

AMENDED IN ASSEMBLY AUGUST 26, 2002

SENATE BILL

No. 2011

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**Introduced by Senator Burton**

February 22, 2002

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An act to amend Sections 71601, 71615, 71632.5, 71636, 71639.1, 71639.3, and 71652 of, and to add ~~Section 68114.10 to~~ Sections 68114.10 and 71636.3 to, the Government Code, and to amend Section 3700 of the Labor Code, relating to ~~workers' compensation~~ *judicial branch employees*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 2011, as amended, Burton. ~~Workers' compensation coverage:~~ *judicial* *Judicial branch employees.*

(1) Existing law governs the trial court employee personnel system.

*The bill would revise existing provisions regarding court employees, employee transfers between trial courts and counties, agency shop provisions between a trial court and an employee organization, and trial court procedures concerning employee organizations. Among other changes, the bill would prohibit a trial court from offering to provide employees with benefits of any kind to induce employees to withdraw support from an employee organization, and would require a trial court to administer salary pay deductions for certain employees who join an employee organization and to provide certain personal information regarding employees to the employee organization, except as specified. The bill would impose a state-mandated local program by imposing new duties on trial courts.*

(2) Existing law requires every employer, except the state, to secure the payment of workers' compensation as provided by law. Existing law authorizes an employer, pursuant to this provision, to insure against

liability in insurers duly authorized to write compensation insurance in the state or to secure from the Director of Industrial Relations a certificate of consent to self-insure.

This bill would provide that the state shall include the superior courts of the state for purposes of this provision. The bill would thereby except superior courts from the requirement to secure the payment of workers' compensation under these provisions.

(3) Existing law provides for the State Compensation Insurance Fund, which is authorized to transact workers' compensation insurance for California employers. Existing law provides for a board of directors of the fund, requires the appointment of a manager of the fund, and specifies the authority of the fund.

Existing law requires the trial courts to provide workers' compensation coverage for trial court employees under a workers' compensation program established, selected, or approved by the Administrative Office of the Courts.

This bill would create, commencing July 1, 2003, the Judicial Branch Workers' Compensation Fund for the purpose of funding workers' compensation claims for judicial branch employees. The bill would continuously appropriate the moneys in the fund without regard to fiscal years to be available for use by the Administrative Office of the Courts to pay workers' compensation claims of judicial branch employees and administrative costs, thereby making an appropriation.

(4) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

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



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

1 SECTION 1. Section 68114.10 is added to the Government  
2 Code, to read:

3 68114.10. Effective July 1, 2003, there is hereby established  
4 in the State Treasury the Judicial Branch Workers' Compensation  
5 Fund for the purpose of funding workers' compensation claims for  
6 judicial branch employees, including employees of the  
7 Administrative Office of the Courts, appellate courts,  
8 participating superior courts, Commission on Judicial  
9 Performance, and Habeas Corpus Resource Center. Contributions  
10 from participating judicial branch employers shall be credited to  
11 the fund. Income of whatever nature earned on the Judicial Branch  
12 Workers' Compensation Fund during any fiscal year shall be  
13 credited to the fund. Notwithstanding Section 13340 of the  
14 Government Code, moneys in the fund are continuously  
15 appropriated without regard to fiscal years. The fund shall be used  
16 by the Administrative Office of the Courts to pay workers'  
17 compensation claims of judicial branch employees and  
18 administrative costs.

19 SEC. 2. *Section 71601 of the Government Code is amended*  
20 *to read:*

21 71601. For purposes of this chapter, the following definitions  
22 shall apply:

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

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

31 (c) "Hiring" means appointment as defined in subdivision (a).

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



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

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

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

20 (h) “Recognized employee organization” means an employee  
21 organization that has been formally acknowledged to represent  
22 trial court employees by the county under Sections 3500 to 3510,  
23 inclusive, prior to the implementation date of this chapter, or by the  
24 trial court under Rules 2201 to 2210, inclusive, of the California  
25 Rules of Court, as those rules read on April 23, 1997, Sections  
26 70210 to 70219, inclusive, or Article 3 (commencing with Section  
27 71630) of this chapter.

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

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

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

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

39 (1) Paid from the trial court’s budget, regardless of the funding  
40 source. For the purpose of this paragraph, “trial court’s budget”



1 means funds from which the presiding judge of a trial court, or his  
2 or her designee, has authority to control, authorize, and direct  
3 expenditures, including, but not limited to, local revenues, all  
4 grant funds, and trial court operations funds.

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

12 (m) A person is a “trial court employee” if and only if both  
13 paragraphs (1) and (2) of subdivision (l) are true irrespective of job  
14 classification or whether the functions performed by that person  
15 are identified in Rule 810 of the California Rules of Court. The  
16 phrase “trial court employee” includes those subordinate judicial  
17 officers who satisfy paragraphs (1) and (2) of subdivision (l). The  
18 phrase “trial court employee” does not include temporary  
19 employees hired through agencies, jurors, individuals hired by the  
20 trial court pursuant to an independent contractor agreement,  
21 individuals for whom the county or trial court reports income to  
22 the Internal Revenue Service on a Form 1099 and does not  
23 withhold employment taxes, sheriffs, and judges whether elected  
24 or appointed. *Any temporary employee, whether hired through an  
25 agency or not, shall not be employed in the trial court for a period  
26 exceeding 180 calendar days.*

27 *SEC. 3. Section 71615 of the Government Code is amended to  
28 read:*

29 71615. (a) Except as provided in subdivision (b), the  
30 effective date of this act shall be its implementation date.

31 (b) Representatives of a trial court and representatives of  
32 recognized employee organizations may mutually agree to an  
33 implementation date of this act later than the effective date of this  
34 act. However, if any provisions of this chapter are governed by an  
35 existing memorandum of understanding or agreement covering  
36 trial court employees, as to such provisions the implementation  
37 date shall be either the date a successor memorandum of  
38 understanding or agreement is effective or, if no agreement for a  
39 successor memorandum of understanding or agreement is  
40 reached, 90 days from the date of the expiration of the predecessor



1 memorandum of understanding or agreement, unless  
2 representatives of the trial court and representatives of recognized  
3 employee organizations mutually agree otherwise.

4 (c) As of the implementation date of this chapter, all of the  
5 following shall apply:

6 (1) All persons who meet the definition of trial court employee  
7 shall become trial court employees at their existing or equivalent  
8 classifications.

9 (2) Employment seniority of a trial court employee, as  
10 calculated and used under the system in effect prior to the  
11 implementation of this act, shall be calculated and used in the same  
12 manner by the trial court.

13 (3) A trial court employee shall have the same status he or she  
14 had as a probationary, permanent, or regular employee under the  
15 system in effect prior to implementation of this act. A probationary  
16 employee shall not be required to serve a new probationary period  
17 and shall continue the existing probationary period under the terms  
18 of hire.

19 (4) Subject to the agreement of the county, and unless  
20 prohibited or limited by charter provisions, the policies regarding  
21 transfer between the trial court and the county that are in place as  
22 of the implementation date of this act shall be continued while an  
23 existing memorandum of understanding or agreement remains in  
24 effect or for two years, whichever is longer, and any further rights  
25 of trial court employees to transfer between the trial court and the  
26 county shall be subject to the obligation to meet and confer in good  
27 faith at the local level between representatives of the trial court and  
28 representatives of recognized employee organizations and local  
29 negotiation between the trial court and the county. Subject to the  
30 agreement of the county, and unless prohibited or limited by  
31 charter provisions, the policies regarding the portability of  
32 seniority, accrued leave credits, and leave accrual rates that are in  
33 effect upon the implementation date of this act shall be continued  
34 if trial court or county employees transfer between the trial court  
35 and the county or the county and the trial court while an existing  
36 memorandum of understanding or agreement remains in effect, or  
37 for a period of two years, whichever is longer. Any further right  
38 of trial court employees to portability is subject to the obligation  
39 to meet and confer in good faith between representatives of the  
40 trial court and representatives of recognized employee



1 organizations and local negotiation between the trial court and the  
2 county.

3 (5) Each trial court shall be deemed the successor employer of  
4 all trial court employees in the county in which the trial court is  
5 located.

6 (d) In establishing local personnel structures for trial court  
7 employees in accordance with this chapter, the trial court shall  
8 comply with contractual obligations, and consideration shall be  
9 given to minimizing disruption of the trial court workforce and  
10 protecting the rights accrued by trial court employees under their  
11 current systems. However, prior contractual obligations and rights  
12 may be reconsidered subject to the obligation to meet and confer  
13 in good faith, provided both parties give consideration to past  
14 contractual obligations and rights.

15 (e) Unrepresented trial court employees are governed by a trial  
16 court's personnel policies, procedures, and plans. The  
17 implementation of this act shall not be a cause for changing a trial  
18 court's personnel policies, procedures, and plans applicable to  
19 unrepresented trial court employees except where required to  
20 bring such policies, procedures, and plans into conformity with  
21 this chapter. Except as otherwise expressly provided in this act, a  
22 trial court retains all existing rights with respect to revising its  
23 personnel policies, procedures, and plans as applied to  
24 unrepresented trial court employees.

25 (f) Upon implementation of this act in a trial court, Sections  
26 68650 to 68655, inclusive, and Rules 2201 to 2210, inclusive, of  
27 the California Rules of Court, shall be inoperative as to that trial  
28 court.

29 (g) *Notwithstanding paragraph (4) of subdivision (c), both of*  
30 *the following shall apply:*

31 (1) *Unless prohibited or limited by charter provisions, the*  
32 *policies regarding transfer between either the trial court and the*  
33 *county or the county and the trial court that were in effect as of*  
34 *January 1, 2001, shall be continued while an existing*  
35 *memorandum of understanding or agreement remains in effect or*  
36 *until January 1, 2005, whichever period is longer. Thereafter, any*  
37 *rights of trial court employees to transfer between the trial court*  
38 *and the county shall be subject to the obligation to meet and confer*  
39 *in good faith at the local level between representatives of the trial*



1 court and representatives of recognized employee organizations,  
2 and local negotiation between the trial court and the county.

3 (2) Unless prohibited or limited by charter provisions, the  
4 policies regarding the portability of seniority, accrued leave  
5 credits, and leave accrual rates that were in effect on January 1,  
6 2001, shall be continued if trial court or county employees transfer  
7 between either the trial court and the county or the county and the  
8 trial court while an existing memorandum of understanding or  
9 agreement remains in effect, or until January 1, 2005, whichever  
10 period is longer. Thereafter, any right of trial court employees to  
11 portability is subject to the obligation to meet and confer in good  
12 faith between representatives of the trial court and representatives  
13 of recognized employee organizations and local negotiation  
14 between the trial court and the county.

15 SEC. 4. Section 71632.5 of the Government Code is amended  
16 to read:

17 71632.5. (a) Notwithstanding any other provision of law,  
18 rule, or regulation, an agency shop agreement may be negotiated  
19 between a trial court and a recognized employee organization that  
20 has been recognized as the exclusive or majority bargaining agent  
21 pursuant to reasonable rules and regulations, and enactments, in  
22 accordance with this article. As used in this article, “agency shop”  
23 means an arrangement that requires an employee, as a condition  
24 of continued employment, either to join the recognized employee  
25 organization, or to pay the organization a service fee in an amount  
26 not to exceed the standard initiation fee, periodic dues, and general  
27 assessments of that organization for the duration of the agreement  
28 or a period of three years from the effective date of the agreement,  
29 whichever comes first. However, any employee who is a member  
30 of a bona fide religion, body, or sect that has historically held  
31 conscientious objections to joining or financially supporting  
32 recognized employee organizations shall not be required to join or  
33 financially support any recognized employee organization as a  
34 condition of employment. That employee may be required, in lieu  
35 of periodic dues, initiation fees, or agency shop fees to pay sums  
36 equal to those dues, initiation fees, or agency shop fees to a  
37 nonreligious, nonlabor charitable organization fund exempt from  
38 taxation under Section 501 (c)(3) of the Internal Revenue Code,  
39 chosen by the employee from a list of at least three funds,  
40 designated in a memorandum of understanding or agreement



1 between the trial court and the recognized employee organization,  
2 or if the memorandum of understanding or agreement fails to  
3 designate any funds, then to any fund chosen by the employee.  
4 Proof of those payments shall be made on a monthly basis to the  
5 trial court as a condition of continued exemption from the  
6 requirement of financial support to the recognized employee  
7 organization.

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

18 (c) In addition to the procedure prescribed in subdivision (a),  
19 an agency shop arrangement between the trial court and a  
20 recognized employee organization or recognized employee  
21 organizations shall be placed in effect, *without a negotiated*  
22 *agreement*, upon (1) a signed petition of at least 30 percent of the  
23 employees in the applicable bargaining unit requesting an agency  
24 shop agreement and an election to implement an agency fee  
25 arrangement, and (2) the approval of a majority of employees who  
26 cast ballots and vote in a secret ballot election in favor of the  
27 agency shop agreement. *The petition may only be filed after the*  
28 *recognized employee organization has requested the trial court to*  
29 *negotiate on an agency shop arrangement and, beginning seven*  
30 *working days after the trial court received this request, the two*  
31 *parties have had 30 calendar days to attempt good faith*  
32 *negotiations in an effort to reach agreement.* An election ~~under~~  
33 ~~this subdivision~~ that may not be held more frequently than once a  
34 year shall be conducted by the Division of Conciliation of the  
35 Department of Industrial Relations in the event *that* the trial court  
36 and the recognized employee organization cannot agree within 10  
37 days from the filing of the petition to select jointly a neutral person  
38 or entity to conduct the election. In the event of an agency fee  
39 arrangement ~~other than in~~ *outside of* an agreement that ~~is~~ *was* in  
40 effect on January 1, 2002, the recognized employee organization



1 shall *defend, indemnify, and* hold the trial court harmless ~~and~~  
2 ~~defend and indemnify the court regarding the application of any~~  
3 ~~agency shop requirements or provisions, including, but not limited~~  
4 ~~to, improper deduction of fees, maintenance of records, and~~  
5 ~~improper reporting~~ *against any liability arising from any claims,*  
6 *demands, or other action relating to the trial court's compliance*  
7 *with the agency fee obligation. Upon notification to the trial court*  
8 *by the recognized employee organization, the amount of the fee*  
9 *shall be deducted by the trial court from the wages or salary of the*  
10 *employee and paid to the employee organization. This subdivision*  
11 *shall be applicable only on the latest of the following and*  
12 *thereafter:*

13 ~~(1) The operative date of this section-~~

14 ~~(2) The effective date of provisions described in subdivision~~  
15 ~~(g)-~~

16 ~~(3) If, except that if~~ a memorandum of understanding or  
17 agreement between the trial court and a recognized employee  
18 organization is in effect on the later of either of the dates referenced  
19 ~~in paragraph (1) or (2) was in effect before January 1, 2002,~~ as to  
20 the employees covered by the memorandum of understanding or  
21 agreement, the implementation date of this subdivision shall be  
22 either the date a successor memorandum of understanding or  
23 agreement is effective or, if no agreement for a successor  
24 memorandum of understanding or agreement is reached, 90 days  
25 from the date of the expiration of the predecessor memorandum of  
26 understanding or agreement. The trial court and representatives of  
27 recognized employee organizations may mutually agree to a  
28 different date on which this subdivision is applicable.

29 (d) Notwithstanding subdivisions (a), (b), and (c), the trial  
30 court and the recognized employee organization may negotiate,  
31 and by mutual agreement provide for, an alternative procedure or  
32 procedures regarding a vote on any agency shop agreement.

33 (e) An agency shop agreement ~~shall~~ or arrangement does not  
34 apply to management, confidential, or supervisory employees. *If*  
35 *those employees nonetheless choose to join the recognized*  
36 *employee organization and pay dues or pay the organization a*  
37 *service fee, Section 71638 shall apply to those employees, and the*  
38 *trial court shall administer deductions for which the recognized*  
39 *employee organization shall defend, indemnify, and hold the trial*  
40 *court harmless.*



1 (f) Every recognized employee organization that has agreed to  
2 an agency shop provision, or is a party to an agency shop  
3 arrangement, shall keep an adequate itemized record of its  
4 financial transactions and shall make available annually, to the  
5 trial court with which the agency shop provision was negotiated,  
6 and to the employees who are members of the organization, within  
7 60 days after the end of its fiscal year, a detailed written financial  
8 report thereof in the form of a balance sheet and an operating  
9 statement, certified as to accuracy by its president and treasurer or  
10 corresponding principal officer, or by a certified public  
11 accountant. An employee organization required to file financial  
12 reports under the federal Labor-Management Disclosure Act of  
13 1959 covering employees governed by this chapter or required to  
14 file financial reports under Section 3546.5, may satisfy the  
15 financial reporting requirement of this section by providing the  
16 trial court with a copy of those financial reports.

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

22 (h) *A trial court shall not offer employees inducements or*  
23 *benefits of any kind in return for employees opposing or rescinding*  
24 *an agency shop arrangement.*

25 SEC. 5. *Section 71636 of the Government Code is amended to*  
26 *read:*

27 71636. (a) A trial court may adopt reasonable rules and  
28 regulations, after consultation in good faith with representatives of  
29 an employee organization or organizations, for the administration  
30 of employer-employee relations under this article. These rules and  
31 regulations may include provisions for:

32 (1) Verifying that an organization does in fact represent  
33 employees of the trial court.

34 (2) Verifying the official status of employee organization  
35 officers and representatives.

36 (3) Recognition of employee organizations.

37 (4) Exclusive recognition of employee organizations formally  
38 recognized pursuant to a vote of the employees of the trial court  
39 or an appropriate unit thereof, subject to the right of an employee  
40 to represent himself or herself as provided in Section 71631.



1 (5) Additional procedures for the resolution of disputes  
2 involving wages, hours, and other terms and conditions of  
3 employment.

4 (6) Access of employee organization officers and  
5 representatives to work locations.

6 (7) Use of official bulletin boards and other means of  
7 communication by employee organizations.

8 (8) Furnishing nonconfidential information pertaining to  
9 employment relations to employee organizations.

10 (9) Such other matters as are necessary to carry out the  
11 purposes of this article.

12 (b) Exclusive recognition of employee organizations formally  
13 recognized as majority representatives pursuant to a vote of the  
14 employees may be revoked by a majority vote of the employees  
15 only after a period of not less than 12 months following the date  
16 of recognition.

17 (c) No trial court shall unreasonably withhold recognition of  
18 employee organizations. *A trial court shall not offer to provide*  
19 *employees benefits of any kind for the purpose of inducing those*  
20 *employees to decertify or withdraw support from a recognized*  
21 *employee organization.*

22 (d) Pursuant to the obligation to meet and confer in good faith,  
23 the trial court shall establish procedures to determine the  
24 appropriateness of any bargaining unit of court employees.

25 SEC. 6. *Section 71636.3 is added to the Government Code, to*  
26 *read:*

27 71636.3. (a) *Unit determinations and representation*  
28 *elections shall be determined and processed in accordance with*  
29 *rules adopted by a trial court in accordance with this chapter. In*  
30 *a representation election, a majority of the votes cast by the*  
31 *employees in the appropriate bargaining unit shall be required.*

32 (b) *Notwithstanding subdivision (a) and rules adopted by a*  
33 *trial court pursuant to Section 71636, a bargaining unit in effect*  
34 *as of January 1, 2002, shall continue in effect unless changed*  
35 *under the rules adopted by the trial court pursuant to Section*  
36 *71636.*

37 (c) *A trial court shall grant exclusive or majority recognition*  
38 *to an employee organization based on a signed petition,*  
39 *authorization cards, or union membership cards showing that a*  
40 *majority of the employees in an appropriate bargaining unit desire*



1 *the representation, unless another labor organization has*  
2 *previously been lawfully recognized as exclusive or majority*  
3 *representative of all or part of the same unit. Exclusive or majority*  
4 *representation shall be determined by a neutral third party,*  
5 *selected by the trial court and the employee organization, who*  
6 *shall review the signed petition, authorization cards, or union*  
7 *membership cards to verify the exclusive or majority status of the*  
8 *employee organization. In the event the trial court and the*  
9 *employee organization cannot agree on a neutral third party, the*  
10 *Division of Conciliation of the Department of Industrial Relations*  
11 *shall be the neutral third party and shall verify the exclusive or*  
12 *majority status of the employee organization. In the event that the*  
13 *neutral third party determines, based on a signed petition,*  
14 *authorization cards, or union membership cards, that a second*  
15 *labor organization has the support of at least 30 percent of the*  
16 *employees in the unit in which recognition is sought, the neutral*  
17 *third party shall order an election to establish which labor*  
18 *organization, if any, has majority status.*

19 *SEC. 7. Section 71639.1 of the Government Code is amended*  
20 *to read:*

21 71639.1. (a) Each trial court shall adopt a procedure to be  
22 used as a preliminary step before petitioning the superior court for  
23 relief pursuant to subdivision (c) or (d). The procedure may be  
24 mediation, arbitration, or a procedure before an administrative  
25 tribunal, such as the procedure established pursuant to Sections  
26 71653 and 71654 for review of the decision of the hearing officer  
27 in evidentiary due process hearings. The establishment of the  
28 procedure shall be subject to the obligation to meet and confer in  
29 good faith. However, nothing in this section shall prohibit a party  
30 from seeking provisional relief, such as a stay, in any case in which  
31 provisional relief would otherwise be appropriate.

32 (b) In a trial court with 10 or more judges, if the trial court and  
33 a recognized employee organization reach an impasse regarding  
34 development of a procedure required pursuant to subdivision (a),  
35 the trial court shall adopt, *on or before March 1, 2003*, either  
36 nonbinding arbitration or a proceeding before the administrative  
37 tribunal, such as the procedure established pursuant to Sections  
38 71653 and 71654, for review of the decision of the hearing officer  
39 in evidentiary due process or hearings.



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

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

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

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

31 ~~(g) A court decision interpreting or applying this article shall  
32 not be binding in cases or proceedings arising under Chapter 10  
33 (commencing with Section 3500) of Division 4 of Title 1.~~

34 *SEC. 8. Section 71639.3 of the Government Code is amended*  
35 *to read:*

36 71639.3. (a) Trial courts and trial court employees are not  
37 covered by Chapter 10 (commencing with Section 3500) of  
38 Division 4 of Title 1, or any subsequent changes to these sections  
39 except as provided in this article. However, where the language of  
40 this article is the same or substantially the same as that contained



1 in Chapter 10 (commencing with Section 3500) of Division 4 of  
2 Title 1, it shall be interpreted and applied in accordance with the  
3 judicial interpretations of the same language.

4 (b) *A court decision interpreting or applying this article is not*  
5 *binding in cases or proceedings arising under Chapter 10*  
6 *(commencing with Section 3500) of Division 4 of Title 1.*

7 SEC. 9. *Section 71652 of the Government Code is amended to*  
8 *read:*

9 71652. (a) A trial court employee may be laid off based on  
10 the organizational necessity of the court. Each trial court shall  
11 develop, subject to meet and confer in good faith, personnel rules  
12 regarding procedures for layoffs for organizational necessity.  
13 *Employees shall be laid off on the basis of seniority of the*  
14 *employees in the class of layoff, in the absence of a mutual*  
15 *agreement between the trial court and a recognized employee*  
16 *organization providing for a different order of layoff.*

17 (b) For purposes of this section, a “layoff for organizational  
18 necessity” means a termination based on the needs or resources of  
19 the court, including, but not limited to, a reorganization or  
20 reduction in force or lack of funds.

21 SEC. 10. Section 3700 of the Labor Code is amended to read:

22 3700. Every employer except the state shall secure the  
23 payment of compensation in one or more of the following ways:

24 (a) By being insured against liability to pay compensation ~~in~~ by  
25 one or more insurers duly authorized to write compensation  
26 insurance in this state.

27 (b) By securing from the Director of Industrial Relations a  
28 certificate of consent to self-insure either as an individual  
29 employer, or as one employer in a group of employers, which may  
30 be given upon furnishing proof satisfactory to the Director of  
31 Industrial Relations of ability to self-insure and to pay any  
32 compensation that may become due to his or her employees.

33 (c) For any county, city, city and county, municipal  
34 corporation, public district, public agency, or any political  
35 subdivision of the state, including each member of a pooling  
36 arrangement under a joint exercise of powers agreement (but not  
37 the state itself), by securing from the Director of Industrial  
38 Relations a certificate of consent to self-insure against workers’  
39 compensation claims, which certificate may be given upon  
40 furnishing proof satisfactory to the director of ability to administer



1 workers' compensation claims properly, and to pay workers'  
2 compensation claims that may become due to its employees. On  
3 or before March 31, 1979, a political subdivision of the state  
4 which, on December 31, 1978, was uninsured for its liability to pay  
5 compensation, shall file a properly completed and executed  
6 application for a certificate of consent to self-insure against  
7 workers' compensation claims. The certificate shall be issued and  
8 be subject to the provisions of Section 3702.

9 For purposes of this section, "state" shall include the superior  
10 courts of California.

11 *SEC. 11. Notwithstanding Section 17610 of the Government*  
12 *Code, if the Commission on State Mandates determines that this*  
13 *act contains costs mandated by the state, reimbursement to local*  
14 *agencies and school districts for those costs shall be made*  
15 *pursuant to Part 7 (commencing with Section 17500) of Division*  
16 *4 of Title 2 of the Government Code. If the statewide cost of the*  
17 *claim for reimbursement does not exceed one million dollars*  
18 *(\$1,000,000), reimbursement shall be made from the State*  
19 *Mandates Claims Fund.*

