

AMENDED IN SENATE JUNE 17, 2013

AMENDED IN ASSEMBLY APRIL 25, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 616

Introduced by Assembly Member Bocanegra

February 20, 2013

An act to amend Section 3505.4 of the Government Code, relating to local public employee organizations.

LEGISLATIVE COUNSEL'S DIGEST

AB 616, as amended, Bocanegra. Local public employee organizations: dispute: factfinding panel.

Existing law requires the governing body of a local public agency, or those boards, commissions, administrative officers, or other representatives as may be properly designated by law or by a governing body, to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations. Existing law authorizes an employee organization to request that the parties' differences be submitted to a factfinding panel not sooner than 30 days or more than 45 days following the appointment or selection of a mediator pursuant to the parties' agreement to mediate or a mediation process required by a public agency's local rules. Existing law authorizes an employee organization, if the dispute was not submitted to a mediation, to request that the parties' differences be submitted to a factfinding panel not later than 30 days following the date that either party provided the other with a written notice of a declaration of impasse.

This bill would ~~instead authorize an employee organization, if the dispute was not submitted to a mediation, to request in writing that the public agency submit the parties' differences to a factfinding panel not later than 60 days following the date that either party provided the other with a written notice of a declaration of impasse. The~~ *require that request to be in writing. The* bill would provide that if either party disputes that a genuine impasse, as defined, has been reached, the issue of whether an impasse exists may be submitted to the Public Employment Relations Board for resolution before the dispute is submitted to a factfinding panel, as specified. The bill would also authorize each party to select a person to serve as its member of the factfinding panel.

Vote: 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. Section 3505.4 of the Government Code is
2 amended to read:
3 3505.4. (a) The employee organization may request that the
4 parties' differences be submitted to a factfinding panel not sooner
5 than 30 days, but not more than 45 days, following the appointment
6 or selection of a mediator pursuant to the parties' agreement to
7 mediate or a mediation process required by a public agency's local
8 rules. If the dispute was not submitted to mediation, an employee
9 organization may request, in writing, that the public agency submit
10 the parties' differences to a factfinding panel not later than ~~60~~ 30
11 days following the date that either party provided the other with
12 a written notice of a declaration of impasse. Within five days after
13 receipt of the written request, each party shall select a person to
14 serve as its member of the factfinding panel. The Public
15 Employment Relations Board shall, within five days after the
16 selection of panel members by the parties, select a chairperson of
17 the factfinding panel.
18 (b) Notwithstanding subdivision (a), if either party disputes that
19 a genuine impasse has been reached, the issue as to whether an
20 impasse exists may be submitted to the Public Employment
21 Relations Board for resolution. If the board determines that an
22 impasse existed as of the date of written notice of a declaration of
23 impasse and that the impasse has persisted through the date of the

1 employee organization's request for a factfinding panel, it shall,
2 within five working days of the receipt of a request, notify the
3 parties of its determination.

4 (c) Within five days after receipt of the written request pursuant
5 to subdivision (a) or five days after receipt of the board's
6 determination that a genuine impasse has been reached and persists
7 pursuant to subdivision (b), each party shall select a person to serve
8 as its member of the factfinding panel. The board shall, within five
9 days after the selection of panel members by the parties, select a
10 chairperson of the factfinding panel.

11 (d) Within five days after the board selects a chairperson of the
12 factfinding panel, the parties may mutually agree upon a person
13 to serve as chairperson in lieu of the person selected by the board.

14 (e) The panel shall, within 10 days after its appointment, meet
15 with the parties or their representatives, either jointly or separately,
16 and may make inquiries and investigations, hold hearings, and
17 take any other steps it deems appropriate. For the purpose of the
18 hearings, investigations, and inquiries, the panel shall have the
19 power to issue subpoenas requiring the attendance and testimony
20 of witnesses and the production of evidence. Any state agency, as
21 defined in Section 11000, the California State University, or any
22 political subdivision of the state, including any board of education,
23 shall furnish the panel, upon its request, with all records, papers,
24 and information in its possession relating to any matter under
25 investigation by or in issue before the panel.

26 (f) In arriving at their findings and recommendations, the
27 factfinders shall consider, weigh, and be guided by all the following
28 criteria:

29 (1) State and federal laws that are applicable to the employer.

30 (2) Local rules, regulations, or ordinances.

31 (3) Stipulations of the parties.

32 (4) The interests and welfare of the public and the financial
33 ability of the public agency.

34 (5) Comparison of the wages, hours, and conditions of
35 employment of the employees involved in the factfinding
36 proceeding with the wages, hours, and conditions of employment
37 of other employees performing similar services in comparable
38 public agencies.

39 (6) The consumer price index for goods and services, commonly
40 known as the cost of living.

1 (7) The overall compensation presently received by the
2 employees, including direct wage compensation, vacations,
3 holidays, and other excused time, insurance and pensions, medical
4 and hospitalization benefits, the continuity and stability of
5 employment, and all other benefits received.

6 (8) Any other facts, not confined to those specified in paragraphs
7 (1) to (7), inclusive, that are normally or traditionally taken into
8 consideration in making the findings and recommendations.

9 (g) The procedural right of an employee organization to request
10 a factfinding panel cannot be waived.

11 (h) For purposes of this section, “impasse” means that the parties
12 to a dispute over a matter within the scope of representation have
13 reached a point in meeting and negotiating at which their difference
14 in position is so substantial or prolonged that future meetings would
15 be futile.

16 (i) Notwithstanding subdivisions (a) to (g), inclusive, the
17 employee relations commissions established by, and in effect for,
18 the County of Los Angeles and the City of Los Angeles pursuant
19 to Section 3507 shall have the authority to maintain and amend
20 existing rules and regulations providing for impasse resolution
21 procedures and to issue determinations and orders as the employee
22 relations commissions deem necessary, consistent with and
23 pursuant to the policies of this chapter.