MMBA Amendment Clarifies That Mediation Is Not A Pre-Condition For Factfinding

By Janae H. Novotny

AB 1606 (Perea), signed by Governor Brown on September 14, resolves the lingering question of whether a union may request factfinding if the public agency’s local rules do not provide for mediation. Specifically, Government Code Section 3505.4(a) is amended to add, “If the dispute was not submitted to mediation, an employee organization may request that the parties’ differences be submitted to a factfinding panel not later than 30 days following the date that either party provided the other with a written notice of a declaration of impasse.”

The bill author’s comments recorded in the Bill Analysis are crystal-clear: “AB 1606 would clarify that fact-finding is available to employee organizations in all situations, regardless of whether the employer and employee [organization] have engaged in mediation.”

A union’s timeframe for requesting factfinding if mediation is used remains unchanged – not sooner than 30 days, but not more than 45 days following the appointment or selection of a mediator pursuant to a mediation process required by local rules or mutually agreed to by the public agency and the union.
In addition, a new subdivision (e) is added to Section 3505.4 to specify unequivocally that a union’s procedural right to request a factfinding panel cannot be expressly or voluntarily waived. Finally, Section 2 of the legislation provides that the statutory amendments are intended to clarify existing law. A copy of AB 1606 is available for download here.

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