

Assembly Bill No. 1881

Passed the Assembly May 15, 2014

Chief Clerk of the Assembly

Passed the Senate August 25, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 3509 of the Government Code, relating to public employee relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1881, Jones-Sawyer. Public employee relations: Los Angeles.

Existing law, the Meyers-Milias-Brown Act, regulates labor relations between employees and management of local public agencies. Existing law grants the Public Employment Relations Board (PERB) specified powers and duties in connection with the act, including making unit determinations in disputed cases and supervising representation elections. Existing law excepts the County of Los Angeles and the City of Los Angeles from the PERB grant of authority, providing instead that the employment relations commissions in those jurisdictions are responsible for those functions.

This bill would prescribe requirements for an appointment to an employee relations commission of the County of Los Angeles or of the City of Los Angeles. The bill would require a nomination to be made within 30 days, as specified, from a list of nominees to be determined by the chief executive officer of the County of Los Angeles or by the chief administrative officer of the City of Los Angeles, as applicable, and a committee composed of employee organizations. The bill would require an appointee to have at least 5 years of full-time experience as a professional neutral party resolving disputes between employee organizations and public agencies or resolving disputes between private employers and labor organizations. The bill would prohibit an appointee from consulting or providing representation or advice regarding employee relations to any public or private employer or public or private employee organization while serving on an employee relations commission. The bill would also prohibit the County of Los Angeles or the City of Los Angeles, in contracting for services with a commission member or hearing officer assigned to make determinations for a commission, from requiring indemnity agreements or malpractice insurance, as specified, or from

withholding or reducing payment from the member or officer after services are provided. The bill would specify that these provisions may be enforced by an action for a writ of mandate. By establishing new duties on local officials, this bill would impose a state-mandated local program.

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.

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.

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

SECTION 1. Section 3509 of the Government Code is amended to read:

3509. (a) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter and shall include the authority as set forth in subdivisions (b) and (c). Included among the appropriate powers of the board are the power to order elections, to conduct any election the board orders, and to adopt rules to apply in areas where a public agency has no rule.

(b) A complaint alleging any violation of this chapter or of any rules and regulations adopted by a public agency pursuant to Section 3507 or 3507.5 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board, except that in an action to recover damages due to an unlawful strike, the board shall have no authority to award strike-preparation expenses as damages, and shall have no authority to award damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter.

(c) The board shall enforce and apply rules adopted by a public agency concerning unit determinations, representation, recognition, and elections.

(d) (1) Notwithstanding subdivisions (a) to (c), inclusive, the employee relations commissions established by, and in effect for, the County of Los Angeles and the City of Los Angeles pursuant to Section 3507 shall have the power and responsibility to take actions on recognition, unit determinations, elections, and all unfair practices, and to issue determinations and orders as the employee relations commissions deem necessary, consistent with and pursuant to the policies of this chapter. An appointment to an employee relations commission of the County of Los Angeles and to the employee relations commission of the City of Los Angeles shall be made in accordance with the following:

(A) The appointment shall be made from a list of nominees, jointly submitted by the chief executive officer of County of Los Angeles or by the chief administrative officer of the City of Los Angeles, as applicable, and a committee composed of employee organizations recognized by the County of Los Angeles or City of Los Angeles, as applicable. The list shall be submitted to the appointing authority within 30 calendar days before the expiration of a member's term or before 30 calendar days have elapsed after the creation of a vacancy that occurs during a member's term.

(B) The appointing authority shall make the appointment on or before 30 calendar days from the date that the list of nominees described in subparagraph (A) is submitted to it.

(C) The appointee shall possess a minimum of five years of full-time experience exclusively as a professional neutral party resolving disputes between employee organizations and public agencies or resolving disputes between private employers and labor organizations.

(D) While serving on an employee relations commission, the appointee shall not consult or provide representation or advice regarding employee relations to any public or private employer or public or private employee organization, but may act as a professional neutral party in other capacities.

(2) In contracting for services with a commission member or hearing officer assigned to make determinations for the commission, the County of Los Angeles or the City of Los Angeles shall not do either of the following:

(A) Require that the commission member or hearing officer agree to indemnify or hold harmless the County of Los Angeles or City of Los Angeles or maintain liability or malpractice insurance for that purpose.

(B) Withhold or reduce payment for the services of the commission member or hearing officer after services are rendered.

(3) This subdivision may be enforced by in an action brought pursuant to Section 1085 of the Code of Civil Procedure.

(e) Notwithstanding subdivisions (a) to (c), inclusive, consistent with, and pursuant to, the provisions of Sections 3500 and 3505.4, superior courts shall have exclusive jurisdiction over actions involving interest arbitration, as governed by Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, when the action involves an employee organization that represents firefighters, as defined in Section 3251.

(f) This section shall not apply to employees designated as management employees under Section 3507.5.

(g) The board shall not find it an unfair practice for an employee organization to violate a rule or regulation adopted by a public agency if that rule or regulation is itself in violation of this chapter. This subdivision shall not be construed to restrict or expand the board's jurisdiction or authority as set forth in subdivisions (a) to (c), inclusive.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2014

Governor