

**MEMORANDUM
PERSONNEL DEPARTMENT
COUNTY OF PLACER**

To: Board of Supervisors
From: Nancy Nittler, Personnel Director
Date: July 24, 2007
Subject: Opposition to AB 553 (Hernandez) – Public Employees Relations Board

ACTION REQUESTED

Authorize the Chairman to sign a letter (attachment 1) in opposition to Assembly Bill (AB) 553 (attachment 2) regarding the Public Employees Relations Board.

BACKGROUND

Existing law provides for a system of collective bargaining between local agencies and their employees in the Meyers Milias Brown Act (MMBA) in Government Code Section 3500 et. Seq. In 2001, the MMBA was amended to add Section 3509 to provide authority to the Public Employment Relations Board (PERB) for exclusive jurisdiction over alleged violations of the MMBA.

AB 553 would exclusively authorize the PERB to determine, under the MMBA, whether to seek from a court of competent jurisdiction injunctive relief involving employee work stoppages.

This bill seeks to expand PERB authority into areas in which it has no existing authority or expertise; directly preempt existing litigation; usurp city and county authority over matters involving public health and safety; and add unacceptable delays to seeking injunctive relieve to protect the public health and safety.

The bill has passed the Assembly and is currently residing in the Senate. The California State Association of Counties is opposed to AB 553. Placer County's Assembly delegates are also opposed to the bill

Given the potential impact to Placer County, in the face of a work stoppage, the Personnel Department recommends opposing AB 553.

FISCAL IMPACT

The fiscal impact of this measure is unknown. However, since it would eliminate a county's ability to directly request injunctive relief in the courts during employee work stoppages and/or strikes, it could impact the provision of vital county services, potentially resulting in considerable county costs that could arise from failure to provide such services.

Attachments: 1 – AB 553 Opposition Letter
2 – Text of AB 553 (5/8/07 version)

County of Placer Board of Supervisors

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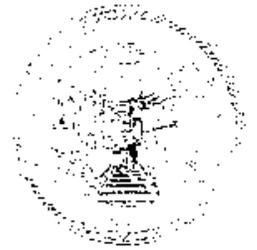
EC. "ROCKY" ROCKHOLM
District 1

ROBERT WEYGANDT
District 2

JIM HOLMES
District 3

KIRK UHLER
District 4

BRUCE KRANZ
District 5



Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

July 24, 2007

RE: Placer County Opposes AB 553

Dear Governor Schwarzenegger,

Today, the Placer County Board of Supervisors voted to oppose AB 553. Existing law provides for a system of collective bargaining between local agencies and their employees in the Meyers Milius Brown Act (MMBA). In 2001, the MMBA was amended to provide authority to the Public Employment Relations Board (PERB) for exclusive jurisdiction over alleged violations of the MMBA with the exception of those employees represented by the Deputy Sheriff's Association. AB 553 would exclusively authorize the PERB to determine, under the MMBA, whether to seek from a court of competent jurisdiction injunctive relief involving employee work stoppages.

- This bill seeks to expand PERB authority into areas in which it has no existing authority or expertise; directly preempt existing litigation; usurp city and county authority over matters involving public health and safety; and add unacceptable delays to seeking injunctive relief to protect the public health and safety.
- Counties and cities have broad common law and statutory authority over issues of public health and safety including: fire, police, psychiatric emergency services, airport operations, detention services, child protective services, waste water operations, landfill operations and others. PERB has no such authority or expertise. Requiring approval of the PERB usurps county and city authority over matters relating to public health and safety.
- PERB is not equipped to act quickly enough to protect the public health and safety. A 24-hour notice must be provided to PERB and the alleged offending party prior to seeking injunctive relief. The General Counsel to PERB has between 24 and 120 hours to make a recommendation to the PERB members on whether to seek an injunction. The PERB board then has 24 hours to make a decision on whether to pursue injunctive relief. The Superior Court, by contrast, has vast experience in matters involving decisions about injunctive relief and will the matter no later than 24 hours after filing an application for a temporary restraining order. In addition, the courts routinely determine issues of necessity relating to public health and safety.

For these reasons, the Placer County Board of Supervisors opposes AB 553.

Sincerely,

Bruce Kranz, Chairman
PLACER COUNTY BOARD OF SUPERVISORS

cc: Assemblyman Edward Hernandez
Senator Sam Anestad
Don Peterson, Placer County State Advocate
Assemblyman Rick Keene

Senator Dave Cox
Assemblyman Ted Gaines
California State Association of Counties
Assemblyman Roger Niello

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AMENDED IN ASSEMBLY MAY 8, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 553

Introduced by Assembly Member Hernandez

February 21, 2007

An act to amend Section 3509 of the Government Code, relating to the Public Employment Relations Board.

LEGISLATIVE COUNSEL'S DIGEST

AB 553, as amended, Hernandez. Public Employment Relations Board.

The Meyers-Milias-Brown Act delegates jurisdiction to the Public Employment Relations Board to resolve disputes and enforce the statutory duties and rights of local public agency employers and employees. The act prescribes the powers and duties of the board with regard to, among other things, elections, the processing of unfair practice charges, and, in connection to an enumerated section of the Government Code, the authority of the board to petition the court for appropriate temporary relief or restraining orders.

This bill would provide that, under the Meyers-Milias-Brown Act, the Public Employment Relations Board is ~~authorized~~ exclusively *authorized* to make a determination whether to seek from a court of competent jurisdiction injunctive relief involving or growing out of ~~relations between a strike, work stoppage, or lockout involving an~~ employee organization and a public agency. The bill would provide that those changes are declaratory of existing law, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that by
2 enacting this act it does not intend to restrict or expand the Public
3 Employment Relations Board's jurisdiction or authority beyond
4 that previously authorized by the Legislature.

5 (b) It is the intent of the Legislature that the amendments made
6 to Section 3509 of the Government Code by this act are intended
7 to be technical and clarifying of existing law.

8 SEC. 2. Section 3509 of the Government Code is amended to
9 read:

10 3509. (a) The powers and duties of the board described in
11 Section 3541.3 shall also apply, as appropriate, to this chapter and
12 shall include the authority as set forth in subdivisions (b) ~~and (e)~~
13 *to (d), inclusive*. Included among the appropriate powers of the
14 board are the power to order elections, to conduct any election the
15 board orders, and to adopt rules to apply in areas where a public
16 agency has no rule.

17 (b) A complaint alleging any violation of this chapter or of any
18 rules and regulations adopted by a public agency pursuant to
19 Section 3507 or 3507.5 shall be processed as an unfair practice
20 charge by the board. The initial determination as to whether the
21 charge of unfair practice is justified and, if so, the appropriate
22 remedy necessary to effectuate the purposes of this chapter, shall
23 be a matter within the exclusive jurisdiction of the board. The
24 board shall apply and interpret unfair labor practices consistent
25 with existing judicial interpretations of this chapter.

26 (c) The board shall enforce and apply rules adopted by a public
27 agency concerning unit determinations, representation, recognition,
28 and elections.

29 (d) The determination whether to seek from a court of competent
30 jurisdiction injunctive relief involving or growing out of ~~relations~~
31 *between a strike, work stoppage, or lockout involving an employee*
32 *organization and a public agency is within the exclusive jurisdiction*
33 *of the board.*

34 (e) Notwithstanding subdivisions (a) to ~~(e)~~ *(d)*, inclusive, the
35 employee relations commissions established by, and in effect for,
36 the County of Los Angeles and the City of Los Angeles pursuant
37 to Section 3507 shall have the power and responsibility to take
38 actions on recognition, unit determinations, elections, and all unfair

1 practices, and to issue determinations and orders as the employee
2 relations commissions deem necessary, consistent with and
3 pursuant to the policies of this chapter.

4 (f) This section shall not apply to employees designated as
5 management employees under Section 3507.5.

6 (g) The board shall not find it an unfair practice for an employee
7 organization to violate a rule or regulation adopted by a public
8 agency if that rule or regulation is itself in violation of this chapter.

9 This subdivision shall not be construed to restrict or expand the
10 board's jurisdiction or authority as set forth in subdivisions (a) to

11 (e) (d), inclusive.

