

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 874

Introduced by Assembly Member Rendon

February 26, 2015

An act ~~relating to public employment.~~ *to amend Section 3513 of, and to add Section 3522.5, relating to Judicial Council.*

LEGISLATIVE COUNSEL'S DIGEST

AB 874, as amended, Rendon. ~~Collective bargaining.~~ *bargaining: Judicial Council.*

Existing law, *the Dills Act*, governs collective bargaining between ~~public employers the state~~ and recognized *state public* employee organizations. Existing law ~~generally delegates jurisdiction to~~ *creates* the Public Employment Relations Board ~~to resolve disputes and enforce the statutory duties and rights of state, local, and public school employers and employees.~~ *and authorizes it, among other things, to determine appropriate state employee bargaining units, as specified. The California Constitution prescribes the membership of the California Supreme Court and requires the Legislature to create appellate court districts, all of which are vested with the judicial power of the state. The California Constitution prescribes the membership and duties of the Judicial Council and authorizes the council to appoint an Administrative Director of the Courts. Existing law creates the Habeas Corpus Resource Center for the purpose of providing representation to people who are convicted and sentenced to death in this state and who are without counsel.*

This bill would ~~declare the intent of the Legislature to enact legislation relating to collective bargaining.~~ *apply the Dills Act to employees of*

the Judicial Council, subject to specified exceptions. The bill would define an employee for these purposes as any employee of the Judicial Council, except managerial employees, confidential employees, and supervisory employees. The bill would also except from this definition a judicial officer or employee of the Supreme Court, the courts of appeal, or the Habeas Corpus Resource Center. The bill would define the employer for these purposes as the Administrative Director of the Courts, or his or her designated representatives, acting with the authorization of the chairperson of the Judicial Council. The bill would provide that references in the Dills Act to actions or decisions by the Governor, or his or her designated representative, shall mean actions or decisions by the Administrative Director of the Courts. The bill would prohibit the Public Employment Relations Board from including Judicial Council employees in a bargaining unit that includes employees other than those of Judicial Council.

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

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

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~legislation relating to collective bargaining.~~
3 SECTION 1. Section 3513 of the Government Code is amended
4 to read:
5 3513. As used in this chapter:
6 (a) “Employee organization” means any organization that
7 includes employees of the state and that has as one of its primary
8 purposes representing these employees in their relations with the
9 state.
10 (b) “Recognized employee organization” means an employee
11 organization that has been recognized by the state as the exclusive
12 representative of the employees in an appropriate unit.
13 (c) (1) “State employee” means any civil service employee of
14 the state, and the teaching staff of schools under the jurisdiction
15 of the State Department of Education or the Superintendent of
16 Public Instruction, except managerial employees, confidential
17 employees, supervisory employees, employees of the Department
18 of Human Resources, professional employees of the Department
19 of Finance engaged in technical or analytical state budget
20 preparation other than the auditing staff, professional employees

1 in the Personnel/Payroll Services Division of the Controller’s office
2 engaged in technical or analytical duties in support of the state’s
3 personnel and payroll systems other than the training staff,
4 employees of the Legislative Counsel Bureau, employees of the
5 Bureau of State Audits, employees of the office of the Inspector
6 General, employees of the board, conciliators employed by the
7 California State Mediation and Conciliation Service, employees
8 of the Office of the State Chief Information Officer except as
9 otherwise provided in Section 11546.5, and intermittent athletic
10 inspectors who are employees of the State Athletic Commission.

11 (2) *“State employee” also has the meaning provided by Section*
12 *3522.5.*

13 (d) *“Mediation” means effort by an impartial third party to assist*
14 *in reconciling a dispute regarding wages, hours, and other terms*
15 *and conditions of employment between representatives of the*
16 *public agency and the recognized employee organization or*
17 *recognized employee organizations through interpretation,*
18 *suggestion, and advice.*

19 (e) *“Managerial employee” means any employee having*
20 *significant responsibilities for formulating or administering agency*
21 *or departmental policies and programs or administering an agency*
22 *or department.*

23 (f) *“Confidential employee” means any employee who is*
24 *required to develop or present management positions with respect*
25 *to employer-employee relations or whose duties normally require*
26 *access to confidential information contributing significantly to the*
27 *development of management positions.*

28 (g) *“Supervisory employee” means any individual, regardless*
29 *of the job description or title, having authority, in the interest of*
30 *the employer, to hire, transfer, suspend, lay off, recall, promote,*
31 *discharge, assign, reward, or discipline other employees, or*
32 *responsibility to direct them, or to adjust their grievances, or*
33 *effectively to recommend this action, if, in connection with the*
34 *foregoing, the exercise of this authority is not of a merely routine*
35 *or clerical nature, but requires the use of independent judgment.*
36 *Employees whose duties are substantially similar to those of their*
37 *subordinates shall not be considered to be supervisory employees.*

38 (h) *“Board” means the Public Employment Relations Board.*
39 *The Educational Employment Relations Board shall be renamed*
40 *the Public Employment Relations Board as provided in Section*

1 3540. The powers and duties of the board described in Section
2 3541.3 shall also apply, as appropriate, to this chapter.

3 (i) “Maintenance of membership” means that all employees
4 who voluntarily are, or who voluntarily become, members of a
5 recognized employee organization shall remain members of that
6 employee organization in good standing for a period as agreed to
7 by the parties pursuant to a memorandum of understanding,
8 commencing with the effective date of the memorandum of
9 understanding. A maintenance of membership provision shall not
10 apply to any employee who within 30 days prior to the expiration
11 of the memorandum of understanding withdraws from the
12 employee organization by sending a signed withdrawal letter to
13 the employee organization and a copy to the Controller’s office.

14 (j) (1) “State employer,” or “employer,” for the purposes of
15 bargaining or meeting and conferring in good faith, means the
16 Governor or his or her designated representatives.

17 (2) “State employer,” or “employer,” also has the meaning
18 provided by Section 3522.5.

19 (k) “Fair share fee” means the fee deducted by the state
20 employer from the salary or wages of a state employee in an
21 appropriate unit who does not become a member of and financially
22 support the recognized employee organization. The fair share fee
23 shall be used to defray the costs incurred by the recognized
24 employee organization in fulfilling its duty to represent the
25 employees in their employment relations with the state, and shall
26 not exceed the standard initiation fee, membership dues, and
27 general assessments of the recognized employee organization.

28 *SEC. 2. Section 3522.5 is added to the Government Code, to*
29 *read:*

30 *3522.5. (a) This chapter shall apply to the Judicial Council*
31 *and its employees subject to the provisions of this section.*

32 *(b) For the purpose of applying this chapter to the Judicial*
33 *Council and its employees:*

34 *(1) “State employee” means an employee of the Judicial*
35 *Council, except a managerial employee, confidential employee,*
36 *or supervisory employee. “State employee” does not include a*
37 *judicial officer or employee of the Supreme Court, the courts of*
38 *appeal, or the Habeas Corpus Resource Center.*

39 *(2) “State employer” or “employer,” means the Administrative*
40 *Director of the Courts, or his or her designated representatives,*

1 *acting with the authorization of the chairperson of the Judicial*
2 *Council.*

3 *(3) References to actions or decisions by the Governor, or his*
4 *or her designated representative, shall mean actions or decisions*
5 *by the Administrative Director of the Courts, or his or her*
6 *designated representative, acting with the authorization of the*
7 *Chairperson of the Judicial Council.*

8 *(c) Sections 3517.5, 3517.6, 3517.63, and 3517.7 shall not apply*
9 *to Judicial Council and its employees.*

10 *(d) The board, in determining appropriate bargaining units,*
11 *shall not include Judicial Council employees in a bargaining unit*
12 *that includes employees other than those of Judicial Council.*

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