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AB-355 Public Employment Relations Board: Orange County Transportation Authority. (2019-2020)

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Assembly Bill No. 355

CHAPTER 713

An act to add Sections 40122.1 and 40122.2 to the Public Utilities Code, relating to public employment.

[Approved by Governor October 10, 2019. Filed with Secretary of State October 10, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 355, Daly. Public Employment Relations Board: Orange County Transportation Authority.

Existing law establishes the Public Employment Relations Board (PERB) in state government as a means of resolving disputes and enforcing the statutory duties and rights of specified public employers and employees under various acts regulating collective bargaining, including the Meyers-Millias-Brown Act. Existing law includes within PERB's jurisdiction the resolution of disputes alleging violation of rules and regulations adopted by a public agency, as defined, concerning unit determinations, representations, recognition, and elections, as specified. Existing law does not apply the above provisions to employees of specified transit agencies, including the Orange County Transportation Authority, among others.

Existing law establishes the Orange County Transportation Authority within the County of Orange. Existing law authorizes employees of the authority to enter into labor organizations, as specified, and requires the California State Mediation and Conciliation Service to participate in labor organization disputes, as provided. Under existing law, the authority may sue, and be sued, in all courts and tribunals of competent jurisdiction.

This bill would require employers and employees of the Orange County Transportation Authority to adjudicate complaints of specified labor violations before PERB as an unfair practice and would authorize specified parties aggrieved by PERB's decision or order to petition for relief from that decision or order, as provided. By requiring the authority to adjudicate claims before PERB, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Orange County Transportation Authority.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 40122.1 is added to the Public Utilities Code, to read:

40122.1. (a) The Public Employment Relations Board established pursuant to Section 3541 of the Government Code, and the powers and duties of that board, as described in Section 3541.3 of the Government Code, shall apply, as appropriate, to this chapter and shall include the authority as set forth in subdivision (b).

(b) A complaint alleging any violation of this chapter or of any rules and regulations adopted by the district shall be processed as an unfair practice charge by the Public Employment Relations 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 Public Employment Relations Board, except that in an action to recover damages due to an unlawful strike, the Public Employment Relations Board shall have no authority to award strike-preparation expenses as damages, and shall have no authority to award damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike. The Public Employment Relations Board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter.

(c) The Public Employment Relations Board shall not find it an unfair practice for an employee organization to violate a rule or regulation adopted by a public agency if that rule or regulation is itself in violation of this chapter. This subdivision shall not be construed to restrict or expand that board's jurisdiction or authority as set forth in subdivisions (a) and (b).

SEC. 2. Section 40122.2 is added to the Public Utilities Code, to read:

40122.2. (a) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the Public Employment Relations Board in an unfair practice case, except a decision of that board not to issue a complaint in such a case, may petition for a writ of extraordinary relief from that decision or order.

(b) A petition for a writ of extraordinary relief shall be filed in the district court of appeal having jurisdiction over the county where the events giving rise to the decision or order occurred. The petition shall be filed within 30 days from the date of the issuance of the Public Employment Relations Board's final decision or order, or order denying reconsideration, as applicable. Upon the filing of the petition, the court shall cause notice to be served upon the Public Employment Relations Board and thereafter shall have jurisdiction of the proceeding. The Public Employment Relations Board shall file in the court the record of the proceeding, certified by that board, within 10 days after the clerk's notice unless that time is extended by the court for good cause shown. The court shall have jurisdiction to grant any temporary relief or restraining order it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the decision or order of the Public Employment Relations Board. The findings of the Public Employment Relations Board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive. Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded by this section, apply to proceedings pursuant to this section.

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

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need of the Orange County Transportation Authority to efficiently and cost-effectively adjudicate unfair labor practice complaints.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.