

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1358

Introduced by Senator Walters
(Coauthor: Senator La Malfa)

February 24, 2012

An act to ~~repeal and add~~ *amend* Section 3521.7 of the Government Code, relating to collective bargaining, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1358, as amended, Walters. Collective bargaining: state employees.

Existing law authorizes the Public Employment Relations Board to, in accordance with reasonable standards, designate positions or classes of positions which have duties consisting primarily of the enforcement of state laws. Existing law prohibits employees in these designated positions or classes from being denied the right to be in a bargaining unit composed solely of ~~such~~ *those* employees.

~~This bill would require the Public Employment Relations Board to recognize positions or classes of positions designated as peace officers under specified provisions that shall not be denied the right to be a unit composed solely of those positions and classes.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Existing regulations provide the procedure by which an employee organization may file a petition to become the exclusive representative of an appropriate unit consisting of a group of employees who are already members of a larger established unit represented by an incumbent exclusive representative. Existing regulations require a

petition to sever to be accompanied by proof of majority support in the unit claimed to be appropriate.

This bill would declare that state employee peace officers, as prescribed, have the right to be in a unit composed solely of those employees, provided they have complied with the regulations governing severance petitions described above. The bill would require the State Personnel Board to grant any complying petition within 30 days of the effective date of this act. The bill would also make related, conforming changes to those provisions.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 *SECTION 1. The Legislature finds and declares the following:*
 2 *(a) Preservation of California's natural and cultural resources*
 3 *is a fundamental responsibility of the state government.*
 4 *California's priceless natural resources are being lost at an*
 5 *alarming rate because of the lack of the state's ability to enforce*
 6 *environmental laws. Fish and Game Wardens are California's*
 7 *primary enforcement agencies to protect those natural resources.*
 8 *(b) Fish and Game Wardens and State Park Peace Officers are*
 9 *statutorily designated peace officers with statewide law*
 10 *enforcement authority.*
 11 *(c) Fish and Game Wardens are the lead investigators with the*
 12 *primary law enforcement expertise in natural resources protection*
 13 *of California's fish, wildlife, water quality, and habitat from*
 14 *criminal behavior including poaching, pollution, and wanton*
 15 *destruction of natural lands, and also provide public safety,*
 16 *national homeland security, and disaster response.*
 17 *(d) Fish and Game Wardens investigate all inland and marine,*
 18 *including in the Pacific Ocean, bays and estuaries, water pollution*
 19 *violations, including illegal water diversions, illegal removal of*
 20 *water and impacts to aquatic life, damming of water courses,*
 21 *illegal draining of lakes or reservoirs, and illegal sedimentation*
 22 *from pollution of water from illegal construction activities.*
 23 *Wardens are trained and charged to respond to investigate every*
 24 *hazardous material that enters or may enter any state waters,*
 25 *including the ocean.*

1 (e) Fish and Game Wardens provide enforcement within the
2 Oil Spill Prevention and Response Branch of the Department of
3 Fish and Game and prepare investigation reports of illegal
4 pollution that results in criminal prosecution or civil penalties.

5 (f) Fish and Game Wardens make arrests that often include
6 illegal drug confiscation and have included the seizure of countless
7 weapons used to commit crimes, including bombs, rifles, pistols,
8 revolvers, shotguns, automatic firearms, and every type of
9 manufactured or homemade weapon. Wardens are the lead case
10 agents to contain hazardous materials illegally dumped into state
11 waters and collect hazardous materials that are deleterious to
12 aquatic life for evidence.

13 (g) Fish and Game Wardens and State Park Peace Officers are
14 also responsible for enforcing the Penal Code, Vehicle Code, and
15 Health and Safety Code.

16 (h) Fish and Game Wardens support the enforcement of all
17 statutes promulgated by the Legislature and regulations, as defined
18 by Title 14 of the California Code of Regulations.

19 (i) Fish and Game Wardens are on call 24 hours a day, 7 days
20 a week to provide public safety and defend against human threats
21 to the environment and wildlife.

22 (j) Fish and Game Wardens investigate violations of local, state,
23 and federal laws and regulations related to habitat manipulation,
24 water pollution, or take of fish or wildlife.

25 (k) Fish and Game Wardens serve search warrants, serve arrest
26 warrants, and investigate the illegal cultivation of illegal drugs
27 that destroy wildlife, water, and endanger the public.

28 (l) Fish and Game Wardens' responsibilities include
29 investigations of illegal take, including out-of season, over limit,
30 undersized, prohibited species, and administrative violations, of
31 all fish and wildlife species, including, but not limited to, listed,
32 threatened and endangered species, illegal commercialization of
33 wildlife and animal parts thereof, habitat destruction, and pollution
34 of state waters.

35 (m) Fish and Game Wardens initiate complex investigations,
36 surveillances, and covert operations that stop all types of criminal
37 activity, in addition to poaching of fish and wildlife; including the
38 poisoning of aquatic life, dumping of toxic waste, and illegal
39 commercialization of fish and wildlife.

1 (n) Fish and Game Wardens are also responsible for oil spill
2 investigations, illegal marijuana cultivation, illegal water
3 diversions, pollution, and commercial fishing.

4 (o) Fish and Game Wardens are responsible for a geographic
5 area that includes the state's 159,000 square miles of land and
6 1,100 miles of coastline.

7 (p) Fish and Game Wardens staff uses specialized
8 state-of-the-art patrol vessels with authority to enforce all laws
9 200 miles out into the Pacific Ocean along the California coastline
10 from Oregon to the Mexico border.

11 (q) Fish and Game Wardens and State Park Peace Officers are
12 responsible for over 30,000 miles of rivers and streams, 4,800
13 lakes and reservoirs, over 1,000 native fish, 6,300 native plants
14 and 360 threatened or endangered species, approximately three
15 million license and permit holders and close to 38 million
16 California residents.

17 (r) Fish and Game Wardens and State Park Peace Officers
18 perform duties primarily by specialized police vehicles, by boat,
19 on foot patrol, or undercover; issue citations; write reports; make
20 arrests for misdemeanors, arrests for felonies and serve warrants;
21 and conduct criminal and administrative investigations.

22 (s) Fish and Game Wardens also patrol by specialized aircraft
23 to locate illegal habitat destruction, illegal mining operations,
24 illegal commercial fishing over the ocean, find missing persons,
25 locate wildlife, and locate illegal night hunters with infrared and
26 other specialized night vision devices.

27 (t) Fish and Game Wardens and State Park Peace Officers are
28 often the first responders in emergencies and perform search and
29 rescue activities, including, but not limited to, detecting and
30 rescuing persons or vessels in distress.

31 (u) Fish and Game Wardens and State Park Peace Officers
32 annually rescue many outdoor recreationalists, hunters, anglers,
33 and accident victims; locate missing or abducted persons; and
34 investigate burglaries and homicides.

35 (v) In rural and rugged areas of the state, especially in
36 California as being the third largest land-mass state in the United
37 States, Fish and Game Wardens and State Park Peace Officers
38 are often the only law enforcement presence.

39 (w) Fish and Game Wardens and State Park Peace Officers
40 serve as representatives for local government task forces and

1 *intelligence networks involving multiple law enforcement agencies,*
2 *including the Environmental Crimes Task Force, and administer*
3 *specialized training to other law enforcement agencies, such as*
4 *firearms training, tracking skills, cold weather or desert survival,*
5 *and disaster response.*

6 *(x) Fish and Game Wardens provide training on hazardous*
7 *material response, investigation, and containment to other agencies*
8 *and are considered California’s environmental police. Fish and*
9 *Game Wardens and State Park Peace Officers teach conservation*
10 *of water and natural resources to all other agencies and the public.*

11 *(y) State Park Peace Officers assist wild land and structural*
12 *fire suppression and provide emergency medical services, traffic*
13 *control, and radio dispatching.*

14 *(z) Fish and Game Wardens and State Park Peace Officers are*
15 *charged with protecting habitat and wildlife biodiversity unequalled*
16 *by any other state, and they are charged with apprehending those*
17 *that abuse California’s natural resources that are held in trust for*
18 *the 38 million people of California.*

19 *(aa) California employs approximately 277 Fish and Game*
20 *Wardens with only 245 field operatives throughout the state to*
21 *protect California’s valuable natural and cultural resources, fewer*
22 *than South Carolina, and the lowest per capita ration of wardens*
23 *to population in North America.*

24 *(ab) In 2012, there are fewer than 300 State Park Peace*
25 *Officers.*

26 *(ac) Continued unfunded mandates and fewer Fish and Game*
27 *Wardens and State Park Peace Officers has resulted in a direct*
28 *negative impact on public safety and preservation of California’s*
29 *natural and cultural resources.*

30 *(ad) The Legislature finds and declares that the recruitment*
31 *and retention of Fish and Game Wardens and State Park Peace*
32 *Officers is of primary importance to the state’s goal of protecting*
33 *California’s priceless natural and cultural resources and*
34 *protecting public safety.*

35 *(ae) Increasing the number of California’s Fish and Game*
36 *Wardens must be accomplished to provide adequate protection to*
37 *California’s natural resources and cannot be achieved while Fish*
38 *and Game Wardens remain in their current bargaining unit.*

39 *(af) For the protection and conservation of California’s priceless*
40 *natural and cultural resources that California’s “environmental*

1 *police” must be a separate bargaining unit from the civilian*
2 *members of Bargaining Unit 7.*

3 *SEC. 2. Section 3521.7 of the Government Code is amended*
4 *to read:*

5 3521.7. (a) The board may, in accordance with reasonable
6 standards, designate positions or classes of positions which have
7 duties consisting primarily of the enforcement of state laws.
8 Employees ~~so~~ *in these designated positions and classes* shall not
9 be denied the right to be in a unit composed solely of ~~such~~ *those*
10 employees.

11 (b) *State employee peace officers designated in Chapter 4.5*
12 *(commencing with Section 830) of Title 3 of Part 2 of the Penal*
13 *Code have the right to be in a unit composed solely of those*
14 *employees, provided they have complied with Section 40200 of*
15 *Title 8 of the California Code of Regulations. The board shall*
16 *grant any complying petition within 30 days of the effective date*
17 *of the act adding this subdivision.*

18 ~~SECTION 1. Section 3521.7 of the Government Code is~~
19 ~~repealed.~~

20 ~~SEC. 2. Section 3521.7 is added to the Government Code, to~~
21 ~~read:~~

22 ~~3521.7. The board shall recognize positions or classes of~~
23 ~~positions designated under Chapter 4.5 (commencing with Section~~
24 ~~830) of Title 3 of Part 2 of the Penal Code as peace officers that~~
25 ~~shall not be denied the right to be a unit composed solely of~~
26 ~~employees in these positions and classes.~~

27 ~~SEC. 3. This act is an urgency statute necessary for the~~
28 ~~immediate preservation of the public peace, health, or safety within~~
29 ~~the meaning of Article IV of the Constitution and shall go into~~
30 ~~immediate effect. The facts constituting the necessity are:~~

31 ~~In order to implement the terms of a negotiated memorandum~~
32 ~~of understanding, it is necessary that this act take effect~~
33 ~~immediately.~~