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## AB-1484 Temporary public employees. (2023-2024)

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### Assembly Bill No. 1484

#### CHAPTER 691

An act to add Section 3507.7 to the Government Code, relating to public employment.

[ Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023. ]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1484, Zbur. Temporary public employees.

(1) Existing law, the Meyers-Milias-Brown Act (act), authorizes local public employees, as defined, to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters of labor relations. Existing law generally requires that the scope of representation under the act include all matters relating to employment conditions and employer-employee relations, while excepting the consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. Existing law states that the Legislature finds and declares that the duties and responsibilities of local agency employer representatives under the act are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under that act are not reimbursable as state-mandated costs.

This bill would impose specified requirements with respect to the temporary employees, as defined, of a public employer who have been hired to perform the same or similar type of work that is performed by permanent employees represented by a recognized employee organization, subject to limited exceptions. In this regard the bill would require those temporary employees to be automatically included in the same bargaining unit as the permanent employees if the requested classification of temporary employees is not presently within the unit. The bill would further require the public employer to promptly participate in collective bargaining to establish certain employment conditions for the newly added temporary employees if the parties' current memorandum of understanding does not address them, as specified. The bill would also require a public employer to, upon hire, provide each temporary employee with their job description, wage rates, and eligibility for benefits, anticipated length of employment, and procedures to apply for open, permanent positions. By imposing new duties on local agencies that employ temporary employees, the bill would impose a state-mandated local program. The bill would require complaints alleging a violation of its provisions to be processed as unfair practice charges under the act. The bill would additionally include the same findings and declarations as set forth above.

(2) 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 no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that a local agency or school district may pursue any available remedies to seek reimbursement for these costs.

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

### **SECTION 1.** The Legislature finds and declares all of the following:

- (a) Local governments have increasingly hired temporary employees to provide public services.
- (b) Temporary employees are disproportionately women and people of color, and the lesser rights of temporary employees exacerbate race and gender inequity in public employment.
- (c) There is a statewide interest in ensuring that temporary employees are protected by state laws providing for fair labor relations and that the increasing use of temporary employees does not undermine public employee labor relations.
- (d) Section 2 of this act is intended to apply to all public employers covered by the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

### **SEC. 2.** Section 3507.7 is added to the Government Code, to read:

**3507.7.** (a) (1) (A) For purposes of this section, "temporary employee" means a temporary employee, casual employee, seasonal employee, periodic employee, extra-help employee, relief employee, limited-term employee, per diem employee, and any other public employee who has not been hired for a permanent position.

(B) "Temporary employee" shall not include an employee employed by a temporary services employer as defined in Section 201.3 of the Labor Code.

(2) Nothing in this section is intended to prevent the board, or an employee relations commission referred to in Section 3509, from determining that a public employer is or is not the single or joint employer for collective bargaining purposes of employees of a temporary services employer or from including or excluding such employees from bargaining units based on the standards that were in effect prior to the adoption of this section, nor shall any provision of this section serve as the legal or other basis or support for any such determination.

(b) Notwithstanding any other law, the following requirements apply with respect to temporary employees of a public employer who have been hired to perform the same or similar type of work that is performed by permanent employees represented by a recognized employee organization:

(1) Upon the request of the recognized employee organization to the public employer, the following apply:

(A) Temporary employees shall be automatically included in the same bargaining unit as the permanent employees if the requested classification of temporary employees is not presently within the unit. This subparagraph does not require the same terms and conditions of employment for permanent and temporary employees.

(B) The public employer shall promptly participate in collective bargaining to establish wages, hours, and terms and conditions of employment for the newly added temporary employees if the parties' current memorandum of understanding does not address them. The parties shall include the bargained for terms and conditions of employment for temporary workers as an addendum to the existing memorandum of understanding. Thereafter, the terms and conditions of employment of permanent and temporary employees in the same bargaining unit shall be addressed in a single memorandum of understanding if requested by the recognized employee organization. This subparagraph does not require the same terms and conditions of employment for permanent and temporary employees.

(2) The public employer shall provide, upon hire, each temporary employee with their job description, wage rates, and eligibility for benefits, anticipated length of employment, and procedures to apply for open, permanent positions. The same information shall be provided to the recognized employee organization, within five business days of hiring the temporary employee.

(3) The public employer shall include, when providing the employee organization with the employee information required by Section 3558, the anticipated end date of employment for each temporary employee or actual end date if the temporary employee has been released from service since the last list was provided.

(4) (A) Whether a temporary employee who subsequently obtains permanent employment receives seniority or other credit or benefit for their time spent in temporary employment shall be a matter within the scope of representation in bargaining units that include permanent employees.

(B) Whether a temporary employee receives a hiring preference over external candidates for permanent positions shall be a matter within the scope of representation in bargaining units that include temporary employees.

(C) This paragraph shall apply to the extent that the memorandum of understanding may lawfully address these subjects. This paragraph shall be effective only with respect to a memorandum of understanding entered into after the effective date of this section.

(c) Complaints alleging violations of this section shall be processed as unfair practice charges pursuant to Section 3509.

(d) Nothing in this section supersedes or provides any exemption to the restrictions or requirements related to individuals working after retirement from a public retirement system.

(e) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this section are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore, the costs incurred by the local agency employer representatives in performing those duties and responsibilities under this section are not reimbursable as state-mandated costs.

(f) This section shall not apply to temporary employees hired pursuant to a written agreement between a public employer and a labor organization that primarily represents employees in the building and construction trades.

**SEC. 3.** No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other law.