

RAINS, LUCIA & WILKINSON LLP

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SENATE BILL 402 DECLARED UNCONSTITUTIONAL

Today the California Supreme Court dealt a significant blow to public safety labor organizations when it declared Senate Bill 402 unconstitutional and invalidated the legislation which provided for binding interest arbitration over economic contract disputes.

In September 2000, Governor Gray Davis signed Senate Bill 402 into law and established mandatory binding interest arbitration for California peace officers and firefighters. Senate Bill 402 allowed local agency public safety unions to declare impasse in labor negotiations and require their employer to submit unresolved economic issues to binding arbitration before a panel of three arbitrators.

The issue before the California Supreme Court was not whether a local agency could *voluntarily* submit compensation issues to arbitration. Indeed, in California, at least nineteen cities and two counties have already enacted binding interest arbitration, which allows an arbitrator (or panel of arbitrators) to resolve collective bargaining disputes. Rather, the issue was whether the Legislature could *compel* a county (or other local agency) to submit to arbitration *involuntarily*.

After a lengthy examination of two California Constitutional provisions -- Section 1, subdivision (b)¹ and Section 11, subdivision (a)² -- the Supreme Court found that, in enacting Senate Bill 402, the Legislature "remove[d] from local jurisdictions, at the option of public safety unions, the authority to set the compensation of public safety employees" and delegated that authority to a private body in violation of the California Constitution.

This unfortunate decision invalidates Senate Bill 402 and leaves public safety labor associations without binding arbitration unless they are able to get such provisions are enacted at the local level.

For further information about how this decision and/or other important workplace rights might apply to your labor organization, please contact Rains, Lucia & Wilkinson LLP directly

¹Section 1, subdivision (b) provides: "The governing body [of each county] shall provide for the number, compensation, tenure and appointment of employees."

²Section 11, subdivision (a) provides: "The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions."