

AMENDED IN SENATE JUNE 20, 2002

AMENDED IN ASSEMBLY APRIL 29, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2908**

**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~~ *The* 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~~ *The act*, 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~~ *it shall not be* an unfair practice ~~on the basis of violating~~ *for an employee organization to violate a rule or regulation* adopted by a public agency ~~that if that rule or regulation is in violation of the act.~~ ~~This~~

*The* bill would permit any ~~person or entity~~ *charging party, respondent, or intervenor* aggrieved by a final decision or order of the board made under this authority ~~to obtain~~ *and any party to a final*



*decision or order of the board in specified matters not brought as an unfair practice case, to petition for a writ of extraordinary relief 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~~ expired, 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. It would also impose related requirements pertaining to enforcement of board decisions.*

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. (a) *The Legislature finds and declares that by*  
2 *enacting this act it does not intend to restrict or expand the Public*  
3 *Employment Relations Board’s jurisdiction or authority beyond*  
4 *that previously authorized by the Legislature.*

5 (b) *It is the intent of the Legislature that the amendments made*  
6 *to Section 3509 of the Government Code by this act are intended*  
7 *to be technical and clarifying of existing law.*

8 (c) *It is further the intent of the Legislature by adding Section*  
9 *3509.5 to the Government Code to establish procedures for*  
10 *judicial review of determinations by the Public Employment*  
11 *Relations Board.*

12 SEC. 2. Section 3509 of the Government Code is amended to  
13 read:

14 3509. (a) The powers and duties of the board described in  
15 Section 3541.3 shall also apply, as appropriate, to this chapter and  
16 shall include the authority as set forth in subdivisions (b) and (c).

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



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

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

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

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

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

18 ~~SEC. 2.—~~

19 ~~(f) It shall not be an unfair practice for an employee  
20 organization to violate a rule or regulation adopted by a public  
21 agency if that rule or regulation is itself in violation of this chapter.  
22 This subdivision shall not be construed to restrict or expand the  
23 board's jurisdiction or authority as set forth in subdivisions (a) to  
24 (c), inclusive.~~

25 ~~SEC. 3. Section 3509.5 is added to the Government Code, to  
26 read:~~

27 ~~3509.5.—(a) Any person or entity aggrieved by a final decision  
28 or order of the board made under this chapter may obtain a review  
29 of that decision or order in the district court of appeal having  
30 jurisdiction over the county wherein the events giving rise to the  
31 decision or order occurred by filing in that court a written petition  
32 requesting that the decision or order of the board be modified or  
33 set aside. The petition shall be filed with the court within 30 days  
34 from the date of the issuance of the board's decision or order. Upon  
35 the filing of the petition, the court shall cause notice to be served  
36 upon the board and thereupon shall have jurisdiction of the  
37 proceeding. The board shall file in the court the record of the  
38 proceeding, certified by the board within 10 days after the clerk's  
39 notice unless that time is extended by the court for good cause  
40 shown. The court shall have jurisdiction to grant any temporary~~



1 relief or restraining order it deems just and proper, and to make and  
2 enter a decree enforcing, modifying and enforcing as so modified,  
3 or setting aside in whole or in part, the decision or order of the  
4 board. The findings of the board with respect to questions of fact,  
5 if supported by substantial evidence on the record considered as a  
6 whole shall be conclusive.

7 (b) ~~If the time for review of a board decision or order has~~  
8 ~~lapsed, the board may seek enforcement of any final decision or~~  
9 ~~order by applying to the district court of appeal or superior court~~  
10 ~~having jurisdiction over the county wherein the events giving rise~~  
11 ~~to the decision or order occurred. If, after hearing, the court~~  
12 ~~determines that the order was issued pursuant to the procedures~~  
13 ~~established by the board and that the person or entity refuses to~~  
14 ~~comply with the order, the court shall enforce the order by writ of~~  
15 ~~mandamus or other proper process. The court may not review the~~  
16 ~~merits of the order.~~

17 3509.5. (a) *Any charging party, respondent, or intervenor*  
18 *aggrieved by a final decision or order of the board in an unfair*  
19 *practice case, except a decision of the board not to issue a*  
20 *complaint in such a case, and any party to a final decision or order*  
21 *of the board in a unit determination, representation, recognition,*  
22 *or election matter that is not brought as an unfair practice case,*  
23 *may petition for a writ of extraordinary relief from that decision or*  
24 *order. A board order directing an election may not be stayed*  
25 *pending judicial review.*

26 (b) *A petition for a writ of extraordinary relief shall be filed in*  
27 *the district court of appeal having jurisdiction over the county*  
28 *where the events giving rise to the decision or order occurred. The*  
29 *petition shall be filed within 30 days from the date of the issuance*  
30 *of the board's final decision or order, or order denying*  
31 *reconsideration, as applicable. Upon the filing of the petition, the*  
32 *court shall cause notice to be served upon the board and thereafter*  
33 *shall have jurisdiction of the proceeding. The board shall file in the*  
34 *court the record of the proceeding, certified by the board, within*  
35 *10 days after the clerk's notice unless that time is extended by the*  
36 *court for good cause shown. The court shall have jurisdiction to*  
37 *grant any temporary relief or restraining order it deems just and*  
38 *proper, and in like manner to make and enter a decree enforcing,*  
39 *modifying, and enforcing as modified, or setting aside in whole or*  
40 *in part the decision or order of the board. The findings of the board*



1 *with respect to questions of fact, including ultimate facts, if*  
2 *supported by substantial evidence on the record considered as a*  
3 *whole, shall be conclusive. Title 1 (commencing with Section*  
4 *1067) of Part 3 of the Code of Civil Procedure relating to writs*  
5 *shall, except where specifically superseded by this section, apply*  
6 *to proceedings pursuant to this section.*

7 *(c) If the time to petition for extraordinary relief from a board*  
8 *decision or order has expired, the board may seek enforcement of*  
9 *any final decision or order in a district court of appeal or superior*  
10 *court having jurisdiction over the county where the events giving*  
11 *rise to the decision or order occurred. The board shall respond*  
12 *within 10 days to any inquiry from a party to the action as to why*  
13 *the board has not sought court enforcement of the final decision or*  
14 *order. If the response does not indicate that there has been*  
15 *compliance with the board's final decision or order, the board shall*  
16 *seek enforcement of the final decision or order upon the request of*  
17 *the party. The board shall file in the court the record of the*  
18 *proceeding, certified by the board, and appropriate evidence*  
19 *disclosing the failure to comply with the decision or order. If, after*  
20 *hearing, the court determines that the order was issued pursuant*  
21 *to the procedures established by the board and that the person or*  
22 *entity refuses to comply with the order, the court shall enforce the*  
23 *order by writ of mandamus or other proper process. The court may*  
24 *not review the merits of the order.*

