

AMENDED IN ASSEMBLY MARCH 15, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 276

Introduced by Assembly Member Solorio

February 9, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

AB 276, as amended, Solorio. ~~Trial courts: limited-term court employees.~~

Existing law defines the term "trial court employee" for purposes of the Trial Court Employment Protection and Governance Act. ~~In defining this term, the act provides that any temporary employee shall not be employed in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions as a person who is paid from the trial court's budget and who is 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.~~

This bill would provide that a limited-term employee is a regular trial court employee if the limited-term employee has completed 180 days of service, and if the assignment, position, or project of the limited-term employee is an integral part of the long-term, regular work of the trial court. The bill would state legislative intent to prohibit the trial courts from classifying long-term employees that are performing the regular work of the trial courts as limited-term employees *declare the intent of the Legislature to enact legislation related to trial court employees.*

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

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

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~legislation related to trial court employees.~~
3 ~~SECTION 1. Section 71601 of the Government Code is~~
4 ~~amended to read:~~
5 ~~71601. For purposes of this chapter, the following definitions~~
6 ~~apply:~~
7 ~~(a) "Appointment" means the offer to, and acceptance by, a~~
8 ~~person of a position in the trial court in accordance with this chapter~~
9 ~~and the trial court's personnel policies, procedures, and plans.~~
10 ~~(b) "Employee organization" means either of the following:~~
11 ~~(1) Any organization that includes trial court employees and~~
12 ~~has as one of its primary purposes representing those employees~~
13 ~~in their relations with that trial court.~~
14 ~~(2) Any organization that seeks to represent trial court~~
15 ~~employees in their relations with that trial court.~~
16 ~~(c) "Hiring" means appointment as defined in subdivision (a).~~
17 ~~(d) "Mediation" means effort by an impartial third party to assist~~
18 ~~in reconciling a dispute regarding wages, hours, and other terms~~
19 ~~and conditions of employment between representatives of the trial~~
20 ~~court and the recognized employee organization or recognized~~
21 ~~employee organizations through interpretation, suggestion, and~~
22 ~~advice.~~
23 ~~(e) "Meet and confer in good faith" means that a trial court or~~
24 ~~representatives as it may designate, and representatives of~~
25 ~~recognized employee organizations, have the mutual obligation~~
26 ~~personally to meet and confer promptly upon request by either~~
27 ~~party and continue for a reasonable period of time in order to~~
28 ~~exchange freely information, opinions, and proposals, and to~~
29 ~~endeavor to reach agreement on matters within the scope of~~
30 ~~representation. The process shall include an adequate amount of~~
31 ~~time for the resolution of impasses where specific procedures for~~
32 ~~resolution are contained in this chapter or in a local rule, or when~~
33 ~~the procedures are utilized by mutual consent.~~
34 ~~(f) "Personnel rules," "personnel policies, procedures, and~~
35 ~~plans," and "rules and regulations" mean policies, procedures,~~

1 plans, rules, or regulations adopted by a trial court or its designee
2 pertaining to conditions of employment of trial court employees,
3 subject to meet and confer in good faith.

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

7 (h) “Recognized employee organization” means an employee
8 organization that has been formally acknowledged to represent
9 trial court employees by the county under Sections 3500 to 3510,
10 inclusive, prior to the implementation date of this chapter, or by
11 the trial court under Rules 2201 to 2210, inclusive, of the California
12 Rules of Court, as those rules read on April 23, 1997, Sections
13 70210 to 70219, inclusive, or Article 3 (commencing with Section
14 71630) of this chapter.

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

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

23 (k) “Trial court” means a superior court.

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

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

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

38 (m) (1) A person is a “trial court employee” if and only if both
39 paragraphs (1) and (2) of subdivision (l) are true irrespective of
40 job classification or whether the functions performed by that person

1 are identified in Rule 810 of the California Rules of Court. The
2 phrase “trial court employee” includes those subordinate judicial
3 officers who satisfy paragraphs (1) and (2) of subdivision (f). The
4 phrase “trial court employee” does not include temporary
5 employees hired through agencies, jurors, individuals hired by the
6 trial court pursuant to an independent contractor agreement,
7 individuals for whom the county or trial court reports income to
8 the Internal Revenue Service on a Form 1099 and does not
9 withhold employment taxes, sheriffs, and judges whether elected
10 or appointed. Any temporary employee, whether hired through an
11 agency or not, shall not be employed in the trial court for a period
12 exceeding 180 calendar days, except that for court reporters in a
13 county of the first class, a trial court and a recognized employee
14 organization may provide otherwise by mutual agreement in a
15 memorandum of understanding or other agreement.

16 (2) A limited-term employee is a regular trial court employee
17 if the limited-term employee has completed 180 days of service,
18 and if the assignment, position, or project of the limited-term
19 employee is an integral part of the long-term, regular work of the
20 trial court.

21 SEC. 2. It is the intent of the Legislature in enacting this act
22 to prohibit the trial courts from classifying long-term employees
23 that are performing the regular work of the trial courts as
24 limited-term employees.