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**SB-931 Deterring union membership: violations.** (2021-2022)

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**Senate Bill No. 931**

**CHAPTER 823**

An act to add Section 3551.5 to the Government Code, relating to public employment.

[ Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 931, Leyva. Deterring union membership: violations.

Existing law prohibits a public employer from deterring or discouraging public employees or applicants to be public employees from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. Existing law generally vests jurisdiction over violations of these provisions in the Public Employment Relations Board.

This bill would authorize an employee organization, as described, to bring a claim before the Public Employment Relations Board alleging that a public employer violated the above-described provisions. Upon a finding by the board that the public employer violated those provisions, the public employer would be subject to a civil penalty, to be deposited in the General Fund, of up to \$1,000 for each affected employee, not to exceed \$100,000 in total, and subject to attorney's fees and costs, as described and except as specified. The bill would also require the board to apply specified criteria when assessing the civil penalty.

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

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

**SECTION 1.** Section 3551.5 is added to the Government Code, to read:

**3551.5.** (a) (1) An employee organization that is subject to the jurisdiction of the Public Employment Relations Board may bring a claim before the board alleging that a public employer violated Section 3550. Upon a finding by the board that the public employer violated Section 3550, the employer shall be subject to a civil penalty, to be deposited in the General Fund, of up to one thousand dollars (\$1,000) per each affected employee, not to exceed one hundred thousand dollars (\$100,000) in total, and shall be subject to attorney's fees and costs, as described in subdivision (b).

(2) The Public Employment Relations Board shall apply the following criteria when assessing a civil penalty pursuant to paragraph (1):

- (A) The public employer's annual budget.
- (B) The severity of the violation.
- (C) Any prior history of violations by the public employer.

(b) (1) The Public Employment Relations Board shall award attorney's fees and costs to a prevailing employee organization unless the board finds the claim was frivolous, unreasonable, or groundless when brought, or the employee organization continued to litigate after it clearly became so. The attorney's fees and costs shall be calculated from the inception of proceedings before the board's Division of Administrative Law until final disposition of the claim by the board.

(2) Notwithstanding paragraph (1), the board shall not award attorney's fees and costs under this section for any proceedings before the board that challenge the dismissal of an unfair practice charge by the board's Office of the General Counsel.

(3) If the board initiates proceedings with the superior court to enforce or achieve compliance with a board order pursuant to this section or is required to defend a decision of the board involving this section after an employer seeks judicial review, the court shall award the board attorney's fees and costs if the board is the prevailing party.