

Assembly Bill No. 2126

Passed the Assembly May 29, 2014

Chief Clerk of the Assembly

Passed the Senate August 28, 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 Sections 3505.2 and 3505.4 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2126, Bonta. Meyers-Milias-Brown Act: mediation.

The Meyers-Milias-Brown Act requires the governing body of a local public agency to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of a recognized employee organization. The act requires, if a tentative agreement is reached and the governing body adopts the tentative agreement, that the parties prepare jointly a nonbinding written memorandum of understanding of the agreement. Under existing law, if representatives of the public employee agency and the recognized employee organization fail to reach agreement, the parties may agree together upon the appointment of a mutually agreeable mediator.

This bill instead would permit either party to request mediation and would require the parties to agree upon a mediator, if either party has provided the other with a written notice of declaration of impasse. If the parties cannot agree upon a mediator, the bill would authorize either party to request the board to appoint a mediator. The bill would require the board to appoint a mediator within 5 days after receipt of the party's request, as prescribed. A public agency would not be required to proceed to mediation in its negotiations with respect to a bargaining unit under the above-described circumstances if the public agency has an impasse procedure that includes, at a minimum, a process for binding arbitration.

The Meyers-Milias-Brown Act requires the Public Employment Relations Board to determine in disputed cases whether a particular item is within or without the scope of representation. 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. Existing law prohibits an employee organization's procedural right to request a factfinding panel from being waived expressly or voluntarily.

This bill would authorize differences under these provisions to include those differences that arise from any dispute over any matter within the scope of representation as to which an obligation to meet and confer exists, and are not limited to negotiations after impasse after collective bargaining for a new or successor memorandum of understanding. The bill would limit the criteria that the factfinders would be required to consider to those criteria that the factfinders deem relevant to the dispute. The bill would authorize an employee organization to voluntarily waive the right to request a factfinding panel, in writing. The bill would include legislative findings and declarations that certain of these amendments are clarifying and declaratory of existing law.

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

SECTION 1. Section 3505.2 of the Government Code is amended to read:

3505.2. (a) If after a reasonable period of time, representatives of the public agency and the recognized employee organization fail to reach agreement and either party has provided the other with a written notice of a declaration of impasse, either the public agency or the recognized employee organization or recognized employee organizations may request mediation. Within five days of a request by one of the parties, both of the parties shall agree upon the appointment of a mediator mutually agreeable to the parties. If the parties fail to agree upon the selection of a mediator within five days, either party may request that the board appoint

a mediator. No later than five days after the receipt of either party's request, the board shall appoint a mediator in accordance with the rules prescribed by the board. Costs of mediation shall be divided one-half to the public agency and one-half to the recognized employee organization or recognized employee organizations.

(b) A public agency that has a procedure that applies if an impasse has been reached between the public agency and a bargaining unit and the procedure includes, at a minimum, a process for binding arbitration, is not required to proceed to mediation under this section with regard to its negotiations with a bargaining unit to which the impasse procedure applies.

SEC. 2. Section 3505.4 of the Government Code is amended to read:

3505.4. (a) (1) The employee organization may request that the parties' differences be submitted to a factfinding panel not sooner than 30 days, but not 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. If the dispute was not submitted to mediation, an employee organization may 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. Within five days after receipt of the written request, each party shall select a person to serve as its member of the factfinding panel. The Public Employment Relations Board shall, within five days after the selection of panel members by the parties, select a chairperson of the factfinding panel.

(2) For purposes of paragraph (1), differences between the parties that are subject to a request by the employee organization for submission to a factfinding panel may include differences that arise from any dispute over any matter within the scope of representation as to which an obligation to meet and confer exists under Section 3505 and are not limited to negotiations after impasse after collective bargaining for a new or successor memorandum of understanding.

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

(c) The panel shall, within 10 days after its appointment, meet with the parties or their representatives, either jointly or separately,

and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate. For the purpose of the hearings, investigations, and inquiries, the panel shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. Any state agency, as defined in Section 11000, the California State University, or any political subdivision of the state, including any board of education, shall furnish the panel, upon its request, with all records, papers, and information in their possession relating to any matter under investigation by or in issue before the panel.

(d) In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria that the factfinders deem to be relevant to the dispute:

- (1) State and federal laws that are applicable to the employer.
- (2) Local rules, regulations, or ordinances.
- (3) Stipulations of the parties.
- (4) The interests and welfare of the public and the financial ability of the public agency.
- (5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
- (6) The consumer price index for goods and services, commonly known as the cost of living.
- (7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (8) Any other factors, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

(e) The procedural right of an employee organization to request a factfinding panel may be voluntarily waived, in writing, by the organization.

SEC. 3. The Legislature finds and declares that the amendments made by this act to subdivisions (a) and (d) of Section 3505.4 of

the Government Code are clarifying and declaratory of existing law.

Approved _____, 2014

Governor