

Senate Bill No. 739

CHAPTER 901

An act to amend Sections 3500, 3501, 3502.5, and 3508.5 of, to amend, renumber, and add Section 3509 of, to amend and renumber Section 3510 of, to add Section 3511 to, and to repeal and add Section 3507.1 of, the Government Code, relating to public employment.

[Approved by Governor September 28, 2000. Filed
with Secretary of State September 29, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 739, Solis. Local public employees: agency shop arrangement and the Public Employment Relations Board.

(1) Under the Meyers-Milias-Brown Act, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization.

This bill would additionally authorize an agency shop arrangement without a negotiated agreement upon a signed petition by 30% of the employees in the applicable bargaining unit requesting an agency shop agreement and majority approval of the employees voting in a secret ballot election on the issue. The bill would provide that the petition may be filed only after good faith negotiations, not to exceed 30 days, have taken place between the parties in an effort to reach an agreement. The bill would require the Division of Conciliation of the Department of Industrial Relations to conduct an election that may not be held more frequently than once a year, if the parties cannot agree within a prescribed time period on the selection of a neutral person or entity to conduct the election.

(2) Existing law establishes the Public Employment Relations Board in state government as a means of resolving disputes and enforcing the statutory duties and rights of employers and employees under the Educational Employment Relations Act, the Higher Education Employer-Employee Relations Act, and the Ralph C. Dills Act.

This bill would expand the jurisdiction of the Public Employment Relations Board to include resolving disputes and enforcing the statutory duties and rights of employers and employees under the Meyers-Milias-Brown Act and would specifically include resolving disputes alleging violation of rules and regulations adopted by a public agency, other than the County of Los Angeles and the City of Los Angeles, pursuant to the Meyers-Milias-Brown Act that are consistent with the act concerning unit determinations, representations, recognition, and elections. The bill would provide that implementation of this provision is subject to the appropriation



of funds for this purpose in the annual Budget Act and that the provision becomes operative on July 1, 2001.

(3) Existing law provides that in the absence of local procedures for resolving disputes on the appropriateness of a unit of representation, upon the request of any of the parties, the dispute is to be submitted to the Division of Conciliation of the Department of Industrial Relations.

This bill would require any dispute under rules adopted by a public agency on the appropriateness of a unit, exclusive or majority representation, and election procedures, upon request of a party, to be submitted to the board for resolution. The board would make its determinations based on the rules adopted by the public agency.

(4) The act specifies that nothing in its provisions affects the rights of a public employee to authorize a dues deduction from his or her salary or wages pursuant to specified provisions of law.

This bill would additionally require a public employer to deduct the payment of dues or service fees to a recognized employee organization as required by an agency shop arrangement between the recognized employee organization and the public employer. It would also provide that agency fee obligations shall continue in effect as long as the employee organization is the recognized bargaining representative, notwithstanding the expiration of any agreement between the public employer and the recognized employee organization.

(5) The provisions of this bill would not apply to any recognized employee organization representing peace officers, as defined in a specified provision of existing law.

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

SECTION 1. Section 3500 of the Government Code is amended to read:

3500. (a) It is the purpose of this chapter to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations. It is also the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the various public agencies in the State of California by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice and be represented by those organizations in their employment relationships with public agencies. Nothing contained herein shall be deemed to supersede the provisions of existing state law and the charters, ordinances, and rules of local public agencies that establish and regulate a merit or civil service system or which provide for other methods of administering



employer-employee relations nor is it intended that this chapter be binding upon those public agencies that provide procedures for the administration of employer-employee relations in accordance with the provisions of this chapter. This chapter is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed.

(b) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under this chapter are not reimbursable as state-mandated costs.

SEC. 2. Section 3501 of the Government Code is amended to read:

3501. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of a public agency and which has as one of its primary purposes representing those employees in their relations with that public agency.

(b) "Recognized employee organization" means an employee organization which has been formally acknowledged by the public agency as an employee organization that represents employees of the public agency.

(c) Except as otherwise provided in this subdivision, "public agency" means every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, "public agency" does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school district having a merit system as provided in Chapter 5 (commencing with Section 45100) of Part 25 and Chapter 4 (commencing with Section 88000) of Part 51 of the Education Code or the State of California.

(d) "Public employee" means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state.

(e) "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.

(f) “Board” means the Public Employment Relations Board established pursuant to Section 3541.

SEC. 3. Section 3502.5 of the Government Code is amended to read:

3502.5. (a) Notwithstanding Section 3502 or 3502.6, or any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization which has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this chapter, “agency shop” means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

(b) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may only be filed after good faith negotiations, not to exceed 30 days, have taken place between the parties in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from any claims, demands, or other action relating to the public agency’s compliance with the agency fee obligation.

(c) Any employee 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 shall not be required to join or financially support any public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees,



to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three of these funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate the funds, then to any such fund chosen by the employee. Proof of the payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

(d) An agency shop provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during that term. Notwithstanding the above, the public agency and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement. The procedures in this subdivision are also applicable to an agency shop agreement placed in effect pursuant to subdivision (b).

(e) An agency shop arrangement shall not apply to management, confidential, or supervisory employees.

(f) Every recognized employee organization that has agreed to an agency shop provision or is a party to an agency shop arrangement shall keep an adequate itemized record of its financial transactions and shall make available annually, to the public agency with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the Labor-Management Disclosure Act of 1959 covering employees governed by this chapter, or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the public agency with a copy of the financial reports.

SEC. 4. Section 3507.1 of the Government Code is repealed.

SEC. 5. Section 3507.1 is added to the Government Code, to read:

3507.1. (a) Unit determinations and representation elections shall be determined and processed in accordance with rules adopted



by a public agency in accordance with this chapter. In a representation election, a majority of the votes cast by the employees in the appropriate bargaining unit shall be required.

(b) Notwithstanding subdivision (a) and rules adopted by a public agency pursuant to Section 3507, a bargaining unit in effect as of the effective date of this section shall continue in effect unless changed under the rules adopted by a public agency pursuant to Section 3507.

SEC. 6. Section 3508.5 of the Government Code is amended to read:

3508.5. (a) Nothing in this chapter shall affect the right of a public employee to authorize a dues or service fees deduction from his or her salary or wages pursuant to Section 1157.1, 1157.2, 1157.3, 1157.4, 1157.5, or 1157.7.

(b) A public employer shall deduct the payment of dues or service fees to a recognized employee organization as required by an agency shop arrangement between the recognized employee organization and the public employer.

(c) Agency fee obligations, including, but not limited to, dues or agency fee deductions on behalf of a recognized employee organization, shall continue in effect as long as the employee organization is the recognized bargaining representative, notwithstanding the expiration of any agreement between the public employer and the recognized employee organization.

SEC. 7. Section 3509 of the Government Code is amended and renumbered to read:

3510. (a) The provisions of this chapter shall be interpreted and applied by the board in a manner consistent with and in accordance with judicial interpretations of this chapter.

(b) The enactment of this chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public employees.

SEC. 8. Section 3509 is added to the Government Code, to read:

3509. (a) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter and shall include the authority as set forth in subdivisions (b) and (c).

(b) A complaint alleging any violation of this chapter or of any rules and regulations adopted by a public agency pursuant to Section 3507 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter.

(c) The board shall enforce and apply rules adopted by a public agency concerning unit determinations, representation, recognition, and elections.



(d) Notwithstanding subdivisions (a) to (c), inclusive, the employee relations commissions established by, and in effect for, the County of Los Angeles and the City of Los Angeles pursuant to Section 3507 shall have the power and responsibility to take actions on recognition, unit determinations, elections, and unfair practices, and to issue determinations and orders as the employee relations commissions deem necessary, consistent with and pursuant to the policies of this chapter.

(e) This section shall not apply to employees designated as management employees under Section 3507.5.

(f) Implementation of this section is subject to the appropriation of funds for this purpose in the annual Budget Act.

(g) This section shall become operative on July 1, 2001.

SEC. 9. Section 3510 of the Government Code is amended and renumbered to read:

3500.5. This chapter shall be known and may be cited as the “Meyers-Milias-Brown Act.”

SEC. 10. Section 3511 is added to the Government Code, to read:

3511. The changes made to Sections 3501, 3507.1, and 3509 of the Government Code by legislation enacted during the 1999–2000 Regular Session of the Legislature shall not apply to persons who are peace officers as defined in Section 830.1 of the Penal Code.

