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**AB-340 Employer-employee relations: confidential communications.** (2025-2026)

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AMENDED IN ASSEMBLY MARCH 05, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 340**

Introduced by Assembly Member Ahrens

January 28, 2025

An act to ~~amend Sections 3506.5, 3519, 3543.5, and 3571 of the Government Code, and to amend Section 28858 of the Public Utilities~~ *add Section 3558.9 to the Government* Code, relating to employer-employee relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 340, as amended, Ahrens. Employer-employee relations: confidential communications.

Existing law that governs the labor relations of public employees and employers, ~~including~~ *including, among others,* the Meyers-Milias-Brown Act, the Ralph C. Dills Act, provisions relating to public schools, *and* provisions relating to higher education, ~~and provisions relating to the San Francisco Bay Area Rapid Transit District,~~ prohibits employers from taking certain actions relating to employee organization, including imposing or threatening to impose reprisals on employees, discriminating or threatening to discriminate against employees, or otherwise interfering with, restraining, or coercing employees because of their exercise of their guaranteed rights. Those provisions of existing law further prohibit denying to employee organizations the rights guaranteed to them by existing law.

This bill would ~~also prohibit a local public agency employer, a state employer, a public school employer, a higher education employer, or the district~~ *public employer* from questioning ~~any employee or employee representative~~ *a public employee, a representative of a recognized employee organization, or an exclusive representative* regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation. *The bill would also prohibit a public employer from compelling a public employee, a representative of a recognized employee organization, or an exclusive representative to disclose those confidential communications to a third party. The bill would not apply to a criminal investigation or when a public safety officer is under investigation and certain circumstances exist.*

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

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

**SECTION 1.** *Section 3558.9 is added to the Government Code, to read:*

**3558.9.** (a) (1) *A public employer shall not question a public employee, a representative of a recognized employee organization, or an exclusive representative regarding communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.*

*(2) Paragraph (1) is intended to be consistent with, and not in conflict with, William S. Hart Union High School District (2018) PERB Dec. No. 2595.*

*(b) A public employer shall not compel a public employee, a representative of a recognized employee organization, or an exclusive representative to disclose to a third party, communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.*

*(c) Notwithstanding subdivisions (a) and (b), this section does not apply to a criminal investigation and does not supersede Section 3303.*

**SECTION 1.** ~~The Legislature finds and declares the following:~~

~~(a) It is the intent of the Legislature, in enacting this act, to establish an employee union representative privilege in the context of California public employment.~~

~~(b) As with the attorney-client privilege, there is a strong interest in encouraging an employee accused of wrongdoing to communicate fully and frankly with their union representative, in order to receive accurate advice about the disciplinary process. The expectation of confidentiality is critical to the employee union representative privilege. Without confidentiality, union members would be hesitant to be fully forthcoming with their representatives, detrimentally impacting a union representative's ability to advise and represent union members with questions or problems.~~

~~(c) This employee labor organization representative privilege is intended to extend to communications made in confidence, in connection with representation relating to concerted activities, including, but not limited to, anticipated or ongoing disciplinary proceedings, between an employee and their recognized labor organization representative, and where the representative is acting in their official representative capacity.~~

~~(d) This privilege does not extend to criminal investigations, but does prohibit the employing agency from compelling any disclosures, including to third parties.~~

~~(e) It is the intent of the legislature to supersede American Airlines, Inc. v. Superior Court, 114 Cal.App.4th 881 (2003).~~

**SEC. 2.** ~~Section 3506.5 of the Government Code is amended to read:~~

~~3506.5. A public agency shall not 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 by this chapter.~~

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

~~(c) Question any employee or employee representative regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.~~

~~(d) Refuse or fail to meet and negotiate in good faith with a recognized employee organization. For purposes of this subdivision, knowingly providing a recognized employee organization with inaccurate information regarding the financial resources of the public employer, whether or not in response to a request for information, constitutes a refusal or failure to meet and negotiate in good faith.~~

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

~~(f) Refuse to participate in good faith in an applicable impasse procedure.~~

**SEC. 3.** ~~Section 3519 of the Government Code is amended to read:~~

~~3519. It shall be unlawful for the state 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 by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment:~~

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

~~(c)Question any employee or employee representative regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation:~~

~~(d)Refuse or fail to meet and confer in good faith with a recognized employee organization.~~

~~(e)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 organization in preference to another.~~

~~(f)Refuse to participate in good faith in the mediation procedure set forth in Section 3518:~~

SEC. 4. Section 3543.5 of the Government Code is amended to read:

3543.5. It is unlawful for a public school employer 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 by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment:~~

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

~~(c)Question any employee or employee representative regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation:~~

~~(d)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 in response to a request for information, regarding the financial resources of the public school employer constitutes a refusal or failure to meet and negotiate in good faith.~~

~~(e)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 organization in preference to another.~~

~~(f)Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3548):~~

SEC. 5. Section 3571 of the Government Code is amended to read:

3571. It shall be unlawful for the higher education employer 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 by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment:~~

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

~~(c)Question any employee or employee representative regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation:~~

~~(d)Refuse or fail to engage in meeting and conferring with an exclusive representative.~~

~~(e)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 organization in preference to another. However, subject to rules and regulations adopted by the board pursuant to Section 3563, an employer shall not be prohibited from permitting employees to engage in meeting and conferring or consulting during working hours without loss of pay or benefits:~~

~~(f)Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590):~~

~~(g)Consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative, or for whom an employee organization has filed a request for recognition or certification as an exclusive representative until such time as the request is withdrawn or an election has been held in which "no representative" received a majority of the votes cast. This subdivision is not intended to diminish the prohibition of~~

~~unfair practices contained in subdivision (d). For the purposes of this subdivision, the term "academic" shall not be deemed to include the academic senates.~~

~~SEC. 6. Section 28858 of the Public Utilities Code is amended to read:~~

~~28858. 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) Question any employee or employee representative regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.~~

~~(d) 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.~~

~~(e) 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.~~

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