

ASSEMBLY BILL

No. 176

Introduced by Assembly Member Bermudez

January 24, 2005

An act to amend Section 71601 of the Government Code, relating to trial courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 176, as introduced, Bermudez. Trial courts: limited-term employees.

Existing law prohibits the employment of any temporary employee in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions.

This bill would also prohibit the employment of any limited-term employee in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions. The bill would provide that any limited-term employee employed for more than 180 calendar days is a regular employee, except for those court reporters otherwise excluded.

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 71601 of the Government Code is
2 amended to read:

3 71601. For purposes of this chapter, the following definitions
4 shall apply:

5 (a) "Appointment" means the offer to and acceptance by a
6 person of a position in the trial court in accordance with this

1 chapter and the trial court’s personnel policies, procedures, and
2 plans.

3 (b) “Employee organization” means either of the following:

4 (1) Any organization that includes trial court employees and
5 has as one of its primary purposes representing those employees
6 in their relations with that trial court.

7 (2) Any organization that seeks to represent trial court
8 employees in their relations with that trial court.

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

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

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

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

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

35 (h) “Recognized employee organization” means an employee
36 organization that has been formally acknowledged to represent
37 trial court employees by the county under Sections 3500 to 3510,
38 inclusive, prior to the implementation date of this chapter, or by
39 the trial court under Rules 2201 to 2210, inclusive, of the
40 California Rules of Court, as those rules read on April 23, 1997,

1 Sections 70210 to 70219, inclusive, or Article 3 (commencing
2 with Section 71630) of this chapter.

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

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

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

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

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

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

27 (m) A person is a “trial court employee” if and only if both
28 paragraphs (1) and (2) of subdivision (l) are true irrespective of
29 job classification or whether the functions performed by that
30 person are identified in Rule 810 of the California Rules of
31 Court. The phrase “trial court employee” includes those
32 subordinate judicial officers who satisfy paragraphs (1) and (2) of
33 subdivision (l). The phrase “trial court employee” does not
34 include temporary employees hired through agencies, jurors,
35 individuals hired by the trial court pursuant to an independent
36 contractor agreement, individuals for whom the county or trial
37 court reports income to the Internal Revenue Service on a Form
38 1099 and does not withhold employment taxes, sheriffs, and
39 judges whether elected or appointed. Any temporary *or*
40 *limited-term* employee, whether hired through an agency or not,

1 shall not be employed in the trial court for a period exceeding
2 180 calendar days, except that for court reporters in a county of
3 the first class, a trial court and a recognized employee
4 organization may provide otherwise by mutual agreement in a
5 memorandum of understanding or other agreement. *Any*
6 *limited-term employee employed for more than 180 calendar*
7 *days is a regular employee, except for those court reporters in a*
8 *county of the first class where a trial court and a recognized*
9 *employee organization have provided otherwise by mutual*
10 *agreement in a memorandum of understanding or other*
11 *agreement.*

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