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# Bill of Rights for State Excluded Employees

The year 2005 represents the 15th anniversary of the passage of the Bill of Rights for State Excluded Employees, with important amendments added in 2004 through successful legislation. ACSS, which proudly sponsored, promoted and successfully lobbied for this important legislation in 1990 and again in 2004, is encouraging every manager, supervisor, exempt and confidential employee in state service to become familiar with its tenets.

## Full text of the Bill of Rights for State Excluded Employees

3525. This chapter shall be known, and may be cited, as the Bill of Rights for State Excluded Employees.

3526. The purpose of this chapter is to inform state supervisory, managerial, confidential, and employees otherwise excepted from coverage under the Ralph C. Dills Act by subdivision (c) of Section 3513 of their rights and terms and conditions of employment, and to inspire dedicated service, to recognize their important and fundamental roles in the management of state government, and to promote harmonious personnel relations among those representing state management in the conduct of state affairs.

3527. As used in this chapter:

(a) "Employee" means a civil service employee of the State of California. The "State of California" as used in this chapter includes such state agencies, boards and commissions as may be designated by law that employ civil service employees, except the University of California, Hastings College of the Law, and the California State University.

(b) "Excluded employee" means all managerial employees, as defined in subdivision (e) of Section 3513, all confidential employees, as defined in subdivision (f) of Section 3513, all supervisory employees, as defined in subdivision



*This ACSS-sponsored bill, passed in 1990 and amended in 2004, helped redefine state law*

(g) of Section 3513, and all civil service employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller's office engaged in technical or analytical duties in support of the state's personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the Public Employment Relations Board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

(c) "Supervisory employee organization" means an organization which represents members who are supervisory employees under subdivision (g) of Section 3513.

(d) "Excluded employee organization" means an organization which includes excluded employees of the state, as defined in subdivision (b), and which has as one of its primary purposes representing its members in employer-employee relations. "Excluded employee organization" includes supervisory employee organizations.

(e) "State employer" or "employer," for

purposes of meeting and conferring on matters relating to supervisory employer-employee relations, means the Governor or his or her designated representatives.

3528. The Legislature hereby finds and declares that the rights and protections provided to excluded employees under this chapter constitute a matter of important concern. The Legislature further finds and declares that the efficient and effective administration of state programs depends upon the maintenance of high morale and the objective consideration of issues raised between excluded employees and their employer.

3529. (a) Except for supervisory employees as defined in subdivision (g) of Section 3513, excluded employees shall not hold any office in an employee organization which also represents nonexcluded employees.

(b) Excluded employees shall not participate in the handling of grievances on behalf of nonexcluded employees. Nonexcluded employees shall not participate in the handling of grievances on behalf of excluded employees.

(c) Excluded employees shall not participate in meet and confer sessions on behalf of nonexcluded employees. Nonexcluded employees shall not participate in meet and confer sessions on behalf of



supervisory employees.

(d) The prohibition in subdivisions (b) and (c) shall not apply to the paid staff of an excluded or supervisory employee organization.

(e) Excluded employees shall not vote on questions of ratification or rejection of memoranda of understanding reached on behalf of nonexcluded employees.

3530. Excluded employee organizations shall have the right to represent their excluded members in their employment relations, including grievances, with the State of California. Excluded employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of excluded employees from membership. This section shall not prohibit any excluded employee from appearing on his or her own behalf or through his or her chosen representative in his or her employment relations and grievances with the State of California.

3531. Supervisory employees shall have the right to form, join and participate in the activities of supervisory employee organizations of their own choosing for the purpose of representation on all matters of supervisory employer-employee relations, as set forth in Section 3532. Supervisory employees also shall have the right to refuse to join or participate in the activities of supervisory employee organizations and shall have the right to represent themselves individually in their employment relations with the public employer.

3532. The scope of representation for supervisory employees shall include all matters relating to employment conditions and supervisory employer-employee relations including wages, hours and other terms and conditions of employment.

3533. Upon request, the state shall meet and confer with verified supervisory organizations representing supervisory employees on matters within the scope of representation. Prior to arriving at a determination of policy or course of action directly impacting supervisory employees, the state employer shall provide reasonable advance notice and provide the verified supervisory employee organizations an opportunity to meet and confer with the state employer to discuss alternative means of achieving objectives. Advance notice may be written, oral or electronic. "Meet and confer" shall mean that the state employer shall consider as fully as it deems reasonable, such presentations as are made by the verified supervisory employee organization on behalf of its supervisory members prior to arriving at a determination of policy or course of action. The final determination of policy or course of

action shall be the sole responsibility of the state employer.

When the state employer determines that, due to an emergency or other immediate operational necessity, a law, rule, resolution or regulation must be adopted immediately without prior notice or meeting and conferring with excluded employee organizations, the state employer shall provide notice and opportunity to meet and confer at the earliest practical time following the adoption of the law, rule, resolution or regulation. *(Section amended in 2004.)*

3534. The state employer shall allow a reasonable number of supervisory public employee representatives of verified supervisory employee organizations reasonable time off without loss of



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compensation or other benefits when meeting and conferring with representatives of the state employer on matters within the scope of representation for supervisory employees.

3535. The Department of Personnel Administration may adopt rules and regulations for the administration of excluded employer-employee relations, including supervisory employer-employee relations, under these provisions. Such rules and regulations may include provisions for:

- (a) Verifying that an excluded employee organization does in fact represent excluded employees.
- (b) Verifying the official status of excluded employee organization officers and representatives.
- (c) Access of excluded employee

organization officers and representatives to work locations.

(d) Use of official bulletin boards and other means of communication by excluded employee organizations.

(e) Furnishing nonconfidential information pertaining to excluded employee relations to excluded employee organizations.

(f) Any other matters as are necessary to carry out the purposes of this chapter.

3536. The state may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the state and restricting these employees from representing any employee organization, which represents other employees of the state, on matters within the scope of representation. Except as specifically provided otherwise in this chapter, this section does not otherwise limit the right of excluded employees to be members of and to hold office in an excluded employee organization.

3537. Every excluded employee organization shall submit an annual registration statement on or before July 1 of each calendar year to the Department of Personnel Administration. The registration statement shall, at a minimum, list the name of the organization, its affiliations, headquarters, and other business addresses, its principal business telephone number, a list of principal officers and representatives, and a copy of its organization bylaws.

3538. The state employer and excluded employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against supervisory employees because of their exercise of their rights under this article.

3539. The enactment of this chapter shall not make Section 923 of the Labor Code applicable to state employees.

3539.5. The Department of Personnel Administration may adopt or amend regulations to implement employee benefits for those state officers and employees excluded from, or not otherwise subject to, the Ralph C. Dills Act.

These regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). These regulations shall become effective immediately upon filing with the Secretary of State.