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SB-957 Public Employment Relations Board: Santa Cruz Metropolitan Transit District: employee relations. (2021-2022)

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Date Published: 09/02/2022 09:00 PM

Senate Bill No. 957

CHAPTER 240

An act to amend Sections 98161, 98162.5, 98166, 98167, and 98168 of, to amend and renumber Section 98160 of, and to add Sections 98160, 98160.5, 98169, 98170, 98171, 98172, 98173, and 98174 to, the Public Utilities Code, relating to public employment.

[Approved by Governor September 02, 2022. Filed with Secretary of State September 02, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 957, Laird. Public Employment Relations Board: Santa Cruz Metropolitan Transit District: employee relations.

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. 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 authorizes PERB to adopt rules and regulations to carry out its purposes, as provided. Existing law does not apply the above provisions to employees of specified transit agencies, including the Santa Cruz Metropolitan Transit District, among others.

Existing law provides for the establishment of the Santa Cruz Metropolitan Transit District. Existing law requires any question as to whether a majority of the district's employees in an appropriate unit desire to be represented by a labor organization to be submitted to PERB. Existing law requires the district to bargain in good faith with a duly designated or certified labor organization and, when an agreement is reached, to execute a written collective bargaining agreement with the labor organization covering the wages, hours, and working conditions of the employees represented by the labor organization in an appropriate unit, and to comply with the terms of the agreement, as specified.

This bill would grant PERB jurisdiction to enforce these labor provisions applicable to the Santa Cruz Metropolitan Transit District. The bill would give PERB the exclusive jurisdiction to make the initial determination of whether the charge of unfair practice is justified and, if so, to determine the appropriate remedy necessary. The bill would provide that exclusive representatives have the right to represent their bargaining units in employer-employee relations with the district, and employees have the right to be represented by their exclusive representative. The bill would require the district to give reasonable written notice to an exclusive representative of its intent to make any changes to matters within the scope of representation for purposes of providing the exclusive representative a reasonable amount of time to negotiate with the district regarding the proposed changes. The bill would also make it unlawful for the district or an employee organization to engage in certain acts, including imposing or threatening to impose reprisals on employees, or refusing to meet and negotiate in good faith in mutually agreed upon impasse procedures. By requiring the district transit agencies 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 Santa Cruz Metropolitan Transit District.

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 98160 of the Public Utilities Code is amended and renumbered to read:

98160.7. Appointments and promotions in the service of the transit district shall be made according to merit and fitness, to be ascertained, in so far as is practicable, by competitive examination.

SEC. 2. Section 98160 is added to the Public Utilities Code, to read:

98160. For purpose of this chapter, the following definitions apply:

(a) "District" means the Santa Cruz Metropolitan Transit District, including all operations and extensions of its transportation system, regardless of modality or vehicle type.

(b) "Employee organization" means an organization that includes employees of the district and a primary purpose of which is representing those employees in their relations with the district. "Employee organization" also includes any person of an employee organization authorized to act on its behalf.

(c) "Exclusive representative" means an accredited employee organization recognized or certified as the exclusive negotiating representative of employees in an appropriate unit within the district.

SEC. 3. Section 98160.5 is added to the Public Utilities Code, to read:

98160.5. (a) It is a primary purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the district by providing a uniform basis for recognizing the right of employees to join employee organizations of their own choice, to be represented, to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to afford employees a voice at work.

(b) 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 have jurisdiction, as appropriate, to enforce this chapter.

SEC. 4. Section 98161 of the Public Utilities Code is amended to read:

98161. (a) All individuals shall have equal opportunity to obtain and hold employment, and to advance in that employment, without discrimination on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code.

(b) An employee shall not be subject to punitive action, denied promotion, or threatened with that treatment for the exercise of lawful action as an elected, appointed, or recognized representative of an employee bargaining unit.

SEC. 5. Section 98162.5 of the Public Utilities Code is amended to read:

98162.5. (a) Any question that may arise with respect to whether a majority of the employees in an appropriate unit desire to be represented by a labor organization shall be submitted to the director of the California State Mediation and Conciliation Service, a division within the Public Employment Relations Board.

(b) In resolving the questions of representation, including the determination of the appropriate unit or units, petitions, and the conduct of hearings and elections, the director shall apply the relevant federal law and administrative practice developed under the Labor Management Relations Act, 1947 (29 U.S.C. Sec. 141 et seq.), as amended, and for this purpose shall adopt appropriate rules and regulations. The rules and regulations shall be administered by the California State Mediation and

Conciliation Service and shall provide for a prompt public hearing and a secret ballot election to determine the question of representation.

SEC. 6. Section 98166 of the Public Utilities Code is amended to read:

98166. (a) Notwithstanding the Government Code, the board may authorize payment of any or all of the premiums on any group life, accident and health insurance, health and welfare plan, or pension or retirement plan on officers or employees of the district.

(b) Upon authorization by its employees, the district may make deductions from the wages and salaries of its employees:

- (1) For the payment of contributions pursuant to any health and welfare, pension, or retirement plan.
- (2) For any purpose for which deductions may be authorized by employees of any private employer.
- (3) For the payment of union dues, fees, assessments, and voluntary political contributions.

SEC. 7. Section 98167 of the Public Utilities Code is amended to read:

98167. (a) The obligation of the district is to bargain in good faith with a duly designated or certified labor organization and, when an agreement is reached, to execute a written collective bargaining agreement with the labor organization covering the wages, hours, and working conditions of the employees represented by the labor organization in an appropriate unit, and, thereafter, to comply with the terms of the agreement.

(b) The obligation of the district to bargain collectively extends to all subjects of collective bargaining concerning wages, hours, working conditions, and other conditions of employment.

(c) This section supersedes Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code if there is any conflict between this section and that chapter, but in all other situations that chapter governs.

(d) The district shall give reasonable written notice to an exclusive representative of its intent to make any change to matters within the scope of representation of the employees represented by the exclusive representative for purposes of providing the exclusive representative a reasonable amount of time to negotiate with the district regarding the proposed changes.

SEC. 8. Section 98168 of the Public Utilities Code is amended to read:

98168. (a) The district shall not require any employee, who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations, to join or financially support any public employee labor organization as a condition of employment. However, that employee may be required, in lieu of paying periodic dues, fees, or assessments to a labor organization, to pay sums equal to those dues, fees, or assessments to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c) (3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c) (3)), chosen by the employee from a list of at least three qualifying funds, designated in a memorandum of understanding between the district and the labor organization or, if the memorandum of understanding fails to designate the funds, then to any qualifying fund chosen by the employee. Proof of payments made pursuant to this section shall be made on a monthly basis to the district as a condition of continued exemption from the requirement of financial support to a labor organization.

(b) An exclusive representative may represent their bargaining unit members in employer-employee relations with the district, and employees shall have the right to be represented by their exclusive representative.

SEC. 9. Section 98169 is added to the Public Utilities Code, to read:

98169. It is unlawful for the district to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed to them by this chapter. As used in this subdivision, "employee" includes an applicant for employment or reemployment with the district.

(b) Deny employee organizations rights guaranteed to them by this chapter.

(c) Refuse or fail to meet and negotiate in good faith with an exclusive representative. Knowingly providing an exclusive representative with inaccurate information, whether or not it is in response to a request for information, constitutes a refusal or failure of the district to meet and negotiate in good faith with the exclusive representative.

(d) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any employee organization in preference to another.

(e) Refuse to participate in good faith in mutually agreed upon impasse procedures.

SEC. 10. Section 98170 is added to the Public Utilities Code, to read:

98170. It is unlawful for an employee organization to do any of the following:

(a) Impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their exercise of rights guaranteed to them by this chapter.

(b) Refuse or fail to meet and negotiate in good faith with the district concerning any of the employees of which it is the exclusive representative.

(c) Refuse to participate in good faith in mutually agreed upon impasse procedures.

SEC. 11. Section 98171 is added to the Public Utilities Code, to read:

98171. (a) This chapter shall not displace, or supplant, the requirements of Chapter 3 (commencing with Section 3610) of Division 4.5 of Title 1 of the Government Code, and the impasse resolution and injunctive relief procedures provided for pursuant to Sections 3612 to 3614, inclusive, of the Government Code shall remain exclusive.

(b) 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, is 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 not award strike-preparation expenses as damages, and shall not award damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike.

SEC. 12. Section 98172 is added to the Public Utilities Code, to read:

98172. (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 any county in which the district operates. 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 on 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. 13. Section 98173 is added to the Public Utilities Code, to read:

98173. This chapter, as amended by the act adding this section, shall not be interpreted as if it were in conflict with any collective bargaining agreement and shall not be implemented to abrogate an agreement entered into between the district and an employee organization before January 1, 2023. This chapter shall be interpreted in a manner consistent with the Public Employment Relations Board's interpretation of parallel provisions in other statutes it enforces.

SEC. 14. Section 98174 is added to the Public Utilities Code, to read:

98174. Chapter 11.5 (commencing with Section 3555) of Division 4 of Title 1 of the Government Code applies to the district and its employees. Notwithstanding subparagraph (B) of paragraph (1) of subdivision (I) of Section 3558.8 of the Government Code, the district is a public employer for purposes of Chapter 11.5 (commencing with Section 3555) of Division 4 of Title 1 of the Government Code.

SEC. 15. 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 Santa Cruz Metropolitan Transit District to efficiently and cost-effectively adjudicate unfair labor practice complaints.

SEC. 16. 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.