

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN SENATE FEBRUARY 17, 2016

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 874

**Introduced by Assembly Member Santiago
(Coauthor: Assembly Member Rendon)**

February 26, 2015

An act to amend Section 3513 of, and to add Section 3522.5 to, the Government Code, relating to the Judicial Council.

LEGISLATIVE COUNSEL’S DIGEST

AB 874, as amended, Santiago. Collective bargaining: Judicial Council.

Existing law, the Dills Act, governs collective bargaining between the state and recognized state public employee organizations. Existing law creates the Public Employment Relations Board 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 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~~. *Center, as well as employees working under the supervision of the Office of Governmental Affairs or the Human Resources Services Office.* The bill would define the employer, for purposes of bargaining or meeting and conferring, 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 the Judicial Council.

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 3513 of the Government Code is amended
2 to read:
3 3513. As used in this chapter:
4 (a) "Employee organization" means any organization that
5 includes employees of the state and that has as one of its primary
6 purposes representing these employees in their relations with the
7 state.
8 (b) "Recognized employee organization" means an employee
9 organization that has been recognized by the state as the exclusive
10 representative of the employees in an appropriate unit.
11 (c) (1) "State employee" means any civil service employee of
12 the state, and the teaching staff of schools under the jurisdiction
13 of the State Department of Education or the Superintendent of
14 Public Instruction, except managerial employees, confidential
15 employees, supervisory employees, employees of the Department
16 of Human Resources, professional employees of the Department

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

13 (2) "State employee" also has the meaning provided by Section
14 3522.5.

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

21 (e) "Managerial employee" means any employee having
22 significant responsibilities for formulating or administering agency
23 or departmental policies and programs or administering an agency
24 or department.

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

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

(h) “Board” means the Public Employment Relations Board. The Educational Employment Relations Board shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

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

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

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

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

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

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

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

(1) “State employee” means an employee of the Judicial Council, except a managerial employee, confidential employee, or supervisory employee. “State employee” does not ~~include a~~ include:

1 (A) A judicial officer or employee of the Supreme Court, the
2 courts of appeal, or the Habeas Corpus Resource Center.

3 (B) *An employee of the Judicial Council whose work is*
4 *performed under the supervision of the Office of Governmental*
5 *Affairs or the Human Resources Services Office.*

6 (2) “State employer” or “employer,” for purposes of bargaining
7 or meeting and conferring in good faith, means the Administrative
8 Director of the Courts, or his or her designated representatives,
9 acting with the authorization of the chairperson of the Judicial
10 Council.

11 (3) References to actions or decisions by the Governor, or his
12 or her designated representative, shall mean actions or decisions
13 by the Administrative Director of the Courts, or his or her
14 designated representative, acting with the authorization of the
15 Chairperson of the Judicial Council.

16 (c) Sections 3517.5, 3517.6, 3517.63, and 3517.7 shall not apply
17 to the Judicial Council and its employees.

18 (d) The board, as it determines appropriate bargaining units,
19 shall not include Judicial Council employees in a bargaining unit
20 that includes employees other than those of the Judicial Council.