

Assembly Bill No. 874

Passed the Assembly August 24, 2016

Chief Clerk of the Assembly

Passed the Senate August 18, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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, supervisory employees, and excluded employees, as specified. The bill would grant the Judicial Council the sole authority to designate state employee positions as excluded positions and would prohibit exempted managerial, supervisory, confidential, and excluded positions from exceeding 1/3 of the total 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 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.

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

SECTION 1. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

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

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

(c) (1) “State employee” means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the State Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, supervisory employees, employees of the Department of Human Resources, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller’s office engaged in technical or analytical duties in support of the state’s personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the office of the Inspector General, employees of the board, conciliators employed by the California State Mediation and Conciliation Service, employees

of the Office of the State Chief Information Officer except as otherwise provided in Section 11546.5, and intermittent athletic inspectors who are employees of the State Athletic Commission.

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

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

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

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

(g) “Supervisory employee” means any individual, regardless of the job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their 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, supervisory, or confidential employee, or an excluded employee designated pursuant to subdivision (e). "State employee" does not include a judicial officer or employee of the Supreme Court, the courts of appeal, or the Habeas Corpus Resource Center.

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

(3) References 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, or his or her

designated representative, acting with the authorization of the Chairperson of the Judicial Council.

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

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

(e) The Judicial Council has the sole authority and discretion to designate state employee positions as excluded positions, provided that managerial, supervisory, confidential, and excluded positions not included in bargaining units under this provision shall not exceed one third of the total authorized Judicial Council positions as stated in the Department of Finance Salaries and Wages Supplement. Designation of the excluded positions under this section shall not be subject to review by the board.

Approved _____, 2016

Governor