

Senate Bill No. 645

CHAPTER 952

An act to amend Sections 3583 and 3585 of, and to add Sections 3583.5 and 3584 to, the Government Code, relating to higher education labor relations.

[Approved by Governor October 10, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 645, 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 establish a procedure for employees to petition for rescission of this form of organizational security, would provide that the cost of conducting the rescission election would be borne by the petitioning party, and would 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 If the organizational security arrangement is rescinded, the bill would establish a similar procedure for reinstatement of the arrangement.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.

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

SECTION 1. Section 3583 of the Government Code is amended to read:

3583. Permissible forms of organizational security shall be limited to either of the following:

(a) 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 any employee who does join, and pay to the employee organization which is the exclusive representative of that employee, the standard initiation fee, periodic dues, and general assessments of the organization for the duration of the written memorandum of understanding. This arrangement shall not deprive the employee of the right to resign from the employee organization within a period of 30 days prior to the expiration of a written memorandum of understanding.

(b) The arrangement described in Section 3583.5.

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

3583.5. (a) (1) Notwithstanding any other provision of law, any 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 in a unit for which an exclusive representative has been selected pursuant to this chapter, shall be required, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a fair share service fee. The amount of the fee shall not exceed the dues that are payable by members of the employee organization, and shall cover the cost of negotiation, contract administration, and other activities of the employee organization that are germane to its functions as the exclusive bargaining representative. Upon notification to the employer by the exclusive representative, the amount of the fee shall be deducted by the employer from the wages or salary of the employee and paid to the employee organization.

(2) The costs covered by the fee under this section may include, but shall not necessarily be limited to, the cost of lobbying activities designed to foster collective bargaining negotiations and contract



administration, or to secure for the represented employees advantages in wages, hours, and other conditions of employment in addition to those secured through meeting and conferring with the higher education employer.

(b) The organizational security arrangement described in subdivision (a) shall remain in effect unless it is rescinded pursuant to subdivision (c). The higher education employer shall remain neutral, and shall not participate in any election conducted under this section unless required to do so by the board.

(c) (1) The organizational security arrangement described in subdivision (a) may be rescinded by a majority vote of all the employees in the negotiating unit subject to that arrangement, if a request for a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the negotiating unit, the signatures are obtained in one academic year, and the vote is conducted at the worksite by secret ballot. There shall not be more than one vote taken during the term of any memorandum of understanding in effect on or after January 1, 2000.

(2) If the organizational security arrangement described in subdivision (a) is rescinded pursuant to paragraph (1), a majority of all the employees in the negotiating unit may request that the arrangement be reinstated. That request shall be submitted to the board along with a petition containing the signatures of at least 30 percent of the employees in the negotiating unit. The vote shall be conducted at the worksite by secret ballot, and shall be conducted no sooner than one year after the rescission of the organizational security arrangement under this subdivision.

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

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

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

3584. (a) Notwithstanding Section 3583.5, 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, shall not be required to join or financially support any public employee organization as a condition of employment. An employee to which this subdivision is applicable may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the amount of the fair share service fee determined pursuant to subdivision (a) of Section 3583.5 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 by the employer and the exclusive representative or, if the employer and exclusive representative fail to designate funds, chosen by the employee. Proof of these payments shall be made on a monthly basis to the employer as a condition of continued exemption from the requirement of financial support of the exclusive representative.

(b) Every recognized or certified employee organization that has an agency shop provision under this section shall keep an adequate itemized record of its financial transactions, and shall make available annually, to the employer 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 the president and treasurer or comparable officers. An employee organization covering employees governed under this chapter and required to file financial reports under the federal Labor-Management Disclosure Act of 1959 (29 U.S.C. Sec. 401 et seq.) , or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirements of this section by providing the employer with a copy of those financial reports.

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

3585. In the absence of an arrangement pursuant to Section 3583 or 3583.5, an employer shall, upon written authorization by the employee involved, deduct and remit to the exclusive representative or, in the absence of an exclusive representative, to the employee organization of the employee's choice, the standard initiation fee, periodic dues, and general assessments of that organization, until the time an exclusive representative has been selected for the employee's unit. Thereafter, deductions shall be made only for the exclusive representative.

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

