

AMENDED IN SENATE AUGUST 15, 2016
AMENDED IN SENATE JUNE 30, 2016
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 excludes certain employees from coverage under the Dills Act, including, among others, managerial employees, supervisory employees, and confidential employees, as defined. 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: supervisory employees, and excluded employees, as specified.~~ The bill would ~~provide that~~ grant the Judicial Council ~~has~~ the *sole* authority to designate state employee positions ~~and confidential as excluded~~ positions and would prohibit exempted managerial, supervisory, ~~and confidential~~ *confidential, and excluded* positions from exceeding $\frac{1}{3}$ of the total ~~permanent full-time Judicial Council employees: authorized Judicial Council positions as stated in the Department of Finance Salaries and Wages Supplement.~~ The bill would prohibit review of the designation of excluded positions by the Public Employment Relations Board. The bill would also except from ~~this~~ the definition of *employee* 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 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:

1 (a) “Employee organization” means any organization that
2 includes employees of the state and that has as one of its primary
3 purposes representing these employees in their relations with the
4 state.

5 (b) “Recognized employee organization” means an employee
6 organization that has been recognized by the state as the exclusive
7 representative of the employees in an appropriate unit.

8 (c) (1) “State employee” means any civil service employee of
9 the state, and the teaching staff of schools under the jurisdiction
10 of the State Department of Education or the Superintendent of
11 Public Instruction, except managerial employees, confidential
12 employees, supervisory employees, employees of the Department
13 of Human Resources, professional employees of the Department
14 of Finance engaged in technical or analytical state budget
15 preparation other than the auditing staff, professional employees
16 in the Personnel/Payroll Services Division of the Controller’s office
17 engaged in technical or analytical duties in support of the state’s
18 personnel and payroll systems other than the training staff,
19 employees of the Legislative Counsel Bureau, employees of the
20 Bureau of State Audits, employees of the office of the Inspector
21 General, employees of the board, conciliators employed by the
22 California State Mediation and Conciliation Service, employees
23 of the Office of the State Chief Information Officer except as
24 otherwise provided in Section 11546.5, and intermittent athletic
25 inspectors who are employees of the State Athletic Commission.

26 (2) “State employee” also has the meaning provided by Section
27 3522.5.

28 (d) “Mediation” means effort by an impartial third party to assist
29 in reconciling a dispute regarding wages, hours, and other terms
30 and conditions of employment between representatives of the
31 public agency and the recognized employee organization or
32 recognized employee organizations through interpretation,
33 suggestion, and advice.

34 (e) “Managerial employee” means any employee having
35 significant responsibilities for formulating or administering agency
36 or departmental policies and programs or administering an agency
37 or department.

38 (f) “Confidential employee” means any employee who is
39 required to develop or present management positions with respect
40 to employer-employee relations or whose duties normally require

1 access to confidential information contributing significantly to the
2 development of management positions.

3 (g) “Supervisory employee” means any individual, regardless
4 of the job description or title, having authority, in the interest of
5 the employer, to hire, transfer, suspend, lay off, recall, promote,
6 discharge, assign, reward, or discipline other employees, or
7 responsibility to direct them, or to adjust their grievances, or
8 effectively to recommend this action, if, in connection with the
9 foregoing, the exercise of this authority is not of a merely routine
10 or clerical nature, but requires the use of independent judgment.

11 Employees whose duties are substantially similar to those of their
12 subordinates shall not be considered to be supervisory employees.

13 (h) “Board” means the Public Employment Relations Board.
14 The Educational Employment Relations Board shall be renamed
15 the Public Employment Relations Board as provided in Section
16 3540. The powers and duties of the board described in Section
17 3541.3 shall also apply, as appropriate, to this chapter.

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

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

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

34 (k) “Fair share fee” means the fee deducted by the state
35 employer from the salary or wages of a state employee in an
36 appropriate unit who does not become a member of and financially
37 support the recognized employee organization. The fair share fee
38 shall be used to defray the costs incurred by the recognized
39 employee organization in fulfilling its duty to represent the
40 employees in their employment relations with the state, and shall

1 not exceed the standard initiation fee, membership dues, and
2 general assessments of the recognized employee organization.

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

5 3522.5. (a) This chapter shall apply to the Judicial Council
6 and its employees subject to the provisions of this section.

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

9 (1) "State employee" means an employee of the Judicial Council,
10 except ~~a managerial employee, supervisory employee or a~~
11 ~~confidential employee as defined in managerial, supervisory, or~~
12 ~~confidential employee, or an excluded employee designated~~
13 ~~pursuant to subdivision (e).~~ "State employee" does not include a
14 judicial officer or employee of the Supreme Court, the courts of
15 appeal, or the Habeas Corpus Resource Center.

16 (2) "State employer" or "employer," for purposes of bargaining
17 or meeting and conferring in good faith, means the Administrative
18 Director of the Courts, or his or her designated representatives,
19 acting with the authorization of the chairperson of the Judicial
20 Council.

21 (3) References to actions or decisions by the Governor, or his
22 or her designated representative, shall mean actions or decisions
23 by the Administrative Director of the Courts, or his or her
24 designated representative, acting with the authorization of the
25 Chairperson of the Judicial Council.

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

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

31 (e) The Judicial Council has the *sole authority and discretion*
32 ~~to designate state employee positions and confidential positions.~~
33 ~~Managerial, as excluded positions, provided that managerial,~~
34 ~~supervisory, and confidential positions exempted confidential, and~~
35 ~~excluded positions not included in bargaining units~~ under this
36 provision shall not exceed one third of the total ~~permanent full-time~~
37 ~~Judicial Council employees.~~ *authorized Judicial Council positions*
38 *as stated in the Department of Finance Salaries and Wages*

- 1 *Supplement. Designation of the excluded positions under this*
- 2 *section shall not be subject to review by the board.*

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