

ASSEMBLY BILL

No. 2419

Introduced by Assembly Member Garcia

February 21, 2014

An act to amend Section 3502.5 of the Governemnt Code, relating to public employee relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2419, as introduced, Garcia. Public employee relations: agency shop arrangements.

Existing law, the Meyers-Milias-Brown Act, regulates labor relations between employees and management of local public agencies. Existing law permits an agency shop agreement to be negotiated between a public agency and a recognized public employee organization that has been recognized as the exclusive or majority bargaining agent and defines an agency shop as an arrangement that requires an employee, as a condition of continued employment, to join the recognized employee organization or to pay the organization a service fee, as specified. Existing law permits an agency shop arrangement to be implemented without negotiation upon submission of a prescribed petition and a specified vote of the employees. Existing law prohibits an agency shop arrangement from applying to management employees.

This bill would delete the prohibition in the Meyers-Milias-Brown Act on the inclusion of management employees in an agency shop arrangement.

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

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

1 SECTION 1. Section 3502.5 of the Government Code is
2 amended to read:
3 3502.5. (a) Notwithstanding Section 3502, any other provision
4 of this chapter, or any other law, rule, or regulation, an agency
5 shop agreement may be negotiated between a public agency and
6 a recognized public employee organization that has been
7 recognized as the exclusive or majority bargaining agent pursuant
8 to reasonable rules and regulations, ordinances, and enactments,
9 in accordance with this chapter. As used in this chapter, “agency
10 shop” means an arrangement that requires an employee, as a
11 condition of continued employment, either to join the recognized
12 employee organization or to pay the organization a service fee in
13 an amount not to exceed the standard initiation fee, periodic dues,
14 and general assessments of the organization.
15 (b) In addition to the procedure prescribed in subdivision (a),
16 an agency shop arrangement between the public agency and a
17 recognized employee organization that has been recognized as the
18 exclusive or majority bargaining agent shall be placed in effect,
19 without a negotiated agreement, upon (1) a signed petition of 30
20 percent of the employees in the applicable bargaining unit
21 requesting an agency shop agreement and an election to implement
22 an agency fee arrangement, and (2) the approval of a majority of
23 employees who cast ballots and vote in a secret ballot election in
24 favor of the agency shop agreement. The petition may be filed
25 only after the recognized employee organization has requested the
26 public agency to negotiate on an agency shop arrangement and,
27 beginning seven working days after the public agency received
28 this request, the two parties have had 30 calendar days to attempt
29 good faith negotiations in an effort to reach agreement. An election
30 that may not be held more frequently than once a year shall be
31 conducted by the California State Mediation and Conciliation
32 Service in the event that the public agency and the recognized
33 employee organization cannot agree within 10 days from the filing
34 of the petition to select jointly a neutral person or entity to conduct
35 the election. In the event of an agency fee arrangement outside of
36 an agreement that is in effect, the recognized employee
37 organization shall indemnify and hold the public agency harmless
38 against any liability arising from a claim, demand, or other action

1 relating to the public agency's compliance with the agency fee
2 obligation.

3 (c) An employee who is a member of a bona fide religion, body,
4 or sect that has historically held conscientious objections to joining
5 or financially supporting public employee organizations shall not
6 be required to join or financially support a public employee
7 organization as a condition of employment. The employee may
8 be required, in lieu of periodic dues, initiation fees, or agency shop
9 fees, to pay sums equal to the dues, initiation fees, or agency shop
10 fees to a nonreligious, nonlabor charitable fund exempt from
11 taxation under Section 501(c)(3) of the Internal Revenue Code,
12 chosen by the employee from a list of at least three of these funds,
13 designated in a memorandum of understanding between the public
14 agency and the public employee organization, or if the
15 memorandum of understanding fails to designate the funds, then
16 to a fund of that type chosen by the employee. Proof of the
17 payments shall be made on a monthly basis to the public agency
18 as a condition of continued exemption from the requirement of
19 financial support to the public employee organization.

20 (d) An agency shop provision in a memorandum of
21 understanding that is in effect may be rescinded by a majority vote
22 of all the employees in the unit covered by the memorandum of
23 understanding, provided that: (1) a request for that type of vote is
24 supported by a petition containing the signatures of at least 30
25 percent of the employees in the unit, (2) the vote is by secret ballot,
26 and (3) the vote may be taken at any time during the term of the
27 memorandum of understanding, but in no event shall there be more
28 than one vote taken during that term. Notwithstanding the above,
29 the public agency and the recognized employee organization may
30 negotiate, and by mutual agreement provide for, an alternative
31 procedure or procedures regarding a vote on an agency shop
32 agreement. The procedures in this subdivision are also applicable
33 to an agency shop agreement placed in effect pursuant to
34 subdivision (b).

35 ~~(e) An agency shop arrangement shall not apply to management~~
36 ~~employees.~~

37 ~~(f)~~

38 (e) A recognized employee organization that has agreed to an
39 agency shop provision or is a party to an agency shop arrangement
40 shall keep an adequate itemized record of its financial transactions

1 and shall make available annually, to the public agency with which
2 the agency shop provision was negotiated, and to the employees
3 who are members of the organization, within 60 days after the end
4 of its fiscal year, a detailed written financial report thereof in the
5 form of a balance sheet and an operating statement, certified as to
6 accuracy by its president and treasurer or corresponding principal
7 officer, or by a certified public accountant. An employee
8 organization required to file financial reports under the federal
9 Labor-Management Reporting and Disclosure Act of 1959 (29
10 U.S.C. Sec. 401 et seq.) covering employees governed by this
11 chapter, or required to file financial reports under Section 3546.5,
12 may satisfy the financial reporting requirement of this section by
13 providing the public agency with a copy of the financial reports.

O