

AMENDED IN ASSEMBLY AUGUST 23, 1999

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~~ *Sections 3583 and 3585* of, and to add 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 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, 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1, 2004, and May 1, 2004, to determine whether the organizational security arrangement required by this bill will be rescinded.~~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 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~~ *require the election to be conducted at the worksite by secret ballot.* 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 fair share service fee to a nonreligious, nonlabor charitable fund, as prescribed.

The bill would require every recognized or certified employee organization that has 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. Permissible forms of organizational security
4 shall be limited to either of the following:

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

18 (b) The arrangement described in Section 3583.5.

19 SEC. 2. Section 3583.5 is added to the Government
20 Code, to read:

21 3583.5. (a) (1) Notwithstanding any other provision
22 of law, any employee of the California State University or
23 the University of California, other than faculty of the



1 University of California who are eligible for membership
2 in the Academic Senate, who is in a unit for which an
3 exclusive representative has been selected pursuant to
4 this chapter, shall be required, as a condition of continued
5 employment, either to join the recognized employee
6 organization or to pay the organization a fair share service
7 fee. The amount of the fee shall not exceed the dues that
8 are payable by members of the employee organization,
9 and shall cover the cost of negotiation, contract
10 administration, and other activities of the employee
11 organization that are germane to its functions as the
12 exclusive bargaining representative. ~~The~~ *Upon*
13 *notification to the employer by the exclusive*
14 *representative, the amount of the fee shall be deducted*
15 *by the employer from the wages or salary of the employee*
16 *and paid to the employee organization.*

17 (2) The costs covered by the fee under this section
18 may include, but shall not necessarily be limited to, the
19 cost of lobbying activities designed to foster collective
20 bargaining negotiations and contract administration, or
21 to secure for the represented employees advantages in
22 wages, hours, and other conditions of employment in
23 addition to those secured through meeting and
24 conferring with the higher education employer.

25 (b) The organizational security arrangement
26 described in subdivision (a) shall remain in effect unless
27 it is rescinded pursuant to ~~this subdivision or subdivision~~
28 ~~(c). Between January 1, 2004, and May 1, 2004, the board~~
29 ~~shall conduct an onsite election at each campus where~~
30 ~~employees who are members of the recognized or~~
31 ~~certified employee organization are located to determine~~
32 ~~whether the organizational security arrangement~~
33 ~~described in subdivision (a) shall be rescinded. A vote of~~
34 ~~a majority of all the employees in a negotiating unit shall~~
35 ~~be required to rescind the organizational security~~
36 ~~arrangement. The cost of conducting an election under~~
37 ~~this subdivision shall be borne by the affected recognized~~
38 ~~or certified employee organization. The higher education~~
39 ~~employer shall remain neutral and shall take no position~~
40 ~~in any election conducted under this subdivision or~~



1 ~~subdivision (e).~~ *subdivision (c). The higher education*
2 *employer shall remain neutral, and shall not participate*
3 *in any election conducted under this section unless*
4 *required to do so by the board.*

5 (c) (1) The organizational security arrangement
6 described in subdivision (a) may be rescinded, ~~effective~~
7 ~~no sooner than January 1, 2005,~~ by a majority vote of all
8 the employees in the negotiating unit subject to that
9 arrangement, if a request for a vote is supported by a
10 petition containing the signatures of at least 30 percent of
11 the employees in the negotiating unit, ~~and the vote is by~~
12 ~~secret ballot. The vote may be taken at any time on or~~
13 ~~after January 1, 2005~~ *the signatures are obtained in one*
14 *academic year, and the vote is conducted at the worksite*
15 *by secret ballot. There shall not be more than one vote*
16 *taken during the term of any memorandum of*
17 *understanding in effect on or after January 1, 2005 2000.*

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

30 (3) If the board determines that the appropriate
31 number of signatures have been collected, it shall
32 conduct the vote to rescind or reinstate in a manner that
33 it shall prescribe *in accordance with this subdivision.*

34 (4) The cost of conducting an election under this
35 subdivision to rescind or reinstate the organizational
36 security arrangement shall be borne by the petitioning
37 party. ~~The petitioning party shall have the choice of a~~
38 ~~campus worksite election or a mail ballot election in~~
39 ~~accordance with rules and regulations adopted by the~~
40 ~~board.~~ *party.*



1 SEC. 3. Section 3584 is added to the Government
2 Code, to read:

3 3584. (a) Notwithstanding Section 3583.5, an
4 employee of the California State University or the
5 University of California, other than faculty of the
6 University of California who are eligible for membership
7 in the Academic Senate, who is a member of a bona fide
8 religion, body, or sect that has historically held
9 conscientious objections to joining or financially
10 supporting public employee organizations, shall not be
11 required to join or financially support any public
12 employee organization as a condition of employment. An
13 employee to which this subdivision is applicable may be
14 required, in lieu of periodic dues, initiation fees, or
15 agency shop fees, to pay sums equal to the amount of the
16 fair share service fee determined pursuant to subdivision
17 (a) of Section 3583.5 to a nonreligious, nonlabor
18 charitable fund exempt from taxation under Section
19 501(c)(3) of the Internal Revenue Code, chosen by the
20 employee from a list of at least three of these funds
21 designated by the employer and the exclusive
22 representative or, if the employer and exclusive
23 representative fail to designate funds, chosen by the
24 employee. Proof of these payments shall be made on a
25 monthly basis to the employer as a condition of continued
26 exemption from the requirement of financial support of
27 the exclusive representative.

28 (b) Every recognized or certified employee
29 organization that has an agency shop provision under this
30 section shall keep an adequate itemized record of its
31 financial transactions, and shall make available annually,
32 to the employer and to the employees who are members
33 of the organization, within 60 days after the end of its
34 fiscal year, a detailed written financial report thereof in
35 the form of a balance sheet and an operating statement,
36 certified as to accuracy by the president and treasurer or
37 comparable officers. An employee organization *covering*
38 *employees governed under this chapter and* required to
39 file financial reports under the federal
40 Labor-Management Disclosure Act of 1959 (29 U.S.C. Sec.



1 401 et seq.) ~~covering employees governed under this~~
2 ~~chapter~~, or required to file financial reports under
3 Section 3546.5, may satisfy the financial reporting
4 requirements of this section by providing the employer
5 with a copy of those financial reports.

6 SEC. 4. *Section 3585 of the Government Code is*
7 *amended to read:*

8 3585. In the absence of an arrangement pursuant to
9 Section 3583 *or* 3583.5, an employer shall, upon written
10 authorization by the employee involved, deduct and
11 remit to the exclusive representative; or, in the absence
12 of an exclusive representative, to the employee
13 organization of the employee's choice, the standard
14 initiation fee, periodic dues, and general assessments of
15 ~~such~~ *that* organization, until ~~such~~ *the* time as an exclusive
16 representative has been selected for the employee's unit.
17 Thereafter, deductions shall be made only for the
18 exclusive representative.

19 SEC. 5. The provisions of this act are severable. If any
20 provision of this act or its application is held invalid, that
21 invalidity shall not affect other provisions or applications
22 that can be given effect without the invalid provision or
23 application.

