

AMENDED IN ASSEMBLY MARCH 5, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

## ASSEMBLY BILL

No. 340

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Introduced by Assembly Member Ahrens

January 28, 2025

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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.  
State-mandated local program: no.

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

- 1     *SECTION 1. Section 3558.9 is added to the Government Code,*  
2     *to read:*  
3     *3558.9. (a) (1) A public employer shall not question a public*  
4     *employee, a representative of a recognized employee organization,*  
5     *or an exclusive representative regarding communications made*  
6     *in confidence between a public employee and the representative*  
7     *in connection with representation relating to any matter within*  
8     *the scope of the recognized employee organization's*  
9     *representation.*  
10    *(2) Paragraph (1) is intended to be consistent with, and not in*  
11    *conflict with, William S. Hart Union High School District (2018)*  
12    *PERB Dec. No. 2595.*  
13    *(b) A public employer shall not compel a public employee, a*  
14    *representative of a recognized employee organization, or an*  
15    *exclusive representative to disclose to a third party,*  
16    *communications made in confidence between a public employee*  
17    *and the representative in connection with representation relating*  
18    *to any matter within the scope of the recognized employee*  
19    *organization's representation.*  
20    *(c) Notwithstanding subdivisions (a) and (b), this section does*  
21    *not apply to a criminal investigation and does not supersede*  
22    *Section 3303.*  
23    ~~*SECTION 1. The Legislature finds and declares the following:*~~

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

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

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

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

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

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

27    ~~3506.5. A public agency shall not do any of the following:~~

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

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

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

39    ~~(d) Refuse or fail to meet and negotiate in good faith with a~~  
40    ~~recognized employee organization. For purposes of this~~

1 subdivision, knowingly providing a recognized employee  
2 organization with inaccurate information regarding the financial  
3 resources of the public employer, whether or not in response to a  
4 request for information, constitutes a refusal or failure to meet and  
5 negotiate in good faith.

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

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

12 SEC. 3. Section 3519 of the Government Code is amended to  
13 read:

14 3519. It shall be unlawful for the state to do any of the  
15 following:

16 (a) Impose or threaten to impose reprisals on employees, to  
17 discriminate or threaten to discriminate against employees, or  
18 otherwise to interfere with, restrain, or coerce employees because  
19 of their exercise of rights guaranteed by this chapter. For purposes  
20 of this subdivision, "employee" includes an applicant for  
21 employment or reemployment.

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

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

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

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

35 (f) Refuse to participate in good faith in the mediation procedure  
36 set forth in Section 3518.

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

39 3543.5. It is unlawful for a public school employer to do any  
40 of the following:

1 ~~(a) Impose or threaten to impose reprisals on employees, to~~  
2 ~~discriminate or threaten to discriminate against employees, or~~  
3 ~~otherwise to interfere with, restrain, or coerce employees because~~  
4 ~~of their exercise of rights guaranteed by this chapter. For purposes~~  
5 ~~of this subdivision, "employee" includes an applicant for~~  
6 ~~employment or reemployment.~~

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

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

14 ~~(d) Refuse or fail to meet and negotiate in good faith with an~~  
15 ~~exclusive representative. Knowingly providing an exclusive~~  
16 ~~representative with inaccurate information, whether or not in~~  
17 ~~response to a request for information, regarding the financial~~  
18 ~~resources of the public school employer constitutes a refusal or~~  
19 ~~failure to meet and negotiate in good faith.~~

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

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

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

28 ~~3571. It shall be unlawful for the higher education employer~~  
29 ~~to do any of the following:~~

30 ~~(a) Impose or threaten to impose reprisals on employees, to~~  
31 ~~discriminate or threaten to discriminate against employees, or~~  
32 ~~otherwise to interfere with, restrain, or coerce employees because~~  
33 ~~of their exercise of rights guaranteed by this chapter. For purposes~~  
34 ~~of this subdivision, "employee" includes an applicant for~~  
35 ~~employment or reemployment.~~

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

38 ~~(c) Question any employee or employee representative regarding~~  
39 ~~communications made in confidence between an employee and~~  
40 ~~an employee representative in connection with representation~~

1 relating to any matter within the scope of the recognized employee  
2 organization's representation.

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

5 ~~(e) Dominate or interfere with the formation or administration~~  
6 ~~of any employee organization, or contribute financial or other~~  
7 ~~support to it, or in any way encourage employees to join any~~  
8 ~~organization in preference to another. However, subject to rules~~  
9 ~~and regulations adopted by the board pursuant to Section 3563, an~~  
10 ~~employer shall not be prohibited from permitting employees to~~  
11 ~~engage in meeting and conferring or consulting during working~~  
12 ~~hours without loss of pay or benefits.~~

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

15 ~~(g) Consult with any academic, professional, or staff advisory~~  
16 ~~group on any matter within the scope of representation for~~  
17 ~~employees who are represented by an exclusive representative, or~~  
18 ~~for whom an employee organization has filed a request for~~  
19 ~~recognition or certification as an exclusive representative until~~  
20 ~~such time as the request is withdrawn or an election has been held~~  
21 ~~in which "no representative" received a majority of the votes cast.~~  
22 ~~This subdivision is not intended to diminish the prohibition of~~  
23 ~~unfair practices contained in subdivision (d). For the purposes of~~  
24 ~~this subdivision, the term "academic" shall not be deemed to~~  
25 ~~include the academic senates.~~

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

28 ~~28858. It is unlawful for the district to do any of the following:~~

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

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

37 ~~(c) Question any employee or employee representative regarding~~  
38 ~~communications made in confidence between an employee and~~  
39 ~~an employee representative in connection with representation~~

1 relating to any matter within the scope of the recognized employee  
2 organization's representation.

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

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

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