

AMENDED IN SENATE SEPTEMBER 14, 2001

AMENDED IN SENATE AUGUST 30, 2001

AMENDED IN SENATE AUGUST 21, 2001

AMENDED IN SENATE JULY 9, 2001

AMENDED IN SENATE JUNE 20, 2001

AMENDED IN ASSEMBLY MAY 2, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 649

Introduced by Assembly Member Negrete McLeod

(Principal coauthor: Senator Polanco)

**(Coauthors: Assembly Members Aroner, Diaz, Firebaugh,
Kehoe, Pavley, and Shelley)**

(Coauthor: Senator Soto)

(Coauthors: Senators Dunn and Soto)

February 22, 2001

~~An act to amend Sections 22455.5, 26000, 26300, and 26400 of, to add Sections 26000.2 and 26113.5 to, and to add Article 7 (commencing with Section 87170) to Chapter 1 of Part 51 of Division 1 of Title 1 of, the Education Code, and to amend Section 20610 of the Government Code, relating to retirement, and making an appropriation therefor. An act to amend Sections 3517.6, 18903, 19056.5, 19141, 19142, 19170.1, 19702, 19786, 19798, 19816.2, 19817, 19826, 19828, 19829, 19832, 19834, 19835, 19836, 19841, 19854, 19994, 19994.1, 19994.2, 19997, 19997.3, 19997.4, 19997.5, 19997.6, 19997.7, 19997.8, 19997.11, and 19997.13 of, to add Section 20687.3 to, and to repeal Section 19836.1~~



of, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 649, as amended, Negrete McLeod. ~~Part-time community college employees: retirement plans~~ State employees: memoranda of understanding: State Bargaining Units 5 and 8.

(1) Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds of memoranda of understanding entered into between the state employer and State Bargaining Units 5 (California Association of Highway Patrolmen) and 8 (California Department of Forestry Employees Association), and would provide that the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

This bill would also provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would provide that if funds for these provisions are not specifically appropriated by the Legislature, the state employer, and the affected employee organization shall meet and confer to renegotiate the affected provisions.

(2) Existing law provides that in any case where specified provisions of the State Civil Service Act and the Public Employees' Retirement System and related statutory provisions are in conflict with the provisions of a memorandum of understanding reached between the state employer and a recognized employee organization, the memorandum of understanding shall be controlling without further legislative action.

This bill would specify additional statutory provisions to which this provision would apply with respect to state employees in State



Bargaining Units 8, 12 (International Union of Operating Engineers), and 13 (International Union of Operating Engineers).

(3) Existing law requires that for each class of state employees there shall be a general reemployment list; however, there are different requirements for the general reemployment list for State Bargaining Units 5 and 8.

This bill would delete the different requirements for general reemployment lists for those units.

(4) Existing law provides that a probationary period for state employees in State Bargaining Units 5, 6, and 8 may extend from 6 months to 2 years, while the general probationary period is from 6 months to one year.

This bill instead would apply the general probationary period to state employees in State Bargaining Units 5 and 8.

(5) Existing law provides that if discrimination, as defined, has occurred against a state employee in State Bargaining Unit 6 or 8, seniority may be added by the State Personnel Board.

This bill would make that provision inapplicable to State Bargaining Unit 8.

(6) Existing law establishes certain procedures for layoffs of state employees and makes specific procedures for transfers, layoffs, and demotions, in lieu of layoffs, of state employees in State Bargaining Units 5, 6, and 8.

This bill would make those specific procedures inapplicable to State Bargaining Units 5 and 8.

(7) Existing law establishes procedures for the adoption of regulations by the Department of Personnel Administration applicable only to state employees in State Bargaining Units 5, 6, or 8.

This bill would make those provisions inapplicable to State Bargaining Units 5 and 8.

(8) Existing law makes specific provisions for salary adjustments for state employees in State Bargaining Units 5 and 8, and exempts them from other provisions relating to automatic salary adjustments.

This bill would delete those specific provisions and exemptions.

(9) Existing law authorizes a state agency appointing power, with approval of the Department of Personnel Administration, to authorize payment at any step above the minimum salary limit to classes or positions of state employees in State Bargaining Unit 8 to correct salary inequities.

This bill would repeal that authority.



(10) Existing law prescribes contribution rates for state employees who are state peace officer/firefighter members of the Public Employees' Retirement System.

This bill would reduce the contribution rates by 2½% during the period from August 31, 2001, to June 30, 2002, inclusive, and by an additional 2½% during the period from July 1, 2002, to June 30, 2003, inclusive, for those employees.

(11) The bill would also declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes the Cash Balance Benefit Program in the State Teachers' Retirement Plan as a program that school districts, community college districts, and county offices of education may provide to part-time certificated employees, as specified. Existing law authorizes those employers to give their eligible employees the right to elect coverage under social security or an alternative retirement plan offered by the employer in lieu of the Cash Balance Benefit Program. Employee contributions under the Cash Balance Benefit Program are deposited in the Teachers' Retirement Fund, a continuously appropriated, special fund. Existing law provides that full-time classified employees of community college districts, among others, are subject to coverage under the Public Employees' Retirement System and authorizes those districts to offer that coverage to its part-time classified employees.~~

~~This bill would make part-time classified employees of community college districts, who are excluded from mandatory membership in the Public Employees' Retirement System, eligible for membership in the Cash Balance Benefit Program of the State Teachers' Retirement Plan. By expanding the class of employees who may make contributions to the Teachers' Retirement Fund, the bill would make an appropriation. The bill would also require community college districts to offer social security coverage and an alternative retirement plan, as defined, to their part-time employees; require any retirement plan offered by a community college district to satisfy specified requirements imposed by federal law and prescribe minimum employee and employer contribution rates, as specified; require those districts to provide certain information to part-time employees regarding their retirement plan options; and authorize those districts to elect to provide coverage under social security or any retirement plan offered by the district, for their eligible employees who do not otherwise make an election.~~



~~The bill would also require the Legislative Analyst's Office to estimate the net fiscal impact of certain provisions of the bill on employees, employers, General Fund contributions, and employee benefits, and to report its estimate to the Legislature on or before April 1, 2002, as specified.~~

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~yes~~ *no*. Fiscal committee: *yes*. State-mandated local program: *no*.

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

1 ~~SECTION 1. Section 22455.5 of the Education Code is~~
2 *SECTION 1. The Legislature finds and declares that the*
3 *purpose of this act is to approve an agreement pursuant to Section*
4 *3517 of the Government Code entered into by the state employer*
5 *and Bargaining Unit 5 (California Association of Highway*
6 *Patrolmen) and Bargaining Unit 8 (California Department of*
7 *Forestry Employees Association).*

8 *SEC. 2. The provisions of the memoranda of understanding,*
9 *prepared pursuant to Section 3517.5 of the Government Code, and*
10 *entered into by the state employer and the bargaining units*
11 *specified in Section 1, and that require the expenditure of funds or*
12 *legislative action to permit their implementation, are hereby*
13 *approved for the purposes of Section 3517.6 of the Government*
14 *Code.*

15 *SEC. 3. The provisions of the memoranda of understanding*
16 *approved by Section 2 of this act that are scheduled to take effect*
17 *on or after July 1, 2001, and that require the expenditure of funds*
18 *shall not take effect unless funds for these provisions are*
19 *specifically appropriated by the Legislature. In the event that funds*
20 *for these provisions are not specifically appropriated by the*
21 *Legislature, the state employer and the affected employee*
22 *organization shall meet and confer to renegotiate the affected*
23 *provisions.*

24 *SEC. 4. Notwithstanding Section 3517.6 of the Government*
25 *Code, the provisions of any memoranda of understanding that*
26 *require the expenditure of funds shall become effective even if the*
27 *provisions of the memorandum of understanding are approved by*
28 *the Legislature in legislation other than the annual Budget Act.*

29 *SEC. 5. Section 3517.6 of the Government Code is amended*
30 *to read:*



1 3517.6. (a) (1) In any case where the provisions of Section
2 70031 of the Education Code, or subdivision (i) of Section 3513,
3 or Section 14876, 18714, 19080.5, 19100, 19143, 19261,
4 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828,
5 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836,
6 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844,
7 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1,
8 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853,
9 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861,
10 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870,
11 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877,
12 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883,
13 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991,
14 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7,
15 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1,
16 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3,
17 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604,
18 21605, 22825, or 22825.1 are in conflict with the provisions of a
19 memorandum of understanding, the memorandum of
20 understanding shall be controlling without further legislative
21 action.

22 (2) Notwithstanding paragraph (1), this paragraph shall apply
23 only to state employees in State Bargaining Unit 5. In any case
24 where the provisions of Section 70031 of the Education Code, or
25 subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5,
26 19100, 19143, 19261, 19576.1, 19818.16, 19819.1, 19820, 19822,
27 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832,
28 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840,
29 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848,
30 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4,
31 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1,
32 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863,
33 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872,
34 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879,
35 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887,
36 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2,
37 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1,
38 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3,
39 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2,
40 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22825, or



1 22825.1 are in conflict with the provisions of a memorandum of
2 understanding, the memorandum of understanding shall be
3 controlling without further legislative action.

4 (3) Notwithstanding paragraph (1), this paragraph shall apply
5 only to state employees in State Bargaining Unit 8. In any case
6 where the provisions of Section 70031 of the Education Code, or
7 subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5,
8 19100, 19143, 19261, 19574, 19574.1, 19574.2, 19575, 19576.1,
9 19578, 19582, 19582.1, 19175.1, 19818.16, 19819.1, 19820,
10 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831,
11 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839,
12 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847,
13 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3,
14 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856,
15 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862,
16 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871,
17 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1,
18 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884,
19 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1,
20 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992,
21 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2,
22 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1,
23 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605,
24 22825, or 22825.1 are in conflict with the provisions of a
25 memorandum of understanding, the memorandum of
26 understanding shall be controlling without further legislative
27 action.

28 (4) Notwithstanding paragraph (1), this paragraph shall apply
29 only to state employees in State Bargaining Unit 12 or 13. In any
30 case where the provisions of Section 70031 of the Education Code,
31 or subdivision (i) of Section 3513, or Section 14876, 18670,
32 18714, 19080.5, 19100, 19143, 19261, 19574, 19574.1, 19574.2,
33 19575, 19578, 19582, 19583, 19702, 19818.16, 19819.1, 19820,
34 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831,
35 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839,
36 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847,
37 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3,
38 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856,
39 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862,
40 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871,



1 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1,
2 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884,
3 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1,
4 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992,
5 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2,
6 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1,
7 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605,
8 22825, or 22825.1 are in conflict with the provisions of a
9 memorandum of understanding, the memorandum of
10 understanding shall be controlling without further legislative
11 action.

12 (b) In any case where the provisions of Section 19997.2,
13 19997.3, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12,
14 19997.13, or 19997.14 are in conflict with the provisions of a
15 memorandum of understanding, the terms of the memorandum of
16 understanding shall be controlling unless the State Personnel
17 Board finds those terms to be inconsistent with merit employment
18 principles as provided for by Article VII of the California
19 Constitution. Where this finding is made, the provisions of the
20 Government Code shall prevail until those affected sections of the
21 memorandum of understanding are renegotiated to resolve the
22 inconsistency. If any provision of the memorandum of
23 understanding requires the expenditure of funds, those provisions
24 of the memorandum of understanding shall not become effective
25 unless approved by the Legislature in the annual Budget Act. If any
26 provision of the memorandum of understanding requires
27 legislative action to permit its implementation by amendment of
28 any section not cited above, those provisions of the memorandum
29 of understanding shall not become effective unless approved by
30 the Legislature.

31 *SEC. 6. Section 18903 of the Government Code is amended to*
32 *read:*

33 18903. (a) (1) For each class there shall be maintained a
34 general reemployment list consisting of the names of all persons
35 who have occupied positions with probationary or permanent
36 status in the class and who have been legally laid off or demoted
37 in lieu of layoff.

38 (2) Notwithstanding paragraph (1), this paragraph shall apply
39 to state employees in State Bargaining Unit 6 ~~or~~ 8. For each entry
40 level class there shall be maintained a general reemployment list



1 consisting of the names of all persons who have occupied positions
2 with probationary or permanent status in the class and who have
3 been legally laid off, demoted in lieu of layoff, or transferred in
4 lieu of layoff.

5 ~~(3) Notwithstanding paragraph (1), this paragraph shall only~~
6 ~~apply to state employees in State Bargaining Unit 5. For each class~~
7 ~~there shall be maintained a general reemployment list consisting~~
8 ~~of the names of all persons who have occupied positions with~~
9 ~~probationary or permanent status in the class and who have been~~
10 ~~legally laid off, demoted in lieu of layoff, or transferred in lieu of~~
11 ~~layoff.~~

12 (b) Within one year from the date of his or her resignation in
13 good standing, or his or her voluntary demotion, the name of an
14 employee who had probationary or permanent status may be
15 placed on the general reemployment list with the consent of the
16 appointing power and the board. The general reemployment list
17 may also contain the names of persons placed thereon by the board
18 in accordance with other provisions of this part.

19 *SEC. 7. Section 19056.5 of the Government Code is amended*
20 *to read:*

21 19056.5. (a) Notwithstanding any other provision in this part
22 and except as provided in subdivision (b), if the appointment is to
23 be made from a general reemployment list, the names of the three
24 persons with the highest standing on the list shall be certified to the
25 appointing power.

26 (b) Notwithstanding subdivision (a), this subdivision shall
27 apply to state employees in State Bargaining Unit 6 ~~or~~ 8. If the
28 appointment is to be made from a general reemployment list, the
29 name of the person with the highest standing on the list shall be
30 certified to the appointing power.

31 *SEC. 8. Section 19141 of the Government Code is amended to*
32 *read:*

33 19141. (a) This section applies only to a permanent
34 employee, or an employee who previously had permanent status
35 and who, since that permanent status, has had no break in the
36 continuity of his or her state service due to a permanent separation.
37 As used in this section, “former position” is defined as in Section
38 18522, or, if the appointing power to which reinstatement is to be
39 made and the employee agree, a vacant position in any department,



1 commission, or state agency for which he or she is qualified at
2 substantially the same level.

3 (b) Within the periods of time specified below, an employee
4 who vacates a civil service position to accept an appointment to an
5 exempt position shall be reinstated to his or her former position at
6 the termination either by the employee or appointing power of the
7 exempt appointment, provided he or she (1) accepted the
8 appointment without a break in the continuity of state service, and
9 (2) requests in writing reinstatement of the appointing power of his
10 or her former position within 10 working days after the effective
11 date of the termination.

12 (c) The reinstatement may be requested by the employee only
13 within the following periods of time:

14 (1) At any time after the effective date of the exempt
15 appointment if the employee was appointed under one of the
16 following:

17 (A) Subdivision (a), (b), (c), (d), (e), (f), (g), or (m) of Section
18 4 of Article VII of the California Constitution.

19 (B) Section 2.1 of Article IX of the California Constitution.

20 (C) Section 22 of Article XX of the California Constitution.

21 (D) To an exempt position under the same appointing power as
22 the former position even though a shorter period of time may be
23 otherwise specified for that appointment.

24 (2) Within six months after the effective date of the exempt
25 appointment if appointed under subdivision (h), (i), (k), or (l) of
26 Section 4 of Article VII of the California Constitution.

27 (3) (A) Within four years after the effective date of an exempt
28 appointment if appointed under any other authority.

29 (B) Within four years after the effective date of an exempt
30 appointment if appointed under any other authority.

31 Notwithstanding subparagraph (A), this subparagraph shall apply
32 to state employees in State Bargaining Unit ~~5, 6, or 8~~.

33 (d) An employee who vacates his or her civil service position
34 to accept an assignment as a member, inmate, or patient helper
35 under subdivision (j) of Section 4 of Article VII of the California
36 Constitution shall not have a right to reinstatement.

37 (e) An employee who is serving under an exempt appointment
38 retains a right of reinstatement when he or she accepts an extension
39 of that exempt appointment or accepts a new exempt appointment,
40 provided the extension or new appointment is made within the



1 specified reinstatement time limit and there is no break in the
2 continuity of state service. The period for which that right is
3 retained is for the period applicable to the extended or new exempt
4 appointment as if that appointment had been made on the date of
5 the initial exempt appointment.

6 (f) When an employee exercises his or her right of
7 reinstatement and returns to his or her former position, the service
8 while under an exempt appointment shall be deemed to be time
9 served in the former position for the purpose of determining his or
10 her *seniority and* eligibility for merit salary increases.

11 (g) If the termination of an exempt appointment is for a reason
12 contained in Section 19997 and the employee does not have a right
13 to reinstatement, he or she shall have his or her name placed on the
14 departmental and general reemployment lists for the class of his or
15 her former position.

16 *SEC. 9. Section 19142 of the Government Code is amended to*
17 *read:*

18 19142. (a) Every person accepts and holds a position in the
19 state civil service subject to mandatory reinstatement of another
20 person.

21 (b) (1) Upon reinstatement of a person any necessary
22 separations are effected under the provisions of Section 19997.3
23 governing layoff and demotion except that (A) an employee who
24 is not to be separated from state service need not receive advance
25 notification as provided in Section 19997.13, and (B) seniority
26 shall not be counted as provided in Section 19997.3 when this
27 would result in the layoff of the person who has the reinstatement
28 right. Under such a circumstance, qualifying service in classes at
29 substantially the same or higher salary level is the only state
30 service that shall be counted for purposes of determining who is
31 to be separated.

32 (2) Notwithstanding paragraph (1), this paragraph shall apply
33 to state employees in State Bargaining Unit ~~5, 6, or 8~~. Upon
34 reinstatement of a person any necessary separations are effected
35 under Section 19997.3 governing layoff and demotion except that
36 an employee who is not to be separated from state service need not
37 receive advance notification as provided in Section 19997.13.

38 *SEC. 10. Section 19170.1 of the Government Code is*
39 *amended to read:*



1 19170.1. (a) Notwithstanding Section 19170 for state
2 employees in State Bargaining Unit ~~5, 6, or 8~~, the board shall
3 establish for each class the length of the probationary period. The
4 probationary period that shall be served upon appointment shall be
5 not less than six months nor more than two years.

6 (b) The board may provide by rule: (1) for increasing the length
7 of an individual probationary period by adding thereto periods of
8 time during which an employee, while serving as a probationer, is
9 absent from his or her position; or (2) for requiring an additional
10 period not to exceed the length of the original probationary period
11 when a probationary employee returns after an extended period of
12 absence and the remainder of the probationary period is
13 insufficient to evaluate his or her current performance.

14 *SEC. 11. Section 19702 of the Government Code is amended*
15 *to read:*

16 19702. (a) A person shall not be discriminated against under
17 this part because of sex, race, religious creed, color, national
18 origin, ancestry, marital status, physical disability, or mental
19 disability. A person shall not be retaliated against because he or she
20 has opposed any practice made an unlawful employment practice,
21 or made a charge, testified, assisted, or participated in any manner
22 in an investigation, proceeding, or hearing under this part. For
23 purposes of this article, “discrimination” includes harassment.
24 This subdivision is declaratory of existing law.

25 (b) As used in this section, the term “physical disability” has
26 the definition set forth in Section 12926, as that section presently
27 reads or as it subsequently may be amended.

28 (c) As used in this section, the term “mental disability” has the
29 definition set forth in Section 12926, as that section presently reads
30 or as it subsequently may be amended.

31 (d) Notwithstanding subdivisions (b) and (c), if the definition
32 of disability used in the federal Americans with Disabilities Act of
33 1990 (Public Law 101-336) would result in broader protection of
34 the civil rights of individuals with a mental disability or physical
35 disability, as defined in subdivision (b) or (c), then that broader
36 protection shall be deemed incorporated by reference into, and
37 shall prevail over conflicting provisions of, the definitions in
38 subdivisions (b) and (c). The definitions of subdivisions (b) and (c)
39 shall not be deemed to refer to or include conditions excluded from
40 the federal definition of “disability” pursuant to Section 511 of the



1 federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
2 12211).

3 (e) If the board finds that a person has engaged in
4 discrimination under this part, and it appears that this practice
5 consisted of acts described in Section 243.4, 261, 262, 286, 288,
6 288a, or 289 of the Penal Code, the board, with the consent of the
7 complainant, shall provide the local district attorney's office with
8 a copy of its decision and order.

9 (f) (1) If the board finds that discrimination has occurred in
10 violation of this part, the board shall issue and cause to be served
11 on the appointing authority an order requiring the appointing
12 authority to cause the discrimination to cease and desist and to take
13 any action, including, but not limited to, hiring, reinstatement, or
14 upgrading of employees, with or without backpay, and
15 compensatory damages, which, in the judgment of the board, will
16 effectuate the purposes of this part. Consistent with this authority,
17 the board may establish rules governing the award of
18 compensatory damages. The order shall include a requirement of
19 reporting the manner of compliance.

20 (2) Notwithstanding paragraph (1), this paragraph shall apply
21 to state employees in State Bargaining Unit ~~6-8~~. If the board
22 finds that discrimination has occurred in violation of this part, the
23 board shall issue and cause to be served on the appointing authority
24 an order requiring the appointing authority to cause the
25 discrimination to cease and desist and to take any action,
26 including, but not limited to, hiring, reinstatement, or upgrading
27 of employees, with or without backpay, adding additional
28 seniority, and compensatory damages, which, in the judgment of
29 the board, will effectuate the purposes of this part. Consistent with
30 this authority, the board may establish rules governing the award
31 of compensatory damages. The order shall include a requirement
32 of reporting the manner of compliance.

33 (g) Any person claiming discrimination within the state civil
34 service may submit a complaint that shall be in writing and set
35 forth the particulars of the alleged discrimination, the name of the
36 appointing authority, the persons alleged to have committed the
37 unlawful discrimination, and any other information that may be
38 required by the board. The complaint shall be filed with the
39 appointing authority or, in accordance with board rules, with the
40 board itself.

1 (h) (1) Complaints shall be filed within one year of the alleged
2 unlawful discrimination or the refusal to act in accordance with
3 this section, except that this period may be extended for not to
4 exceed 90 days following the expiration of that year, if a person
5 allegedly aggrieved by unlawful discrimination first obtained
6 knowledge of the facts of the alleged unlawful discrimination after
7 the expiration of one year from the date of its occurrence.
8 Complaints of discrimination in adverse actions or rejections on
9 probation shall be filed in accordance with Sections 19175 and
10 19575.

11 (2) Notwithstanding paragraph (1), this paragraph shall apply
12 only to state employees in State Bargaining Unit 8. Complaints
13 shall be filed within one year of the alleged unlawful
14 discrimination or the refusal to act in accordance with this section,
15 except that this period may be extended for not to exceed 90 days
16 following the expiration of that year, if a person allegedly
17 aggrieved by unlawful discrimination first obtained knowledge of
18 the facts of the alleged unlawful discrimination after the expiration
19 of one year from the date of its occurrence. Complaints of
20 discrimination in disciplinary actions defined in Section 19576.5
21 shall be filed in accordance with that section. Complaints of
22 discrimination in all other disciplinary actions shall be filed in
23 accordance with Section 19575. Complaints of discrimination in
24 rejections on probation shall be filed in accordance with Section
25 19175.3.

26 (i) (1) When an employee of the appointing authority refuses,
27 or threatens to refuse, to cooperate in the investigation of a
28 complaint of discrimination, the appointing authority may seek
29 assistance from the board. The board may provide for direct
30 investigation or hearing of the complaint, the use of subpoenas, or
31 any other action which will effect the purposes of this section.

32 (2) This subdivision shall not apply to complaints of
33 discrimination filed in accordance with Section 19576.2.

34 *SEC. 12. Section 19786 of the Government Code is amended*
35 *to read:*

36 19786. (a) When a civil service employee has been reinstated
37 after military service in accordance with Section 19780, and any
38 question arises relative to his or her ability or inability for any
39 reason arising out of the military service to perform the duties of
40 the position to which he or she has been reinstated, the board shall,



1 upon the request of the appointing power or of the employee, hear
2 the matter and may on its own motion or at the request of either
3 party take any and all necessary testimony of every nature
4 necessary to a decision on the question.

5 (b) If the board finds that the employee is not able for any
6 reason arising out of the military service to carry out the usual
7 duties of the position he or she then holds, it shall order the
8 employee placed in a position in which the board finds he or she
9 is capable of performing the duties in the same class or a
10 comparable class in the same or any other state department,
11 bureau, board, commission, or office under this part and the rules
12 of the board covering transfer of an employee from a position
13 under the jurisdiction of one appointing power to a position under
14 the jurisdiction of another appointing power, without the consent
15 of the appointing powers, where a vacancy may be made available
16 to him or her under this part and the rules of the board, but in no
17 event shall the transfer constitute a promotion within the meaning
18 of this part and the rules of the board.

19 (c) (1) If a layoff is made necessary to place a civil service
20 employee in a position in the same class or a comparable class in
21 accordance with this section, the layoff shall be made under
22 Section 19997.3, provided that no civil service employee who was
23 employed prior to September 16, 1940, shall be laid off as a result
24 of the placing of an employee in the same class or a comparable
25 class under this section.

26 (2) Notwithstanding paragraph (1), this paragraph shall apply
27 to state employees in State Bargaining Unit ~~5, 6, or 8~~. If a layoff
28 is made necessary to place a civil service employee in a position
29 in the same class or a comparable class in accordance with this
30 section, the layoff shall be made under Section 19997.3.

31 (d) The board may order the civil service employee reinstated
32 to the department, bureau, board, commission, or office from
33 which he or she was transferred either upon request of the
34 employee or the appointing power from which transferred. The
35 reinstatement may be made after a hearing as provided in this
36 section if the board finds that the employee is at the time of the
37 hearing able to perform the duties of the position.

38 *SEC. 13. Section 19798 of the Government Code is amended*
39 *to read:*



1 19798. In establishing order and subdivisions of layoff and
2 reemployment, the board, when it finds past discriminatory hiring
3 practices, shall by rule, adopt a process that provides that the
4 composition of the affected work force will be the same after the
5 completion of a layoff, as it was before the layoff procedure was
6 implemented. This section does not apply to state employees in
7 State Bargaining Unit 5, 6, ~~or 8~~.

8 *SEC. 14. Section 19816.2 of the Government Code is*
9 *amended to read:*

10 19816.2. Notwithstanding any other provision of this part,
11 regulations and other provisions pertaining to the layoff or
12 demotion in lieu of layoff of civil service employees that are
13 established or agreed to by the department shall be subject to
14 review by the State Personnel Board for consistency with merit
15 employment principles as provided for by Article VII of the
16 California Constitution. This section does not apply to state
17 employees in State Bargaining Unit 5, 6, ~~or 8~~.

18 *SEC. 15. Section 19817 of the Government Code is amended*
19 *to read:*

20 19817. This article applies only with respect to regulations
21 that apply to state employees in State Bargaining Unit 5, 6, ~~or 16~~.

22 *SEC. 16. Section 19826 of the Government Code is amended*
23 *to read:*

24 19826. (a) ~~(1)~~—The department shall establish and adjust
25 salary ranges for each class of position in the state civil service
26 subject to any merit limits contained in Article VII of the
27 California Constitution. The salary range shall be based on the
28 principle that like salaries shall be paid for comparable duties and
29 responsibilities. In establishing or changing these ranges,
30 consideration shall be given to the prevailing rates for comparable
31 service in other public employment and in private business. The
32 department shall make no adjustments that require expenditures in
33 excess of existing appropriations that may be used for salary
34 increase purposes. The department may make a change in salary
35 range retroactive to the date of application for these change.

36 ~~(2) Effective October 1, 1995, notwithstanding paragraph (1),~~
37 ~~this paragraph shall apply only to state employees in State~~
38 ~~Bargaining Unit 5. The department shall establish and adjust salary~~
39 ~~ranges for each class of position in the state civil service subject~~
40 ~~to any merit limits contained in Article VII of the California~~



1 ~~Constitution. The salary range shall be based on the principle that~~
2 ~~like salaries shall be paid for comparable duties and~~
3 ~~responsibilities. In establishing or changing these ranges,~~
4 ~~consideration shall be given to the prevailing rates for comparable~~
5 ~~service in other public employment and in private business. The~~
6 ~~department shall make no adjustments that require expenditures in~~
7 ~~excess of existing appropriations that may be used for salary~~
8 ~~increase purposes. The department may make a retroactive change~~
9 ~~in a salary range.~~

10 (b) Notwithstanding any other provision of law, the department
11 shall not establish, adjust, or recommend a salary range for any
12 employees in an appropriate unit where an employee organization
13 has been chosen as the exclusive representative pursuant to Section
14 3520.5.

15 (c) On or before January 10 of each year, the department shall
16 submit to the parties meeting and conferring pursuant to Section
17 3517 and to the Legislature, a report containing the department's
18 findings relating to the salaries of employees in comparable
19 occupations in private industry and other governmental agencies.

20 (d) If the provisions of this section are in conflict with the
21 provisions of a memorandum of understanding reached pursuant
22 to Section 3517.5, the memorandum of understanding shall be
23 controlling without further legislative action, except that if the
24 provisions of a memorandum of understanding require the
25 expenditure of funds, the provisions shall not become effective
26 unless approved by the Legislature in the annual Budget Act.

27 *SEC. 17. Section 19828 of the Government Code is amended*
28 *to read:*

29 19828. (a) Reasonable opportunity to be heard shall be
30 provided by the department to any employee affected by a change
31 in the salary range for the class of his or her position.

32 (b) If the provisions of this section are in conflict with the
33 provisions of a memorandum of understanding reached pursuant
34 to Section 3517.5, the memorandum of understanding shall be
35 controlling without further legislative action, except that if the
36 provisions of a memorandum of understanding require the
37 expenditure of funds, the provisions shall not become effective
38 unless approved by the Legislature in the annual Budget Act.

39 ~~(c) Effective October 1, 1995, this section shall not apply to~~
40 ~~state employees in State Bargaining Unit 5.~~



1 ~~(d) Effective June 1, 1998, this section shall not apply to state~~
2 ~~employees in State Bargaining Unit 16.~~

3 ~~(e) Effective January 1, 1999, this section shall not apply to~~
4 ~~state employees in State Bargaining Unit 8.~~

5 *SEC. 18. Section 19829 of the Government Code is amended*
6 *to read:*

7 19829. (a) ~~(1)~~ Salary ranges shall consist of minimum and
8 maximum salary limits. The department shall provide for
9 intermediate steps within these limits to govern the extent of the
10 salary adjustment that an employee may receive at any one time;
11 provided, that in classes and positions with unusual conditions or
12 hours of work or where necessary to meet the provisions of state
13 law recognizing differential statutory qualifications within a
14 profession or prevailing rates and practices for comparable
15 services in other public employment and in private business, the
16 department may establish more than one salary range or rate or
17 method of compensation within a class.

18 ~~(2) Effective October 1, 1995, notwithstanding paragraph (1),~~
19 ~~this paragraph shall apply only to state employees in State~~
20 ~~Bargaining Unit 5. Salary ranges shall consist of minimum and~~
21 ~~maximum salary limits. Except where otherwise provided by law,~~
22 ~~the appointing power or designee may authorize payment at any~~
23 ~~salary rate within these limits to govern the extent of a salary~~
24 ~~adjustment that an employee may receive for situations including,~~
25 ~~but not limited to, recruitment and retention, extraordinary~~
26 ~~qualifications, and successful job performance or promotion. Only~~
27 ~~those employees who are performing successfully as determined~~
28 ~~by the appointing power or designee shall receive periodic salary~~
29 ~~increases until the maximum of the salary range is reached to~~
30 ~~recognize continuous successful performance or value to the~~
31 ~~organization. Adjustments within the salary range authorized in~~
32 ~~this paragraph may be either temporary or permanent. The~~
33 ~~department may establish more than one salary range or rate or~~
34 ~~method of compensation within a class.~~

35 ~~(3) Effective January 1, 1999, notwithstanding paragraph (1),~~
36 ~~this paragraph shall apply only to state employees in State~~
37 ~~Bargaining Unit 8. Salary ranges shall consist of minimum and~~
38 ~~maximum salary limits. Except where otherwise provided by law,~~
39 ~~the appointing power or designee, consistent with the regulations~~
40 ~~of the department, shall determine the employee's salary rate upon~~



1 ~~appointment and may authorize subsequent increases in these rates~~
2 ~~based on considerations including, but not limited to, recruitment~~
3 ~~and retention, extraordinary qualifications, and successful job~~
4 ~~performance or promotion. Only those employees who are~~
5 ~~performing successfully as determined by the appointing power or~~
6 ~~designee shall receive periodic performance salary adjustments~~
7 ~~until the maximum of the salary range is reached to recognize~~
8 ~~continuous successful performance or value to the organization.~~
9 ~~Adjustments within the salary range authorized in this section may~~
10 ~~be either temporary or permanent. The department may establish~~
11 ~~more than one salary range or rate or method of compensation~~
12 ~~within a class.~~

13 (b) If the provisions of this section are in conflict with the
14 provisions of a memorandum of understanding reached pursuant
15 to Section 3517.5, the memorandum of understanding shall be
16 controlling without further legislative action, except that if the
17 provisions of a memorandum of understanding require the
18 expenditure of funds, the provisions shall not become effective
19 unless approved by the Legislature in the annual Budget Act.

20 *SEC. 19. Section 19832 of the Government Code is amended*
21 *to read:*

22 19832. (a) ~~(1)~~ After completion of the first year in a
23 position, each employee shall receive a merit salary adjustment
24 equivalent to one of the intermediate steps during each year when
25 he or she meets the standards of efficiency as the department by
26 rule shall prescribe.

27 ~~(2) Effective October 1, 1995, notwithstanding paragraph (1),~~
28 ~~this paragraph shall apply only to state employees in State~~
29 ~~Bargaining Unit 5. Employees whose salary is not at the maximum~~
30 ~~of the salary range shall receive a salary review and be considered~~
31 ~~for a salary adjustment at least annually. Only those employees~~
32 ~~who are performing successfully, as determined by the appointing~~
33 ~~power, shall receive salary increases until the maximum of the~~
34 ~~salary range is reached to recognize continuous successful~~
35 ~~performance. The employee's salary rate may not exceed the~~
36 ~~maximum of the salary range or fall below the minimum of the~~
37 ~~salary range except where otherwise provided by law or~~
38 ~~department rules.~~

39 ~~(3) Effective January 1, 1999, notwithstanding paragraph (1),~~
40 ~~this paragraph shall apply only to state employees in State~~



1 ~~Bargaining Unit 8. Employees whose salary is not at the maximum~~
2 ~~of the salary range shall be considered for a performance salary~~
3 ~~adjustment at least annually. Only those employees who are~~
4 ~~performing successfully as determined by the appointing power~~
5 ~~shall receive performance salary adjustments until the maximum~~
6 ~~of the salary range is reached to recognize continuous successful~~
7 ~~performance. The employee's salary rate may not exceed the~~
8 ~~maximum of the salary range or fall below the minimum of the~~
9 ~~salary range except where otherwise provided by law or~~
10 ~~department rules.~~

11 (b) If the provisions of this section are in conflict with the
12 provisions of a memorandum of understanding reached pursuant
13 to Section 3517.5, the memorandum of understanding shall be
14 controlling without further legislative action, except that if the
15 provisions of a memorandum of understanding require the
16 expenditure of funds, the provisions shall not become effective
17 unless approved by the Legislature in the annual Budget Act.

18 *SEC. 20. Section 19834 of the Government Code is amended*
19 *to read:*

20 19834. (a) Automatic salary adjustments shall be made for
21 employees in the state civil service in accordance with this chapter
22 and department rule adopted pursuant hereto, notwithstanding the
23 power now or hereafter conferred on any officer to fix or approve
24 the fixing of salaries, unless there is not sufficient money available
25 for the purpose in the appropriation from which the salary shall be
26 paid and the director shall so certify.

27 (b) If the provisions of this section are in conflict with the
28 provisions of a memorandum of understanding reached pursuant
29 to Section 3517.5, the memorandum of understanding shall be
30 controlling without further legislative action, except that if the
31 provisions of a memorandum of understanding require the
32 expenditure of funds, the provisions shall not become effective
33 unless approved by the Legislature in the annual Budget Act.

34 ~~(c) Effective October 1, 1995, this section shall not apply to~~
35 ~~state employees in State Bargaining Unit 5.~~

36 ~~(d) Effective January 1, 1999, this section shall not apply to~~
37 ~~state employees in State Bargaining Unit 8.~~

38 *SEC. 21. Section 19835 of the Government Code is amended*
39 *to read:*



1 19835. (a) The right of an employee to automatic salary
2 adjustments is cumulative for a period not to exceed two years and
3 he or she shall not, in the event of an insufficiency of
4 appropriation, lose his or her right to these adjustments for the
5 intermediate steps to which he or she may be entitled for this
6 period.

7 (b) If the provisions of this section are in conflict with the
8 provisions of a memorandum of understanding reached pursuant
9 to Section 3517.5, the memorandum of understanding shall be
10 controlling without further legislative action, except that if the
11 provisions of a memorandum of understanding require the
12 expenditure of funds, the provisions shall not become effective
13 unless approved by the Legislature in the annual Budget Act.

14 ~~(c) Effective October 1, 1995, this section shall not apply to~~
15 ~~state employees in State Bargaining Unit 5.~~

16 ~~(d) Effective January 1, 1999, this section shall not apply to~~
17 ~~state employees in State Bargaining Unit 8.~~

18 *SEC. 22. Section 19836 of the Government Code is amended*
19 *to read:*

20 19836. (a) The department may authorize payment at any
21 step above the minimum salary limit to classes or positions in order
22 to meet recruiting problems, to obtain a person who has
23 extraordinary qualifications, to correct salary inequities resulting
24 from actions by the department or State Personnel Board, or to
25 give credit for prior state service in connection with appointments,
26 promotions, reinstatements, transfers, reallocations, or demotions.
27 Other salary adjustments within the salary range for the class may
28 be made upon the application of the appointing power and with the
29 approval of the director. Adjustments within the salary range
30 authorized by this section may be either permanent or temporary
31 and may be made retroactive to the date of application for this
32 change.

33 (b) If the provisions of this section are in conflict with the
34 provisions of a memorandum of understanding reached pursuant
35 to Section 3517.5, the memorandum of understanding shall be
36 controlling without further legislative action, except that if the
37 provisions of a memorandum of understanding require the
38 expenditure of funds, the provisions shall not become effective
39 unless approved by the Legislature in the annual Budget Act.



1 ~~(c) Effective October 1, 1995, this section shall not apply to~~
2 ~~state employees in State Bargaining Unit 5.~~

3 *SEC. 23. Section 19836.1 of the Government Code is*
4 *repealed.*

5 ~~19836.1. Effective January 1, 1999, notwithstanding Section~~
6 ~~19836, this section shall apply only to state employees in State~~
7 ~~Bargaining Unit 8.~~

8 ~~(a) The appointing power or designee with the approval of the~~
9 ~~department may authorize payment at any step above the~~
10 ~~minimum salary limit to classes or positions in order to correct~~
11 ~~salary inequities.~~

12 ~~(b) If the provisions of this section are in conflict with the~~
13 ~~provisions of a memorandum of understanding reached pursuant~~
14 ~~to Section 3517.5, the memorandum of understanding shall be~~
15 ~~controlling without further legislative action, except that if such~~
16 ~~provisions of a memorandum of understanding require the~~
17 ~~expenditure of funds, the provisions shall not become effective~~
18 ~~unless approved by the Legislature in the annual Budget Act.~~

19 *SEC. 24. Section 19841 of the Government Code is amended*
20 *to read:*

21 19841. (a) Notwithstanding Section 11030, whenever a state
22 officer or employee is required by the appointing power because
23 of a change in assignment, promotion, or other reason related to
24 his or her duties to change his or her place of residence, the officer,
25 agent, or employee shall receive his or her actual and necessary
26 moving, traveling, lodging, and meal expenses incurred by him or
27 her both before and after and by reason of the change of residence.
28 The maximum allowances for these expenses shall be as follows:
29 the costs of packing, transporting, and unpacking 11,000 pounds
30 of household effects, traveling, lodging, and meal expenses for 60
31 days while locating a permanent residence, storage of household
32 effects for 60 days, and additional miscellaneous allowances not
33 in excess of two hundred dollars (\$200). The maximum
34 allowances may be exceeded where the director determines that
35 the change of residence will result in unusual and unavoidable
36 hardship for the officer or employee, and in those cases the director
37 shall determine the maximum allowances to be received by the
38 officer or employee.



1 (b) If a change of residence reasonably requires the sale of a
2 residence or the settlement of an unexpired lease, the officer or
3 employee may be reimbursed for any of the following expenses:

4 (1) The settlement of the unexpired lease to a maximum of one
5 year. Upon the date of surrender of the premises by the employee
6 who is the lessee, the rights and obligations of the parties to the
7 lease shall be as determined by Section 1951.2 of the Civil Code.

8 The state shall be absolved of responsibility for an unexpired
9 lease if the department determines the employee knew or
10 reasonably should have known that a transfer involving a physical
11 move was imminent before entering into the lease agreement.

12 (2) In the event of residence sale, reimbursement for brokerage
13 and other related selling fees or charges, as determined by
14 regulations of the department, customarily charged for like
15 services in the locality where the residence is located.

16 (c) This subdivision shall apply to state employees in State
17 Bargaining Unit 5, 6, or 8. If the change of residence is caused by
18 a layoff, the application of this section shall be at the discretion of
19 the department based upon the recommendation of the appointing
20 power.

21 (d) If the provisions of this section are in conflict with the
22 provisions of a memorandum of understanding reached pursuant
23 to Section 3517.5, the memorandum of understanding shall be
24 controlling without further legislative action, except that if the
25 provisions of a memorandum of understanding require the
26 expenditure of funds, the provisions shall not become effective
27 unless approved by the Legislature in the annual Budget Act.

28 *SEC. 25. Section 19854 of the Government Code is amended*
29 *to read:*

30 19854. (a) Every employee, upon completion of six months
31 of his or her initial probationary period in state service, shall be
32 entitled to one personal holiday per fiscal year. The personal
33 holiday shall be credited to each full-time employee on the first
34 day of July. No employee shall lose a personal holiday credit
35 because of the change from calendar to fiscal year crediting. The
36 department head or designee may require the employee to provide
37 five working days' advance notice before a personal holiday is
38 taken, and may deny use subject to operational needs. The
39 department may provide by rule for the granting of this holiday for
40 employees.



1 (b) If the provisions of this section are in conflict with the
2 provisions of a memorandum of understanding reached pursuant
3 to Section 3517.5, the memorandum of understanding shall be
4 controlling without further legislative action, except that if the
5 provisions of a memorandum of understanding require the
6 expenditure of funds, the provisions shall not become effective
7 unless approved by the Legislature in the annual Budget Act.

8 ~~(c) This section does not apply to state employees in State
9 Bargaining Unit 5.~~

10 ~~(d) Subdivision (c) shall become effective only when the
11 Department of Personnel Administration notifies the Legislature
12 that the language contained in that subdivision has been agreed to
13 by all the parties, and the necessary statutes are amended to reflect
14 this change for employees excluded from the Ralph C. Dills Act
15 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
16 4).~~

17 *SEC. 26. Section 19994 of the Government Code is amended*
18 *to read:*

19 19994. (a) (1) When the state takes over and there is
20 transferred to it a function from any other public agency, the
21 department may determine the extent, if any, to which the
22 employees employed by the other public agency on the date of
23 transfer are entitled to have credited to them in the state civil
24 service, seniority credits, accumulated sick leave, and
25 accumulated vacation because of service with the former agency.
26 Granting of seniority credit under this section is subject to review
27 by the State Personnel Board pursuant to Section 19816.2.

28 (2) Notwithstanding paragraph (1), this paragraph shall apply
29 to state employees in State Bargaining Unit 5, 6, or 8. When the
30 state takes over and there is transferred to it a function from any
31 other public agency, the department may determine the extent, if
32 any, to which the employees employed by the other public agency
33 on the date of transfer are entitled to have credited to them in the
34 state civil service, seniority credits, accumulated sick leave, and
35 accumulated vacation because of service with the former agency.

36 (b) The department shall limit that determination to the time
37 any transferred employees were employed in the specific function
38 or a function substantially similar while in the former agency and
39 the seniority credits and accumulated sick leave and accumulated
40 vacation shall not exceed that to which each employee would be



1 entitled if he or she had been continuously employed by the State
2 of California. This section is applicable to any function heretofore
3 transferred to the state, whether by state action or otherwise, as
4 well as to any future transfers of a function to the state, whether by
5 state action or otherwise.

6 *SEC. 27. Section 19994.1 of the Government Code is*
7 *amended to read:*

8 19994.1. (a) An appointing power may transfer any
9 employee under his or her jurisdiction: (1) to another position in
10 the same class; or (2) from one location to another whether in the
11 same position, or in a different position as specified above in (1)
12 or in Section 19050.5.

13 (b) (1) When a transfer under this section or Section 19050.5
14 reasonably requires an employee to change his or her place of
15 residence, the appointing power shall give the employee, unless
16 the employee waives this right, a written notice of transfer 60 days
17 in advance of the effective date of the transfer. Unless the
18 employee waives this right, the appointing power shall provide to
19 the employee 60 days prior to the effective date of the transfer a
20 written notice setting forth in clear and concise language the
21 reasons why the employee is being transferred.

22 (2) Notwithstanding paragraph (1), this paragraph shall apply
23 to state employees in State Bargaining Unit ~~5, 6, or 8~~. When a
24 transfer under this section or Section 19050.5 reasonably requires
25 an employee to change his or her place of residence, the appointing
26 power shall give the employee, unless the employee waives this
27 right, a written notice of transfer 60 days in advance of the
28 effective date of the transfer unless the transfer is in lieu of layoff,
29 in which case the notice shall be 30 days in advance of the effective
30 date of the transfer. Unless the employee waives this right, the
31 written notice shall set forth in clear and concise language the
32 reasons why the employee is being transferred.

33 (c) If this section is in conflict with a memorandum of
34 understanding reached pursuant to Section 3517.5, the
35 memorandum of understanding shall be controlling without
36 further legislative action, except that if the memorandum of
37 understanding requires the expenditure of funds, it shall not
38 become effective unless approved by the Legislature in the annual
39 Budget Act.



1 SEC. 28. Section 19994.2 of the Government Code is
2 amended to read:

3 19994.2. (a) (1) When there are two or more employees in
4 a class and an involuntary transfer is required to a position in the
5 same class, or an appropriate class as designated by the State
6 Personnel Board, in a location that reasonably requires an
7 employee to change his or her place of residence, the department
8 may determine the methods by which employees in the class or
9 classes involved are to be selected for transfer. These methods may
10 include seniority and other considerations.

11 (2) Notwithstanding paragraph (1), this paragraph shall apply
12 to state employees in State Bargaining Unit ~~5, 6, or 8~~. When there
13 are two or more employees in a class and an involuntary transfer
14 is required to a position in the same class, or an appropriate class
15 as designated by the State Personnel Board, in a location that
16 reasonably requires an employee to change his or her place of
17 residence, the department may determine the methods by which
18 employees in the class or classes involved are to be selected for
19 transfer. These methods may include seniority and other
20 considerations, including special skills.

21 (b) If the provisions of this section are in conflict with the
22 provisions of a memorandum of understanding reached pursuant
23 to Section 3517.5, the memorandum of understanding shall be
24 controlling without further legislative action, except that if the
25 provisions of a memorandum of understanding require the
26 expenditure of funds, the provisions shall not become effective
27 unless approved by the Legislature in the annual Budget Act.

28 SEC. 29. Section 19997 of the Government Code is amended
29 to read:

30 19997. (a) Whenever it is necessary because of lack of work
31 or funds, or whenever it is advisable in the interests of economy,
32 to reduce the staff of any state agency, the appointing power may
33 lay off employees pursuant to this article and department rule. All
34 layoff provisions and procedures established or agreed to under
35 this article shall be subject to State Personnel Board review
36 pursuant to Section 19816.2.

37 (b) Notwithstanding subdivision (a), this subdivision shall
38 apply to state employees in State Bargaining Unit ~~5, 6, or 8~~.
39 Whenever it is necessary because of lack of work or funds, or
40 whenever it is advisable in the interests of economy, to reduce the



1 staff of any state agency, the appointing power may lay off
2 employees pursuant to this article and department rule.

3 *SEC. 30. Section 19997.3 of the Government Code is*
4 *amended to read:*

5 19997.3. (a) (1) Layoff shall be made in accordance with the
6 relative seniority of the employees in the class of layoff. In
7 determining seniority scores, one point shall be allowed for each
8 complete month of full-time state service regardless of when the
9 service occurred. Department rules shall establish all of the
10 following:

11 (A) The extent to which seniority credits may be granted for
12 less than full-time service.

13 (B) The seniority credit to be granted for service in a class that
14 has been abolished, combined, divided, or otherwise altered under
15 the authority of Section 18802.

16 (C) The basis for determining the sequence of layoff whenever
17 the class and subdivision of layoff includes employees whose
18 service is less than full time.

19 (D) Any other matters as are necessary or advisable to the
20 operation of this chapter.

21 (2) Notwithstanding paragraph (1), this paragraph shall apply
22 to state employees in State Bargaining Unit ~~5, 6, or 8~~. Layoff shall
23 be made in accordance with the relative seniority of the employees
24 in the class of layoff. In determining seniority scores, one point
25 shall be allowed for each complete month of full-time state service
26 regardless of when the service occurred. Department rules shall
27 establish all of the following:

28 (A) The extent to which seniority credits may be granted for
29 less than full-time service.

30 (B) The basis for determining the sequence of layoff whenever
31 the class and subdivision of layoff includes employees whose
32 service is less than full time.

33 (C) Any other matters as are necessary or advisable to the
34 operation of this chapter.

35 ~~(3) For state employees in State Bargaining Unit 8, less than~~
36 ~~full-time service shall be prorated.~~

37 (b) For professional, scientific, administrative, management,
38 and executive classes, the department shall prescribe standards and
39 methods by rule whereby employee efficiency shall be combined
40 with seniority in determining the order of layoffs and the order of



1 names on reemployment lists. These standards and methods may
2 vary for different classes, and shall take into consideration the
3 needs of state service and practice in private industry and other
4 public employment.

5 ~~(c) For state employees in State Bargaining Unit 8, prior to~~
6 ~~laying off, transferring, or demoting permanent or probationary~~
7 ~~employees, employment for other employees who did not~~
8 ~~formerly have permanent status shall be terminated in the~~
9 ~~following sequence: student assistants, retired annuitants,~~
10 ~~temporary intermittent, limited term, and permanent intermittent~~
11 ~~appointments. No distinction shall be made between a~~
12 ~~probationary and permanent employee or between full-time and~~
13 ~~part-time employees when making layoffs. For layoff purposes~~
14 ~~employees on leaves of absences shall be treated the same as other~~
15 ~~employees.~~

16 ~~(d)~~ If the provisions of this section are in conflict with the
17 provisions of a memorandum of understanding reached pursuant
18 to Section 3517.5, the memorandum of understanding shall be
19 controlling without further legislative action, except that if the
20 provisions of a memorandum of understanding incurs either
21 present or future costs, or requires the expenditure of funds, the
22 provisions shall not become effective unless approved by the
23 Legislature in the annual Budget Act.

24 *SEC. 31. Section 19997.4 of the Government Code is*
25 *amended to read:*

26 19997.4. (a) For the purposes of determining seniority
27 pursuant to paragraph (1) of subdivision (a) of Section 19997.3,
28 the term “state service” shall include all service that is exempt
29 from state civil service.

30 ~~(b) Notwithstanding subdivision (a), this subdivision shall~~
31 ~~apply only to state employees in State Bargaining Unit 5. For the~~
32 ~~purposes of determining seniority pursuant to paragraph (2) of~~
33 ~~subdivision (a) of Section 19997.3, the term “state service” shall~~
34 ~~include service that is exempted from state civil service by~~
35 ~~subdivisions (e), (f), (g), (i), and (m) of Section 4 of Article VII~~
36 ~~of the California Constitution.~~

37 ~~(e)~~ Notwithstanding subdivision (a), this subdivision shall
38 apply to state employees in State Bargaining Unit 6 ~~or~~ 8. For the
39 purposes of determining seniority pursuant to paragraph (2) of
40 subdivision (a) of Section 19997.3, the term “state service” shall



1 include service that is exempted from the state civil service by any
2 of the following:

3 (1) Subdivision (e), (f), (g), (i), or (m) of Section 4 of Article
4 VII of the California Constitution.

5 (2) Subdivision (a) of Section 4 of Article VII of the California
6 Constitution if an employee provides to the appointing power a
7 copy of his or her official employment history record by July 1,
8 1999, or within six months of appointment to the state civil service.

9 *SEC. 32. Section 19997.5 of the Government Code is*
10 *amended to read:*

11 19997.5. (a) Separations that are necessary by reason of
12 reinstatement of an employee or employees after recognized
13 military service as provided for in Section 19780 shall be made by
14 layoff. In making these separations, the regular method of
15 determining the order of layoff shall be used unless this would
16 result in the layoff of an employee who has been reinstated in the
17 class and subdivision of layoff under Section 19780, and in the
18 retention of an employee who was appointed in the class and
19 subdivision of layoff during the time that a reinstated employee
20 was on military leave. Under these circumstances, seniority shall
21 not be counted as provided in Section 19997.3. Instead, service in
22 the subdivision of layoff that qualifies under Section 19997.3 for
23 credit is the only state service that shall be counted.

24 Whenever such a layoff results in the demotion to a lower class
25 of an employee who has been reinstated after recognized military
26 service as provided in Section 19780, the resulting layoff, if any,
27 in the lower class shall be made as though that reinstated employee
28 had been in that lower class at the time he or she went on military
29 leave.

30 Any layoff occurring within one year after reinstatement of an
31 employee after recognized military service shall be presumed to
32 have been necessary by reason of reinstatement of an employee or
33 employees under Section 19780 unless the department determines
34 that the reason for layoff is clearly not related to the reinstatement.

35 (b) Notwithstanding subdivision (a), this subdivision shall
36 apply to state employees in State Bargaining Unit ~~5, 6, or 8~~.
37 Separations that are necessary by reason of reinstatement of an
38 employee or employees after recognized military service as
39 provided for in Section 19780 shall be made by layoff. In making



1 these separations, the regular method of determining the order of
2 layoff shall be used.

3 *SEC. 33. Section 19997.6 of the Government Code is*
4 *amended to read:*

5 19997.6. (a) A veteran, except a veteran who was reinstated
6 from military leave, shall in the event of layoff receive seniority
7 credit for recognized military service if the veteran entered the
8 state service after discharge, the end of the national emergency, or
9 the end of the state military emergency.

10 (b) Seniority credit for recognized military service shall be
11 computed as if it were service in the class to which the employee
12 was first given permanent civil service or exempt appointment
13 after his or her entry into the state service following recognized
14 military service.

15 (c) Seniority credit for recognized military service shall not
16 exceed one year's credit if the veteran had no state service prior to
17 entering the military service.

18 (d) This section shall become operative on July 1, 1993.

19 (e) Notwithstanding subdivisions (a), (c), and (d), this
20 subdivision shall apply to state employees in State Bargaining Unit
21 ~~5, 6 or 8~~. A veteran, except a veteran who was reinstated from
22 military leave, shall in the event of layoff receive a maximum of
23 one year's seniority credit for recognized military service if the
24 veteran entered the state service after discharge, the end of the
25 national emergency, or the end of the state military emergency. For
26 purposes of this subdivision, "recognized military service" means
27 service in a military campaign or expedition for which a medal was
28 authorized by the government of the United States in accordance
29 with Section 300.1 of Title 12 of the California Code of
30 Regulations.

31 *SEC. 34. Section 19997.7 of the Government Code is*
32 *amended to read:*

33 19997.7. (a) Employees in the class under consideration, up
34 to the number of positions to be abolished or discontinued, shall
35 be laid off in the order as determined under this part. As between
36 two or more of these employees who have the same score, veterans
37 shall have preference in retention. Other ties shall be resolved
38 according to department rule that shall take into consideration
39 other matters of record before names are drawn by lot.



1 (b) Notwithstanding subdivision (a), this subdivision shall
2 apply to state employees in State Bargaining Unit ~~5, 6, or 8~~.
3 Employees in the class under consideration, up to the number of
4 positions to be abolished or discontinued, shall be laid off in the
5 order as determined under this part. As between two or more
6 employees who have the same score, veterans shall have
7 preference in retention. Other ties shall be determined by lot.

8 *SEC. 35. Section 19997.8 of the Government Code is*
9 *amended to read:*

10 19997.8. (a) (1) In lieu of being laid off an employee may
11 elect demotion to: (A) any class with substantially the same or a
12 lower maximum salary in which he or she had served under
13 permanent or probationary status, or (B) a class in the same line of
14 work as the class of layoff, but of lesser responsibility, if such a
15 class is designated by the department. Whenever a demotion
16 requires a layoff in the elected class, the seniority score for the
17 demoted employee shall be recomputed in that class. The
18 appointing power shall inform the employee in the notice of layoff
19 of the classes to which he or she has the right to demote. To be
20 considered for demotion in lieu of layoff an employee must notify
21 his or her appointing power in writing of his or her election not
22 later than five calendar days after receiving notice of layoff.

23 (2) Notwithstanding paragraph (1), this paragraph shall apply
24 to state employees in State Bargaining Unit ~~5, 6, or 8~~. In lieu of
25 being laid off an employee may elect demotion to: (A) any class
26 with substantially the same or a lower maximum salary in which
27 he or she had served under permanent or probationary status, or
28 (B) a class in the same class series as the class of layoff, but of
29 lesser responsibility, or (C) a class in a related line of work as the
30 class of layoff, but of lesser responsibility, if such a class is
31 designated by the department. Whenever a demotion requires a
32 layoff in the elected class, the seniority score for the demoted
33 employee shall be recomputed in that class if necessary. The
34 appointing power shall inform the employee in the notice of layoff
35 of the classes to which he or she has the right to demote. To be
36 considered for demotion in lieu of layoff an employee must notify
37 his or her appointing power in writing of his or her election not
38 later than five calendar days after receiving notice of layoff.

39 (b) Demotions in lieu of layoff, and layoffs resulting
40 therefrom, shall be governed by this article and shall be made



1 within the subdivisions approved by the department for this
2 purpose. These subdivisions need not be the same as those used to
3 determine the area of layoff under Section 19997.2.

4 (c) If the provisions of this section are in conflict with the
5 provisions of a memorandum of understanding reached pursuant
6 to Section 3517.5, the memorandum of understanding shall be
7 controlling without further legislative action, except that if the
8 provisions of a memorandum of understanding require the
9 expenditure of funds, the provisions shall not become effective
10 unless approved by the Legislature in the annual Budget Act.

11 *SEC. 36. Section 19997.11 of the Government Code is*
12 *amended to read:*

13 19997.11. (a) (1) The names of employees to be laid off or
14 demoted shall be placed upon the reemployment list for the
15 subdivision, if such a subdivision was designated, upon the
16 departmental reemployment list and upon the general
17 reemployment list, for the class from which the employees were
18 laid off or demoted. The department may also place these names
19 upon the general reemployment list for any other appropriate
20 classes as the department determines.

21 ~~(2) Notwithstanding paragraph (1), this paragraph shall apply~~
22 ~~only to state employees in State Bargaining Unit 5. The names of~~
23 ~~employees to be laid off, demoted in lieu of layoff, or transferred~~
24 ~~in lieu of layoff shall be placed upon the reemployment list for the~~
25 ~~subdivision, if such a subdivision was designated, upon the~~
26 ~~departmental reemployment list and upon the general~~
27 ~~reemployment list, for the class from which the employees were~~
28 ~~laid off, demoted in lieu of layoff, or transferred in lieu of layoff.~~
29 ~~The department may also place these names upon the general~~
30 ~~reemployment list for any other appropriate classes as the~~
31 ~~department determines.~~

32 ~~(3) Notwithstanding paragraph (1), this paragraph shall apply~~
33 ~~to state employees in State Bargaining Unit 6 or 8. The names of~~
34 ~~employees to be laid off, demoted in lieu of layoff, or transferred~~
35 ~~in lieu of layoff shall be placed upon the reemployment list for the~~
36 ~~subdivision, if such a subdivision was designated and upon the~~
37 ~~departmental reemployment list, for the class from which the~~
38 ~~employees were laid off, demoted in lieu of layoff, or transferred~~
39 ~~in lieu of layoff. The department shall also place these names upon~~
40 ~~the general reemployment list only for the entry level class within~~



1 the employee's primary demotional pattern. This general
2 reemployment list shall be a rule of one name.

3 (b) If the provisions of this section are in conflict with the
4 provisions of a memorandum of understanding reached pursuant
5 to Section 3517.5, the memorandum of understanding shall be
6 controlling without further legislative action, except that if the
7 provisions of a memorandum of understanding require the
8 expenditure of funds, the provisions shall not become effective
9 unless approved by the Legislature in the annual Budget Act.

10 *SEC. 37. Section 19997.13 of the Government Code is*
11 *amended to read:*

12 19997.13. (a) (1) An employee compensated on a monthly
13 basis shall be notified that he or she is to be laid off 30 days prior
14 to the effective date of layoff and not more than 60 days after the
15 date of the seniority computation. The notice of layoff shall be in
16 writing and shall contain the reason or reasons for the layoff. An
17 employee to be laid off may elect to accept this layoff prior to the
18 effective date thereof.

19 (2) Notwithstanding paragraph (1), this paragraph shall apply
20 to state employees in State Bargaining Unit ~~5, 6, or 8~~. An employee
21 compensated on a monthly basis shall be notified that he or she is
22 to be laid off 30 days prior to the effective date of layoff. The notice
23 of layoff shall be in writing and shall contain the reason or reasons
24 for the layoff. An employee to be laid off may elect to accept this
25 layoff prior to the effective date thereof.

26 (b) If the provisions of this section are in conflict with the
27 provisions of a memorandum of understanding reached pursuant
28 to Section 3517.5, the memorandum of understanding shall be
29 controlling without further legislative action, except that if the
30 provisions of a memorandum of understanding require the
31 expenditure of funds, the provisions shall not become effective
32 unless approved by the Legislature in the annual Budget Act.

33 *SEC. 38. Section 20687.3 is added to the Government Code,*
34 *to read:*

35 20687.3. (a) *Notwithstanding Section 20687, the normal*
36 *rate of contribution for state peace officer/firefighter members*
37 *excepted from the definition of "state employee" in subdivision (c)*
38 *of Section 3513, and state peace officer/firefighter members who*
39 *are officers or employees of the executive branch of state*
40 *government who are not members of the civil service is as follows:*



1 (1) From August 31, 2001, to June 30, 2002, inclusive, for each
2 peace officer/firefighter member subject to Section 21363.1, the
3 normal rate of contribution shall be 5.5 percent of compensation
4 in excess of the amount specified in subdivision (b).

5 (2) From July 1, 2002, to June 30, 2003, inclusive, for each
6 peace officer/firefighter member subject to Section 21363.1, the
7 normal rate of contribution shall be 3 percent of compensation in
8 excess of the amount specified in subdivision (b).

9 (b) The normal rate of contribution, as applicable in
10 subdivision (a), shall be applied to compensation in excess of the
11 following amounts:

12 (1) For peace officer/firefighter members who are aligned, as
13 determined by the Department of Personnel Administration, with
14 State Bargaining Unit 7, five hundred thirteen dollars (\$513) per
15 month paid that member for services rendered.

16 (2) For peace officer/firefighter members who are aligned as
17 determined by the Department of Personnel Administration, with
18 State Bargaining Unit 8, two hundred thirty-eight dollars (\$238)
19 per month paid that member for services rendered.

20 (c) This section shall not be applicable to members employed
21 by the California State University or the University of California.

22 (d) This section shall become inoperative on July 1, 2003, and
23 as of January 1, 2004, is repealed, at which time the member's
24 retirement contribution rate shall be restored to the levels in effect
25 on August 30, 2001, as defined in Section 20687.

26 SEC. 41. This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety
28 within the meaning of Article IV of the Constitution and shall go
29 into immediate effect. The facts constituting the necessity are:

30 In order for the provisions of this act to be applicable as soon
31 as possible in the 2001 fiscal year and thereby facilitate the orderly
32 administration of state government at the earliest possible time, it
33 is necessary for this act to take effect immediately.



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All matter omitted in this version of the bill appears in the bill as amended in the Senate August 30, 2001 (JR 11)

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