

AMENDED IN ASSEMBLY APRIL 9, 2015
AMENDED IN ASSEMBLY MARCH 17, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 651

Introduced by Assembly Member Cooper

February 24, 2015

An act to add ~~Section~~ *Sections 3253.5 and 3303.5* to the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 651, as amended, Cooper. Public safety ~~officers~~: *officers and firefighters*: investigations and interviews.

The *Firefighters Procedural Bill of Rights Act and the Public Safety Officers Procedural Bill of Rights Act* ~~grants~~ *grant* certain rights to *firefighters and* public safety officers, as defined. The ~~act requires~~ *acts require* that, when a *firefighter or* public safety officer is under investigation and is interrogated by his or her commanding officer, or another member of the employing agency, on matters than that could lead to punitive action, the interrogation be conducted under certain conditions. Upon the filing of a formal written statement of charges or when an interrogation focuses on matters *that, in the case of a firefighter, may result in punitive action or, in the case of a public safety officer, that* are likely to result in punitive action, the ~~act grants~~ *acts grant* the *firefighter or* public safety officer a right to be represented by a person of his or her choice, except as specified, who may be present at all times during the interrogation. The ~~act prohibits~~ *acts prohibit* requiring the representative to make certain disclosures or subjecting the representative to punitive action for refusing to make those disclosures.

This bill, in an investigation that focuses on matters that may result in punitive action against a firefighter or public safety officer who is not formally under investigation but is interviewed as a witness in an investigation of another firefighter or public safety officer, would authorize the firefighter or public safety officer who is a witness to have representation in the interview, as specified.

~~This bill would authorize an employing public agency to grant the right of representation, described above, to a public safety officer if an interview regarding the investigation of another public safety officer focuses on matters that may result in punitive action against the officer who is not formally under investigation.~~

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 3253.5 is added to the Government Code,
 2 to read:
 3 3253.5. (a) *In an investigation to which Section 3253 applies*
 4 *that focuses on matters that may result in punitive action against*
 5 *a firefighter who is not formally under investigation but is*
 6 *interviewed as a witness regarding an investigation of another*
 7 *firefighter, the firefighter who is a witness may have representation*
 8 *in the interview when representation has been mutually agreed*
 9 *upon by one of the methods described in subdivision (b). If*
 10 *representation has been mutually agreed upon, the firefighter may*
 11 *choose a representative who is reasonably available to represent*
 12 *the firefighter at an interview that has been reasonably scheduled*
 13 *and the representative shall be permitted to be present at all times*
 14 *during the interview. The representative shall not be a person*
 15 *subject to the same investigation. The representative shall not be*
 16 *required to disclose, or be subject to punitive action for refusing*
 17 *to disclose, any information received from the firefighter being*
 18 *interviewed as part of the investigation for noncriminal matters.*
 19 (b) *This section shall not be construed to impair any right or*
 20 *privilege established pursuant to a memorandum of understanding*
 21 *between a public agency and a recognized bargaining unit or*
 22 *pursuant to an action by the governing body or by mutual*
 23 *agreement between the governing body and recognized bargaining*

1 *unit, or limit the ability of the parties to negotiate and agree to a*
2 *higher standard of rights or privileges.*

3 **SECTION 1.**

4 *SEC. 2.* Section 3303.5 is added to the Government Code, to
5 read:

6 3303.5. (a) ~~If~~*In* an investigation to which Section 3303 applies
7 *that* focuses on matters that may result in punitive action against
8 a public safety officer who is not formally under investigation but
9 is interviewed *as a witness* regarding ~~the~~ *an* investigation of another
10 public safety officer, ~~a public agency may grant the public safety~~
11 ~~officer being interviewed the right to be represented by a~~
12 ~~representative of his or her choice.~~ *the public safety officer who is*
13 *a witness may have representation in the interview when*
14 *representation has been mutually agreed upon by one of the*
15 *methods described in subdivision (b).* ~~If this right is granted,~~
16 *representation has been mutually agreed upon,* the public safety
17 officer may choose a representative who is reasonably available
18 to represent the public safety officer at an interview that has been
19 reasonably scheduled and the representative shall be permitted to
20 be present at all times during the interview. The representative
21 shall not be a person subject to the same investigation. The
22 representative shall not be required to disclose, or be subject to
23 punitive action for refusing to disclose, any information received
24 from the public safety officer being interviewed as part of the
25 investigation for noncriminal matters.

26 (b) This section shall not be construed to impair any right or
27 privilege established pursuant to a memorandum of understanding
28 between a public agency and a recognized bargaining unit *or*
29 *pursuant to an action by the governing body or by mutual*
30 *agreement between the governing body and recognized bargaining*
31 *unit, or limit the ability of the parties to negotiate and agree to a*
32 *higher standard of rights or privileges.*