

Introduced by Senator Nielsen

February 4, 2016

An act to add Chapter 10.6 (commencing with Section 3539.75) to Division 4 of Title 1 of the Government Code, relating to state employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 950, as introduced, Nielsen. Excluded employees: arbitration.

The Bill of Rights for State Excluded Employees permits, among other things, excluded employee organizations to represent their excluded members in their employment relations, including grievances, with the state. That law defines excluded employees as all managerial employees, confidential employees, supervisory employees, and specified employees of the Department of Personnel Administration, the Department of Finance, the Controller's office, the Legislative Counsel Bureau, the Bureau of State Audits, the Public Employment Relations Board, the Department of Industrial Relations, and the State Athletic Commission.

This bill would enact the Excluded Employee Arbitration Act to permit an excluded employee who has filed a grievance with the California Human Resources Administration (CALHR), or an employee organization that represents that employee, to request arbitration of the grievance if specified conditions are met. The bill would require the designation of a standing panel of arbitrators, and, under specified circumstances, the provision of arbitrators from the California State Mediation and Conciliation Service within the Department of Industrial Relations. The bill would then require the arbitrator to be chosen in a specified manner, and would prescribe the duties of that arbitrator. The bill would also require the losing party to bear the costs of arbitration,

and would make a statement of legislative intent with regard to the above.

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. It is the intent of the Legislature that state
2 excluded employees shall have the right to arbitration as a fifth
3 step to the excluded employee grievance procedure. The present
4 grievance procedure leaves too many grievances unresolved. This
5 lack of resolution has caused more cases to be filed in California's
6 courts, which should have been resolved at a lower level.

7 SEC. 2. Chapter 10.6 (commencing with Section 3539.75) is
8 added to Division 4 of Title 1 of the Government Code, to read:

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10 CHAPTER 10.6. EXCLUDED EMPLOYEE MEDIATION ACT

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12 3539.75. This chapter shall be known, and may be cited, as the
13 Excluded Employee Arbitration Act.

14 3539.76. For purposes of this chapter:

15 (a) "Department" means the California Human Resources
16 Administration (CALHR).

17 (b) "Employee" means an excluded employee of the state, as
18 defined in subdivision (b) of Section 3527.

19 (c) "Employee organization" means any organization that
20 represents excluded employees of the state.

21 (d) "Employer" means the State of California.

22 (e) "Arbitration" means the binding ruling that resolves an
23 excluded employee grievance at the fifth level of the excluded
24 employee grievance process.

25 3539.77. An employee who has filed a grievance with the
26 department or an employee organization representing that employee
27 may request arbitration of the grievance if all of the following
28 conditions are met:

29 (a) The grievance alleges a violation of Title 2 or 15 of the
30 California Code of Regulations, this code, the Labor Code, or a
31 federal statute relating to employer-employee relations.

32 (b) The grievance has not been resolved to the employee's or
33 employee organization's satisfaction after the third or fourth level

1 of review pursuant to regulations of the department governing
2 grievances for excluded employees.

3 (c) The employee or employee organization requests arbitration
4 in writing, submitted to the department, within 21 days of a
5 decision rendered in the third or fourth level of review.

6 3539.78. (a) After a request for arbitration is made, the
7 department and the employee organization shall designate a
8 standing panel of at least 20 arbitrators who shall be available for
9 arbitration under this chapter.

10 (b) If there are fewer than three arbitrators available, then the
11 employee organization or the employer may obtain the names of
12 an additional five arbitrators from the California State Mediation
13 and Conciliation Service within the Department of Industrial
14 Relations.

15 (c) From that standing panel, the employee organization and
16 the employer may consecutively strike any arbitrator from that
17 panel until the name of one arbitrator is agreed upon, or, if no
18 agreement is made, the last remaining person on the panel shall
19 be designated the arbitrator. The name of that arbitrator shall be
20 submitted in writing to the department.

21 (d) If the employee organization does not submit its choice of
22 an arbitrator within 45 days after requesting arbitration, the request
23 for arbitration shall be considered withdrawn.

24 3539.79. (a) The arbitrator shall issue a decision for each
25 grievance heard during the arbitration. The decision shall be based
26 solely on the written record in the grievance, the grievance
27 response, and the oral presentations made at the arbitration. The
28 arbitrator's decision shall be legally binding.

29 (b) The arbitrator shall issue a written decision within 45 days
30 of the conclusion of the hearing.

31 (c) The arbitrator shall order the nonprevailing party to pay the
32 cost of the arbitration.