall continue to receive deferred compensation plan benefits from the county; and (B) a county may require that trial court employees leave their plan balances in the county's deferred compensation plan or may transfer trial court employees' plan balances to the trial court's deferred compensation plan.

(f) To facilitate trial court employee participation in county deferred compensation plans, the trial court and county may mutually agree that the county shall administer the payroll for trial court employees.

(g) The trial court shall reimburse the county for the cost of any coverage of trial court employees in county deferred compensation plans.

(h) A county is authorized to amend the documents of a deferred compensation plan established under Section 401(k) or 457 of the



Internal Revenue Code as necessary to achieve the objectives of this section.

(i) Nothing in this section precludes the possibility that a trial court employee may have a future option of participating in other deferred compensation plans that may be developed subject to the obligation to meet and confer in good faith.

SEC. 6. Section 71629 of the Government Code is amended to read: 71629. Except as provided in Sections 71624, 71625, 71626, 71626.5, 71627, and 71628, and notwithstanding any other provision of law:

(a) As provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the level of trial court employment benefits. If the same trial court employment benefits are not permitted by law or the plan vendor, the trial court shall provide other trial court employment benefits at the same level subject to the provisions of subdivision (b). The level of trial court employment benefits provided to a trial court employee as of the implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (b).

(b) For employees who are represented by a recognized employee organization, the level of trial court employment benefits provided to a trial court employee may not be modified until after the expiration of an existing memorandum of understanding or agreement or a period of up to 24 months, whichever is longer, unless the trial court and recognized employee organization mutually agree to a modification. For employees who are not represented by a recognized employee organization, the level of trial court employment benefits may be revised by the trial court.

(c) The trial court shall reimburse the county for the cost of coverage of trial court employees in trial court employment benefit plans.

(d) As of the implementation date of this chapter:

(1) If the trial court administers trial court employment benefits to trial court employees separately from the county, the trial court shall continue to administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding or agreements.

(2) If the county administers trial court employment benefits to trial court employees or if the trial court contracts with the county to administer trial court employment benefits to trial court employees, the county may continue to administer trial court employment benefits to trial court employees pursuant to subdivision (e) or the trial court may administer trial court employment benefits to trial court employees pursuant to the following transition process:



(A) While an existing memorandum of understanding or agreement remains in effect or for a transition period of up to 24 months, whichever is longer, the county shall administer trial court employment benefits for represented trial court employees as provided in the applicable memorandum of understanding or agreement, unless the county is notified by the trial court pursuant to subparagraph (D) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits.

(B) For a transition period of up to 24 months after the implementation date of this chapter, the county shall administer trial court employment benefits for unrepresented trial court employees, unless notified by the trial court pursuant to subparagraph (D) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits. During the transition period, if the county intends to change unrepresented trial court employees' trial court employment benefits, the county shall provide the trial court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the trial court can decide whether to accept the county's change or consider alternatives and arrange to provide benefits on its own.

(C) If, during the transition period, the trial court decides to offer particular trial court employment benefits that are different from what the county is administering, the trial court shall be responsible for administering those particular benefits.

(D) If the trial court decides that it no longer needs the county to administer specified trial court employment benefits to trial court employees, the trial court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.

(e) To facilitate trial court employee participation in county trial court employment benefit plans, the trial court and county may mutually agree that the county shall administer the payroll for trial court employees.

(f) A county shall have authority to provide trial court employment benefits to trial court employees if those benefits are requested by the trial court and subject to county concurrence to providing those benefits. A county's agreement to provide those benefits shall not be construed to create a meet and confer obligation between the county and any recognized employee organization.

(g) Nothing in this section shall prevent the trial court from arranging for trial court employees other trial court employment benefits plans subject to the obligation to meet and confer in good faith.



SEC. 7. Section 71632.5 of the Government Code is amended to read:

71632.5. (a) Notwithstanding any other provision of law, rule, or regulation, an agency shop agreement may be negotiated between a trial court and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, and enactments, in accordance with this article. As used in this article, “agency shop” means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of that organization for the duration of the agreement or a period of three years from the effective date of the agreement, whichever comes first. However, any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting recognized employee organizations shall not be required to join or financially support any recognized employee organization as a condition of employment. That employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees to pay sums equal to those dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable organization fund exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three funds, designated in a memorandum of understanding or agreement between the trial court and the recognized employee organization, or if the memorandum of understanding or agreement fails to designate any funds, then to any fund chosen by the employee. Proof of those payments shall be made on a monthly basis to the trial court as a condition of continued exemption from the requirement of financial support to the recognized employee organization.

(b) An agency shop provision in a memorandum of understanding or agreement which is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding or agreement, provided that (1) a request for the vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at any time during the term of the memorandum of understanding or agreement, but in no event shall there be more than one vote taken during that term.

(c) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the trial court and a recognized employee organization or recognized employee organizations shall be placed in effect upon (1) a signed petition of at least 30 percent of the



employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. An election under this subdivision that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event the trial court and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement other than in an agreement that is in effect on January 1, 2002, the recognized employee organization shall hold the court harmless and defend and indemnify the court regarding the application of any agency shop requirements or provisions, including, but not limited to, improper deduction of fees, maintenance of records, and improper reporting. This subdivision shall be applicable only on the latest of the following and thereafter:

- (1) The operative date of this section.
- (2) The effective date of provisions described in subdivision (g).
- (3) If a memorandum of understanding or agreement between the trial court and a recognized employee organization is in effect on the later of either of the dates referenced in paragraph (1) or (2), as to the employees covered by the memorandum of understanding or agreement, the implementation date shall be either the date a successor memorandum of understanding or agreement is effective or, if no agreement for a successor memorandum of understanding or agreement is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding or agreement. The trial court and representatives of recognized employee organizations may mutually agree to a different date on which this subdivision is applicable.
- (d) Notwithstanding subdivisions (a), (b), and (c), the trial court and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on any agency shop agreement.
- (e) An agency shop agreement shall not apply to management, confidential, or supervisory employees.
- (f) Every recognized employee organization that has agreed to an agency shop provision, or is a party to an agency shop arrangement, shall keep an adequate itemized record of its financial transactions and shall make available annually, to the trial court with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and



treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Disclosure Act of 1959 covering employees governed by this chapter or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the trial court with a copy of those financial reports.

(g) This section shall become operative only if Section 3502.5 is amended to provide that a 30-percent or greater showing of interest by means of a petition requires an election regarding an agency shop, and a vote at that election of 50 percent plus one of those voting secures an agency shop arrangement.

SEC. 8. Section 71637.1 of the Government Code is amended to read:

71637.1. For purposes of this article, in addition to those rules and regulations that a trial court may adopt pursuant to, and in the same manner as set forth in, Section 71636, any trial court may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the trial court and restricting those employees from representing any employee organization that represents other employees of the trial court, on matters within the scope of representation. Except as specifically provided otherwise in this article, this section does not otherwise limit the right of employees to be members of, and to hold office in, an employee organization.

SEC. 9. Section 71639.1 of the Government Code is amended to read:

71639.1. (a) Each trial court shall adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (c) or (d). The procedure may be mediation, arbitration, or a procedure before an administrative tribunal, such as the procedure established pursuant to Sections 71653 and 71654 for review of the decision of the hearing officer in evidentiary due process hearings. The establishment of the procedure shall be subject to the obligation to meet and confer in good faith. However, nothing in this section shall prohibit a party from seeking provisional relief, such as a stay, in any case in which provisional relief would otherwise be appropriate.

(b) In a trial court with 10 or more judges, if the trial court and a recognized employee organization reach an impasse regarding development of a procedure required pursuant to subdivision (a), the trial court shall adopt either nonbinding arbitration or a proceeding before the administrative tribunal, such as the procedure established pursuant to Sections 71653 and 71654, for review of the decision of the hearing officer in evidentiary due process or hearings.



(c) Notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, and except as required pursuant to Section 5 of Article VI of the California Constitution, any agreements reached pursuant to negotiations held pursuant to this article are binding on the parties and may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.

(d) Notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, if a trial court, a trial court employee, or an employee organization believes there has been a violation of this article, that party may petition the superior court for relief.

(e) The Judicial Council shall adopt rules of court to implement this hearing and appeal process. The rules of court shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear these matters, as specified in the rules of court, from which a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court and the court of appeal on an expedited basis, and to the extent permitted by law or rule of court, shall provide that any justice assigned to hear the matter in the superior court shall not be from the court of appeal district in which the action is filed, and shall provide that appeals in these matters shall be heard in the court of appeal district where the matter was filed.

(f) A complete alternative to the procedure outlined in subdivisions (c), (d), and (e) may be provided for by mutual agreement between a trial court and representatives of recognized employee organizations.

(g) No decision by a court with respect to trial courts or trial court employees shall be binding as to other employers or employees.

SEC. 10. Section 71650 of the Government Code is amended to read:

71650. (a) As of the implementation date of this article, as provided in Section 71658, each trial court shall establish a trial court employment protection system that shall become the minimum employment protection system for all trial court employees and shall become part of the sole trial court employee personnel system. The trial court employment protection system shall replace any county employment protection systems applying to trial court employees prior to the implementation date provided in Section 71658, except as otherwise specified in this article. This article establishes minimum standards, and each trial court employment protection system shall, at a minimum, conform to the requirements of this article.



(b) Nothing in this article shall preclude the establishment of enhanced employment protection systems pursuant to trial court personnel policies, procedures, or plans subject to meet and confer in good faith.

(c) Nothing in this article shall be construed to provide, either explicitly or implicitly, a civil cause of action for breach of contract either express or implied arising out of a termination of employment.

(d) Except as specified in subdivisions (b) and (c), this article shall not apply to either of the following categories of trial court employees:

(1) Subordinate judicial officers.

(2) Managerial, confidential, temporary, limited term, and probationary employees, unless included within the trial court employment protection system in accordance with trial court personnel policies, procedures, or plans subject to meet and confer in good faith.

SEC. 11. Section 71657 of the Government Code is amended to read:

71657. (a) Disciplinary action served on a trial court employee prior to the implementation date of this chapter shall remain in effect in accordance with the procedures established under the trial court's predecessor personnel system.

(b) Appeals of disciplinary action served on a trial court employee prior to the implementation date of this chapter shall be made in accordance with the procedures established under the trial court's predecessor personnel system. Appeals of disciplinary action served on a trial court employee after the implementation date of this chapter shall be made in accordance with the procedures established pursuant to this article. The consequences of past discipline under the trial court's new employment protection system pursuant to this article shall be subject to meet and confer in good faith.

SEC. 12. Section 71675 is added to the Government Code, to read:

71675. (a) Any trial court may adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (b) in matters concerning the release of information by that trial court. The Judicial Council may adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (b) in matters concerning the release of information by the Judicial Council.

(b) Notwithstanding Sections 1085 and 1003 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, in the event that a trial court employee, an employee organization, or a member of the public believes there has been a violation of Rule 6.702 of the California Rules of Court concerning the maintenance of, and public access to, budget and management information concerning the Judicial



Council or the trial courts, that party may petition the superior court for relief.

(c) The Judicial Council shall adopt rules of court to implement this hearing and appeal process. The rules of court shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear these matters, as specified in the rules of court, from which panel a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court, and, if applicable, the court of appeal, on an expedited basis. To the extent permitted by law or rule of court, these rules shall provide that the justice assigned to hear the matter shall not be from the court of appeal district in which the action is filed, and shall provide that appeals in these matters shall be heard in the court of appeal district where the matter was filed.

