

AMENDED IN ASSEMBLY APRIL 29, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2908**

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**Introduced by Assembly Member Goldberg**

February 25, 2002

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An act to amend Section 3509 of, *and to add Section 3509.5 to*, the Government Code, relating to local public employee organizations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2908, as amended, Goldberg. Local public employee organizations.

Existing law, the ~~Meyer-Milias-Brown~~ *Meyers-Milias-Brown* Act, delegates jurisdiction to the Public Employment Relations Board to resolve disputes and enforce the statutory duties and rights of local public agency employers and employees. Existing law, among other things, requires the board to process as an unfair labor practice charge a complaint alleging violation of the act or rules or regulations adopted by a public agency under the act.

This bill would provide that no employee organization shall be deemed to have committed an unfair practice on the basis of violating a rule adopted by a public agency that is in violation of the act. *This bill would permit any person or entity aggrieved by a final decision or order of the board made under this authority to obtain from the district court of appeal a review of that decision or order under prescribed procedures. The bill would permit the board, if the time to petition for review has lapsed, to seek enforcement of any final decision or order by applying to the district court of appeal or superior court having*

jurisdiction over the county where the events giving rise to the decision or order occurred.

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

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

1 SECTION 1. Section 3509 of the Government Code is  
2 amended to read:

3 3509. (a) The powers and duties of the board described in  
4 Section 3541.3 shall also apply, as appropriate, to this chapter and  
5 shall include the authority as set forth in subdivisions (b) and (c).

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

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

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

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

28 (f) No employee organization shall be deemed to have  
29 committed an unfair practice on the basis of violating a rule  
30 adopted by a public agency that is in violation of this chapter.

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

32 SEC. 2. Section 3509.5 is added to the Government Code, to  
33 read:



1 3509.5. (a) Any person or entity aggrieved by a final decision  
2 or order of the board made under this chapter may obtain a review  
3 of that decision or order in the district court of appeal having  
4 jurisdiction over the county wherein the events giving rise to the  
5 decision or order occurred by filing in that court a written petition  
6 requesting that the decision or order of the board be modified or  
7 set aside. The petition shall be filed with the court within 30 days  
8 from the date of the issuance of the board's decision or order. Upon  
9 the filing of the petition, the court shall cause notice to be served  
10 upon the board and thereupon shall have jurisdiction of the  
11 proceeding. The board shall file in the court the record of the  
12 proceeding, certified by the board within 10 days after the clerk's  
13 notice unless that time is extended by the court for good cause  
14 shown. The court shall have jurisdiction to grant any temporary  
15 relief or restraining order it deems just and proper, and to make and  
16 enter a decree enforcing, modifying and enforcing as so modified,  
17 or setting aside in whole or in part, the decision or order of the  
18 board. The findings of the board with respect to questions of fact,  
19 if supported by substantial evidence on the record considered as  
20 a whole shall be conclusive.

21 (b) If the time for review of a board decision or order has  
22 lapsed, the board may seek enforcement of any final decision or  
23 order by applying to the district court of appeal or superior court  
24 having jurisdiction over the county wherein the events giving rise  
25 to the decision or order occurred. If, after hearing, the court  
26 determines that the order was issued pursuant to the procedures  
27 established by the board and that the person or entity refuses to  
28 comply with the order, the court shall enforce the order by writ of  
29 mandamus or other proper process. The court may not review the  
30 merits of the order.

