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GOVERNOR SIGNS INTO LAW TWO BILLS RELATING TO PUBLIC EMPLOYEE ORGANIZATIONS

Governor Brown recently signed two bills relating to public sector labor laws. Senate Bill (SB) 609 limits the Public Employment Relations Board (PERB) to 180 days to decide appeals for unit certification and representation cases. Assembly Bill (AB) 646 amends the Meyers-Milias-Brown Act (MMBA) to require fact-finding before a public agency can implement its last, best and final offer.

SB 609

Under existing California labor laws, public employees have a right to organize and form bargaining units for purposes of representation and collective bargaining. These laws are administered by PERB and, among other duties, PERB rules on contested matters relating to the recognition, certification or decertification of public employee organizations. Recognition disputes can be appealed directly to the appointed PERB Board itself as a final step in the PERB administrative process.

SB 609, which Governor Brown signed on September 6, 2011, amends several public sector labor laws to limit the Board's time to decide an appeal in a disputed representation case. Prior to the passage of SB 609, there was no time limitation for Board decisions to be made. SB 609 now gives the Board only 180 days to rule on an appeal from a PERB administrative law judge's (ALJ) proposed decision regarding the recognition or certification of an employee organization.

The 180 days begins on the date the appeal is filed with the Board. Under the new legislation, the ALJ's proposed decision is deemed to be the Board's final order on the appeal if the Board fails to issue its decision within the 180 day time frame.

SB 609 affects the Educational Employment Relations Act (EERA), which applies to public school and community college employees, and the MMBA, which applies to municipal and public agency employees, and other labor acts administered by PERB.

AB 646

On October 9, 2011, the Governor signed AB 646 amending the MMBA to require fact-finding when public agencies and special districts reach impasse in negotiations. The MMBA requires public agencies and special districts to meet and confer in good faith regarding wages, hours and other terms and conditions of employment with representatives of recognized employee organizations. Under the MMBA, if the representatives of the agencies and the employee organization fail to reach an agreement, they may, but are not required to, mutually agree on the appointment of a mediator and equally share the cost.

Prior to the passage of AB 646, if the parties reached impasse, the MMBA provided that a public agency or special district could unilaterally implement its last, best and final offer. AB 646 now authorizes the employee organization to request that the matter be submitted to a fact-finding panel.

The fact-finding panel will consist of one member selected by each party as well as a "neutral" selected by agreement of the parties. The fact-finding panel is authorized to make investigations and hold hearings, and to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

The new legislation prohibits a public agency or special district from implementing its last, best and final offer until at least 10 days after the fact-finder's written findings of fact and non-binding recommended terms of settlement have been submitted to the parties, and the agency has held a public hearing regarding the impasse.

If you have any questions about these new laws or how they relate to your labor operations, please contact one of our eight offices located statewide, visit our website, or follow Lozano Smith on Facebook.

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