

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2835

Introduced by Assembly Member Cooper
(Principal coauthor: Senator Pan)

February 19, 2016

An act to add Chapter 11 (commencing with Section 3550) to Division 4 of Title 1 of the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2835, as amended, Cooper. ~~State employees: memorandum of understanding.~~ *Public employees: orientation and informational programs: recognized employee organizations.*

(1) Existing law, including the Meyers-Milias-Brown Act, the Ralph C. Dills Act, the Trial Court Employment Protection and Governance Act, the Trial Court Interpreter Employment and Labor Relations Act, and the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act, as well as provisions commonly referred to as the Educational Employment Relations Act and the Higher Education Employer-Employee Relations Act, regulates the labor relations of the state, the courts, and specified local public agencies and their employees. Existing law establishes the Public Employment Relations Board and prescribes its powers and duties, in relation to these acts. These acts grant specified public employees of these entities the right to form, join, and participate in the activities of employee organizations of their choosing and requires public agency employers, among other things, to meet and confer with representatives

of recognized employee organizations and exclusive representatives on terms and conditions of employment.

This bill would require the public employers regulated by the acts described above to provide newly hired employees, as defined, a specified public employee orientation within 2 months of hiring. The bill would require these orientations to be conducted during the regular workday at the worksite, except as specified, and that all newly hired employees attend the orientation in person. The bill would require the scheduling of these orientations to be agreed upon with the recognized employee organization or exclusive representative. The bill would require the pertinent recognized employee organization or exclusive representative to be permitted to make a presentation of 30 minutes to begin within one hour of the start of the orientation if employees are represented by a recognized employee organization or exclusive representative, as specified. The bill would require that the content of these presentations be determined exclusively by the recognized employee organization or exclusive representative.

This bill would require, prior to the implementation of the provisions described above, that the public employer provide a recognized employee organization or exclusive representative the same level of access to orientations allowed as of June 1, 2016. The bill would require an affected public employer to provide the recognized employee organization or exclusive representative with the name, job title, department, work location, phone number, and home address of newly hired employees within 7 days of the date of hire and notice of a scheduled orientation not less than 10 days prior to the orientation, as specified. The bill would permit a public employer and a recognized employee organization or exclusive representative to negotiate an agreement regarding these employee orientation sessions.

The bill would provide that the obligation of affected public employers to meet and confer with regard to matters within the scope of representation includes an obligation to meet and confer regarding informational programs for current employees that are similar to the orientations provided to new employees. The bill would require the content of any employee organization presentation included as a part of these informational programs to be determined solely by the recognized employee organization or exclusive representative and that the content is not subject to negotiation.

The bill would provide that affected public employers do not unlawfully support or favor an employee organization or encourage

employees to join any organization in preference to another, as specified, by permitting presentations at employee orientations or informational programs, as described above, or consistent with a negotiated agreement. The bill would grant the Public Employment Relations Board jurisdiction over a violation of these provisions. By creating new duties for various local agencies, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, with regard to certain mandates, no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law provides that a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.~~

~~This bill would approve provisions of a memorandum of understanding entered into between the state employer and an unspecified bargaining unit that require the expenditure of funds, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.~~

~~The bill would provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for those provisions are specifically appropriated by the Legislature, and would require the state employer and the affected employee organization to meet and confer to renegotiate the affected provisions if funds for those provisions are not specifically appropriated by the Legislature.~~

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

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

1 SECTION 1. Chapter 11 (commencing with Section 3550) is
2 added to Division 4 of Title 1 of the Government Code, to read:

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*CHAPTER 11. PUBLIC EMPLOYEE ORIENTATION AND
INFORMATIONAL PROGRAMS*

7 3550. (a) A public employer specified in Section 3552 shall
8 provide all newly hired public employees a public employee
9 orientation within two months of the time of hiring that shall
10 include, but is not limited to, all of the following:

11 (1) The personnel policies of the public employer, including
12 sexual harassment, violence prevention, and safety plans.

13 (2) Any applicable civil service rules.

14 (3) Any ethics or conflict-of-interest rules to which the public
15 employee is subject, if applicable.

16 (4) Any employer-provided benefit programs for which the
17 public employee is eligible.

18 (b) An orientation described in subdivision (a) shall meet all of
19 the following minimum requirements:

20 (1) Orientations shall be conducted during the regular workday
21 and shall take place at the worksite, unless the public employer
22 and recognized employee organization or exclusive representative
23 have agreed otherwise. The scheduling of orientations shall be
24 agreed upon with the recognized employee organization or
25 exclusive representative. All newly hired public employees shall
26 attend in person.

27 (2) If employees are represented by a recognized employee
28 organization or exclusive representative, representatives of the
29 recognized employee organization or exclusive representative
30 shall be permitted to make a presentation of 30 minutes to begin
31 within one hour of the start of the orientation that shall include,
32 but is not limited to, all of the following:

33 (A) Information about the memorandum of understanding,
34 including the term of the agreement, eligibility to vote on its
35 ratification, and how to access the contract.

36 (B) Any union benefit for which members may be eligible.

37 (C) Contact information for the exclusive representative.

1 (3) If no representative from the recognized employee
2 organization is present during the designated start time of that
3 part of the presentation, there is no requirement that they be
4 afforded additional time.

5 (4) If employees in different bargaining units are provided a
6 combined orientation, employees in each bargaining unit shall be
7 provided a separate space in which the employee organization
8 representing each bargaining unit shall be permitted to address
9 its bargaining unit members during the time allotted for the
10 recognized employee organization's or exclusive representative's
11 presentation. In addition to other representatives, each recognized
12 employee organization or exclusive representative may designate
13 one employee representative who may attend the orientation on
14 paid time. The content of the recognized employee organization's
15 or exclusive representative's presentation shall be determined
16 solely by the employee organization and shall not be subject to
17 negotiation. The presentation shall not include advocacy for or
18 against a candidate for political office or ballot measure. Prior
19 to implementing the orientation requirements set forth in this
20 subdivision, the public employer shall provide at least the level of
21 access to, and the opportunity to make presentations at,
22 orientations that the public employer allowed the recognized
23 employee organization or exclusive representative as of June 1,
24 2016, and nothing herein shall be construed as infringing upon
25 or limiting that access.

26 (c) Notwithstanding Sections 6254 and 6254.3, the public
27 employer shall provide the recognized employee organization or
28 exclusive representative with the name, job title, department, work
29 location, telephone number, and home address of any newly hired
30 employee within seven days of the date of hire and notice of a
31 scheduled orientation not less than 10 days prior to the orientation
32 unless earlier notice is required by an agreement with the
33 recognized employee organization or exclusive representative.
34 The information identified in this subdivision shall be provided to
35 the recognized employee organization or exclusive representative
36 regardless of whether the newly hired public employee was
37 previously employed by the public employer. The information
38 under this section shall be provided in a manner consistent with
39 paragraph (3) of subdivision (a) of Section 6254.3. The information
40 under this section shall be provided in a manner consistent with

1 Section 6207 for any employee who is a participant in the address
2 confidentiality program established pursuant to Chapter 3.1
3 (commencing with Section 6205) of Division 7 of Title 1.

4 (d) This section does not prohibit a public employer and a
5 recognized employee organization or exclusive representative from
6 negotiating an agreement providing for orientation sessions that
7 vary from the requirements of this section. However, if the public
8 employer and the recognized employee organization or exclusive
9 representative do not reach a mutual agreement regarding the
10 orientation sessions, all of the requirements of this section shall
11 apply.

12 (e) A public employer identified in Section 3552 does not
13 unlawfully support or favor an employee organization or encourage
14 employees to join any organization in preference to another as
15 prohibited by subdivision (d) of Section 3506.5, subdivision (d) of
16 Section 3519, subdivision (d) of Section 3543.5, or subdivision (d)
17 of Section 3571 of this code, or subdivision (d) of Section 99563.7
18 of the Public Utilities Code, or any other state law, by permitting
19 a recognized employee organization or exclusive representative
20 the opportunity to present at employee orientations and
21 informational programs as required by this section or consistent
22 with a negotiated agreement pursuant to Section 3551.

23 3551. (a) The obligation established by Sections 3505, 3517,
24 3543.3, 3570, 71634.2, and 71818 of this code and Section 99563.4
25 of the Public Utilities Code to meet and confer in good faith
26 regarding terms and conditions of employment includes an
27 obligation to meet and confer regarding informational programs
28 for current state employees that are similar to the state employee
29 orientations required by Section 3550. The establishment,
30 scheduling, and administration of these programs shall be
31 negotiated by the public employer and the recognized employee
32 organization or exclusive representative pursuant to the applicable
33 law governing the public employment relationship at issue in the
34 same manner as other matters within the scope of representation.
35 The content of any recognized employee organization presentation
36 included as part of the informational program shall be determined
37 solely by the recognized employee organization or exclusive
38 representative and shall not be subject to negotiation. The failure
39 to reach agreement on an employee informational program shall
40 be subject to the mediation provisions of law governing the public

1 *employment relationship at issue in the same manner as other*
2 *matters within the scope of representation.*

3 *(b) Notwithstanding Sections 6254 and 6254.3, the public*
4 *employer shall provide the recognized employee organization or*
5 *exclusive representative with a list containing the name, job title,*
6 *department, work location, telephone number, and home address*
7 *of all employees in the bargaining unit at least every 90 days,*
8 *unless more frequent or more detailed lists are required by an*
9 *agreement with the recognized employee organization or exclusive*
10 *representative. The information under this section shall be provided*
11 *in a manner consistent with paragraph (3) of subdivision (a) of*
12 *Section 6254.3. The information under this section shall be*
13 *provided in a manner consistent with Section 6207 for any*
14 *employee who is a participant in the address confidentiality*
15 *program established pursuant to Chapter 3.1 (commencing with*
16 *Section 6205) of Division 7 of Title 1.*

17 *3552. (a) This chapter shall only apply to public employers*
18 *subject to Chapter 10 (commencing with Section 3500), Chapter*
19 *10.3 (commencing with Section 3512), Chapter 10.7 (commencing*
20 *with Section 3540), or Chapter 12 (commencing with Section 3560)*
21 *of Division 4 of Title 1, Chapter 7 (commencing with Section*
22 *71600) or Chapter 7.5 (commencing with Section 71800) of Title*
23 *8 of this code, or Chapter 7 (commencing with Section 99560) of*
24 *Part 11 of Division 10 of the Public Utilities Code.*

25 *(b) For purposes of this chapter, “newly hired public employee”*
26 *shall mean any employee, whether permanent, temporary, full*
27 *time, or part time, hired by a public employer, to which this chapter*
28 *applies, and who is still employed as of the date of the new hire*
29 *orientation.*

30 *(c) The Public Employment Relations Board shall have*
31 *jurisdiction over violations of this chapter. The powers and duties*
32 *of the board described in Section 3541.3 shall apply, as*
33 *appropriate, to this chapter.*

34 *SEC. 2. No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district under this act would result from a legislative mandate that*
38 *is within the scope of paragraph (7) of subdivision (b) of Section*
39 *3 of Article I of the California Constitution.*

1 *However, if the Commission on State Mandates determines that*
2 *this act contains other costs mandated by the state, reimbursement*
3 *to local agencies and school districts for those costs shall be made*
4 *pursuant to Part 7 (commencing with Section 17500) of Division*
5 *4 of Title 2 of the Government Code.*

6 ~~SECTION 1. The Legislature finds and declares that the~~
7 ~~purpose of this act is to approve an agreement entered into by the~~
8 ~~state employer and State Bargaining Unit _____ pursuant to Section~~
9 ~~3517.5 of the Government Code.~~

10 ~~SEC. 2. The provisions of the memorandum of understanding~~
11 ~~prepared pursuant to Section 3517.5 of the Government Code and~~
12 ~~entered into by the state employer and State Bargaining Unit _____,~~
13 ~~dated _____, and that require the expenditure of funds, are hereby~~
14 ~~approved for the purposes of subdivision (b) of Section 3517.6 of~~
15 ~~the Government Code.~~

16 ~~SEC. 3. The provisions of the memorandum of understanding~~
17 ~~approved by Section 2 of this act that require the expenditure of~~
18 ~~funds shall not take effect unless funds for these provisions are~~
19 ~~specifically appropriated by the Legislature. If funds for these~~
20 ~~provisions are not specifically appropriated by the Legislature, the~~
21 ~~state employer and the affected employee organization shall meet~~
22 ~~and confer to renegotiate the affected provisions.~~

23 ~~SEC. 4. Notwithstanding Section 3517.6 of the Government~~
24 ~~Code, the provisions of the memorandum of understanding~~
25 ~~included in Section 2 of this act that require the expenditure of~~
26 ~~funds shall become effective even if the provisions of the~~
27 ~~memorandum of understanding are approved by the Legislature~~
28 ~~in legislation other than the annual Budget Act.~~