

AMENDED IN ASSEMBLY JULY 2, 1999

AMENDED IN SENATE MAY 11, 1999

AMENDED IN SENATE MAY 3, 1999

AMENDED IN SENATE APRIL 6, 1999

SENATE BILL

No. 645

Introduced by Senator Burton and Assembly Member
Villaraigosa

**(Coauthors: Senators Bowen, Dunn, Hayden, Karnette,
O'Connell, Sher, and Solis)**

(Coauthors: Assembly Members Aroner, Calderon, Cardenas,
Cardoza, Ducheny, Havice, Keeley, Knox, Migden,
Romero, Steinberg, Strom-Martin, Thomson, Vincent,
Washington, Wesson, and Wright)

February 24, 1999

An act to amend Section 3583 of, and to add ~~Section~~ *Sections 3583.5 and 3584* to, the Government Code, relating to higher education labor relations.

LEGISLATIVE COUNSEL'S DIGEST

SB 645, as amended, Burton. Higher education labor relations.

Existing law contains provisions relating to employer-employee relations between the State of California and the employees of state institutions of higher education, as defined to include the University of California and the California State University. These provisions provide that these employees have the right to form, join, and participate



in the activities of employee organizations for the purpose of representation on all matters of labor relations. Existing law limits the permissible forms of organizational security for those employees to an arrangement pursuant to which an employee may decide whether or not to join the recognized or certified employee organization, but which requires the employer to deduct from the wages or salary of the employee who does join, and pay to the employee organization representing that employee, the fees, dues, or assessments of the organization.

This bill would ~~provide that, for the~~ *require* employees of the California State University and employees of the University of California, other than faculty of the University of California who are eligible for membership in the Academic Senate, ~~organizational security includes an arrangement that requires employees of those universities to either join the employee organization or to pay the organization a fair share service fee.~~

The bill would require the Public Employment Relations Board to conduct an onsite election between January 1, 2004, and May 1, 2004, to determine whether the organizational security arrangement required by this bill will be rescinded. ~~The bill would also provide that this form of organizational security is subject to rescission, as specified, on and after January 1, 2005.~~

The bill would establish a procedure for employees to petition for rescission of this form of organizational security *on or after January 1, 2005*, would provide that the cost of conducting the rescission election would be borne by the petitioning party, and would provide the petitioning party with the choice of a campus worksite election or a mail ballot election in accordance with rules and regulations adopted by the Public Employment Relations Board. If the organizational security arrangement is rescinded, the bill would establish a similar procedure for reinstatement of the arrangement.

The bill would provide for a procedure under which an employee of the California State University or the University of California, *other than faculty of the University of California who are eligible for membership in the Academic Senate*, who is a member of a bona fide religion, body, or sect that has



historically held conscientious objections to joining or financially supporting public employee organizations would not be required to join, but would instead be required to pay a sum equal to the ~~dues or fees of the employee organization~~ *fair share service fee* to a nonreligious, nonlabor charitable fund, as prescribed.

The bill would require every recognized or certified employee organization that has ~~agreed to~~ an agency shop provision to keep an adequate itemized record of its financial transactions, and to make available an annual detailed report of those transactions, as specified.

This bill would make various technical, nonsubstantive changes to the law relating to higher education labor relations.

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 3583 of the Government Code is
2 amended to read:

3 3583. ~~(a)~~ Permissible forms of organizational
4 security shall be limited to either of the following:

5 ~~(1)~~

6 (a) An arrangement pursuant to which an employee
7 may decide whether or not to join the recognized or
8 certified employee organization, but which requires the
9 employer to deduct from the wages or salary of any
10 employee who does join, and pay to the employee
11 organization which is the exclusive representative of that
12 employee, the standard initiation fee, periodic dues, and
13 general assessments of the organization for the duration
14 of the written memorandum of understanding. This
15 arrangement shall not deprive the employee of the right
16 to resign from the employee organization within a period
17 of 30 days prior to the expiration of a written
18 memorandum of understanding.

19 ~~(2) For the employees of the California State~~
20 ~~University and employees of the University of California;~~
21 ~~other than faculty of the University of California who are~~



1 eligible for membership in the Academic Senate, an
2 arrangement that requires an employee of the California
3 State University or the University of California to either
4 join the recognized or certified employee organization or
5 to pay the organization a fair share service fee in
6 accordance with Section 3584.

7 (b) The arrangement described in Section 3583.5.

8 SEC. 2. Section 3583.5 is added to the Government
9 Code, to read:

10 3583.5. (a) Notwithstanding any other provision of
11 law, any employee of the California State University or
12 the University of California, other than faculty of the
13 University of California who are eligible for membership
14 in the Academic Senate, who is in a unit for which an
15 exclusive representative has been selected pursuant to
16 this chapter shall be required, as a condition of continued
17 employment, either to join the recognized employee
18 organization or to pay the organization a fair share service
19 fee. The amount of the fee shall not exceed the dues that
20 are payable by members of the employee organization,
21 and shall cover the cost of negotiation, contract
22 administration, and other activities of the employee
23 organization that are germane to its functions as the
24 exclusive bargaining representative. The costs covered
25 by the fee under this section may include, but shall not
26 necessarily be limited to, the cost of lobbying activities
27 designed to foster collective bargaining negotiations and
28 contract administration, or to secure for the represented
29 employees advantages in wages, hours, and other
30 conditions of employment in addition to those secured
31 through meeting and conferring with the higher
32 education employer.

33 (b) The organizational security arrangement
34 described in ~~paragraph (2)~~ of subdivision (a) shall remain
35 in effect unless it is rescinded pursuant to this subdivision
36 or subdivision (c). Between January 1, 2004, and May 1,
37 2004, the board shall conduct an onsite election at each
38 campus where employees who are members of the
39 recognized or certified employee organization are
40 located to determine whether the organizational security



1 arrangement described in ~~paragraph (2)~~ of subdivision
2 (a) shall be rescinded. A vote of a majority of *all* the
3 employees in a negotiating unit shall be required to
4 rescind the organizational security arrangement. The
5 cost of conducting an election under this subdivision shall
6 be borne by the affected recognized or certified
7 employee organization. The higher education employer
8 shall remain neutral and shall take no position in any
9 election conducted under this subdivision or subdivision
10 (c).

11 (c) (1) The organizational security arrangement
12 described in ~~paragraph (2)~~ of subdivision (a) may be
13 rescinded, effective no sooner than January 1, 2005, by a
14 majority vote of all the employees in the negotiating unit
15 subject to that arrangement, if a request for a vote is
16 supported by a petition containing the signatures of at
17 least 30 percent of the employees in the negotiating unit,
18 and the vote is by secret ballot. The vote may be taken at
19 any time on or after January 1, 2005. There shall not be
20 more than one vote taken during the term of any
21 memorandum of understanding in effect on or after
22 January 1, 2005.

23 (2) If the organizational security arrangement
24 described in ~~paragraph (2)~~ of subdivision (a) is rescinded
25 pursuant to either subdivision (b) or paragraph (1), a
26 majority of all the employees in the negotiating unit may
27 request that the arrangement be reinstated. That request
28 shall be submitted to the board along with a petition
29 containing the signatures of at least 30 percent of the
30 employees in the negotiating unit. The vote shall be by
31 secret ballot and shall be conducted no sooner than one
32 year after the rescission of the organizational security
33 arrangement under *subdivision (b) or* this subdivision.

34 (3) If the board determines that the appropriate
35 number of signatures have been collected, it shall
36 conduct the vote to rescind or reinstate in a manner that
37 it shall prescribe.

38 (4) The cost of conducting an election under this
39 subdivision to rescind or reinstate the organizational
40 security arrangement shall be borne by the petitioning



1 party. The petitioning party shall have the choice of a
2 campus worksite election or a mail ballot election in
3 accordance with rules and regulations adopted by the
4 board.

5 ~~SEC. 2.—~~

6 *SEC. 3.* Section 3584 is added to the Government
7 Code, to read:

8 3584. (a) ~~Notwithstanding any other provision of~~
9 ~~law, any employee of the California State University or~~
10 ~~the University of California who is in a unit for which an~~
11 ~~exclusive representative has been selected pursuant to~~
12 ~~this chapter shall be required, as a condition of continued~~
13 ~~employment, either to join the recognized employee~~
14 ~~organization or to pay the organization a fair share service~~
15 ~~fee in an amount not to exceed the dues that are payable~~
16 ~~by members of the employee organization to cover the~~
17 ~~cost of negotiation, contract administration, and other~~
18 ~~activities of the employee organization that are germane~~
19 ~~to its functions as the exclusive bargaining representative.~~

20 (b) ~~Notwithstanding subdivision (a), an employee of~~
21 *Section 3583.5, an employee of the California State*
22 *University or the University of California, other than*
23 *faculty of the University of California who are eligible for*
24 *membership in the Academic Senate, who is a member*
25 *of a bona fide religion, body, or sect that has historically*
26 *held conscientious objections to joining or financially*
27 *supporting public employee organizations shall not be*
28 *required to join or financially support any public*
29 *employee organization as a condition of employment. An*
30 *employee to which this paragraph subdivision is*
31 *applicable may be required, in lieu of periodic dues,*
32 *initiation fees, or agency shop fees, to pay sums equal to*
33 ~~these dues, initiation fees, or agency shop fees to a the~~
34 *amount of the fair share service fee determined pursuant*
35 *to subdivision (a) of Section 3583.5 to a nonreligious,*
36 *nonlabor charitable fund exempt from taxation under*
37 *Section 501(c)(3) of the Internal Revenue Code, chosen*
38 *by the employee from a list of at least three of these funds*
39 *designated by the employer and the exclusive*
40 *representative or, if the employer and exclusive*



1 representative fail to designate funds, chosen by the
2 employee. Proof of these payments shall be made on a
3 monthly basis to the employer as a condition of continued
4 exemption from the requirement of financial support of
5 the exclusive representative.

6 ~~(e) The pro rata share subject to refund shall not~~
7 ~~reflect, however, the costs of support of lobbying~~
8 ~~activities designed to foster collective negotiations and~~
9 ~~contract administration, or to secure for the employees~~
10 ~~represented advantages in wages, hours, and other~~
11 ~~conditions of employment in addition to those secured~~
12 ~~through meeting and conferring with the higher~~
13 ~~education employer.~~

14 ~~(d)~~

15 (b) Every recognized or certified employee
16 organization that has ~~agreed to~~ an agency shop provision
17 under this section shall keep an adequate itemized record
18 of its financial transactions, and shall make available
19 annually, to the employer and to the employees who are
20 members of the organization, within 60 days after the end
21 of its fiscal year, a detailed written financial report
22 thereof in the form of a balance sheet and an operating
23 statement, certified as to accuracy by the president and
24 treasurer or comparable officers. An employee
25 organization required to file financial reports under the
26 federal Labor-Management Disclosure Act of 1959 (29
27 U.S.C. Sec. 401 et seq.) covering employees governed
28 under this chapter, or required to file financial reports
29 under Section 3546.5, may satisfy the financial reporting
30 requirements of this section by providing the employer
31 with a copy of those financial reports.

32 ~~SEC. 3.—~~

33 SEC. 4. The provisions of this act are severable. If any
34 provision of this act or its application is held invalid, that
35 invalidity shall not affect other provisions or applications
36 that can be given effect without the invalid provision or
37 application.

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