

AMENDED IN SENATE SEPTEMBER 13, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 906

Introduced by Assembly Member Salinas

February 23, 2001

An act to add and repeal Section 22901.1 to the Education Code, and to amend Sections 18670, 19173.1, 19175.3, 19570.1, 19574, 19574.1, 19574.2, 19575, 19578, 19582, 19583, 19702, and 19823 of, to add Sections 20047.5 and 20405.3 to, to add and repeal Sections 20677.2 and 20683.1 of, and to repeal Sections 18523.3, 18717.2, 19818.9, 19826.3, 19836.3, and 22013.82 of, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as amended, Salinas. State employees: memorandum of understanding: *State Bargaining Units 10, 12, 13, 16, 18, and 19.*

(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 ~~a memorandum~~ *memoranda* of understanding entered into between the state employer and State Bargaining ~~Unit~~ *Units 10, 12, 13, 16, the Union of American Physicians and Dentists, 18, and 19* 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 prescribes contribution rates for state employees who are members of the Defined Benefit Program of the State Teachers' Retirement Plan and for state employees who are state miscellaneous, state industrial, or state safety 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 state employees who are members of the Defined Benefit Program of the State Teacher's Retirement Plan; state miscellaneous, state industrial, and state safety members of the Public Employees' Retirement System in State Bargaining Units 10, 12, 13, 16, 18, and 19; and excluded, as defined, and specified non-civil service state miscellaneous, state industrial, and state safety members of the system, as specified.

(3) *Existing law establishes personnel and retirement system classifications and salary ranges that are applicable only to state employees in State Bargaining Unit 19.*

This bill would delete those provisions.

(4) *Existing law establishes procedures relating to state employee discipline and merit awards.*

This bill would provide that those discipline procedures, as they apply to members of State Bargaining Units 8, 12, and 13 would be subject to modification pursuant to the terms of a memorandum of understanding between the state employer and that bargaining unit, as specified; and those provisions relating merit awards, as they apply to members of State Bargaining Unit 16, would be subject to modification pursuant to the terms a memorandum of understanding between the state employer and that bargaining unit. The bill would also make



certain other employee discipline provisions inapplicable to State Bargaining Unit 16, as specified.

(5) The Public Employees' Retirement Law prescribes increased death or disability benefits for certain state miscellaneous or state industrial members whose death or disability arises out of and in the course of employment, as specified.

This bill would provide that state miscellaneous members employed by the State Department of Developmental Services at Porterville Developmental Center would be eligible for those benefits in specified circumstances.

(6) Under the Public Employees' Retirement Law, specified employees of the Department of Corrections have been classified as state safety members. Existing law provides that when those officers or employees become safety members, they may, within 90 days after notification by the board, elect to remain state industrial members.

This bill would authorize employees of the Department of Corrections in the job classifications of dentist, physician and surgeon, staff psychiatrist, or podiatrist, who previously elected to remain state industrial members, to elect, during a specified period, to become state safety members.

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

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares that the
2 purpose of this act is to approve ~~an agreement~~ *agreements* pursuant
3 to Section 3517 of the Government Code entered into by the state
4 employer and a recognized employee-~~organization~~ *organizations*.

5 ~~SEC. 2.—The provisions of the memorandum of understanding~~
6 ~~prepared pursuant to Section 3517.5 of the Government Code and~~
7 ~~entered into by the state employer and State Bargaining Unit 16;~~
8 ~~the Union of American Physicians and Dentists, and that require~~
9 ~~the expenditure of funds, are hereby approved for the purposes of~~
10 ~~Section 3517.6 of the Government Code.~~

11 *SEC. 2. The provisions of the following memoranda of*
12 *understanding prepared pursuant to Section 3517.5 of the*
13 *Government Code and entered into by the state employer and the*



1 following employees organizations, and that require the
2 expenditure of funds, are hereby approved for the purposes of
3 Section 3517.5 of the Government Code:

4 (a) State Bargaining Unit 10, California Association of
5 Professional Scientists-Professional Scientific Unit.

6 (b) State Bargaining Unit 12, International Union of
7 Operating Engineers, Craft and Maintenance Unit.

8 (c) State Bargaining Unit 13, International Union of Operating
9 Engineers-Professional Scientific Unit.

10 (d) State Bargaining Unit 16, Union of American Physicians
11 and Dentists-Physicians, Dentists, and Podiatrists Unit.

12 (e) State Bargaining Unit 18, California Association of
13 Psychiatric and Technicians, Psychiatric Technicians Units.

14 (f) State Bargaining Unit 19, American Federation of State,
15 County and Municipal Employees, Health and Social Services
16 Unit.

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

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

31 SEC. 5. Section 22901.1 is added to the Education Code, to
32 read:

33 22901.1. (a) Notwithstanding any provisions of Section
34 22901 to the contrary, the normal rate of contribution shall be the
35 rate specified in this section for all of the following:

36 (1) Members of the Defined Benefit Program in State
37 Bargaining Units 10, 12, 16, 18, and 19.

38 (2) Members of the Defined Benefit Program who are employed
39 by the state and excepted from the definition of "state employee"
40 in subdivision (c) of Section 3513 of the Government Code.



1 (3) *Members of the Defined Benefit Program who are officers*
2 *or employees of the executive branch of state government who are*
3 *not members of the civil service.*

4 (b) (1) *Subject to the provisions of subdivision (d), from*
5 *August 31, 2001, to June 30, 2002, inclusive, each member*
6 *described in subdivision (a) shall contribute to the retirement fund*
7 *an amount equivalent to 5.5 percent of the member's creditable*
8 *compensation.*

9 (2) *Subject to the provisions of subdivision (d), from July 1,*
10 *2002, to June 30, 2003, inclusive, each member described in*
11 *subdivision (a) shall contribute to the retirement fund an amount*
12 *equivalent to 3 percent of the member's creditable compensation.*

13 (c) *This section does not apply to members employed by the*
14 *California State University or the University of California.*

15 (d) *If the membership of State Bargaining Unit 10, 12, 16, 18,*
16 *or 19 does not ratify its respective memorandum of understanding*
17 *by December 15, 2001, the normal contribution rate for the*
18 *members of the Defined Benefit Program of that specific state*
19 *bargaining unit shall be restored to the level in effect on August 30,*
20 *2001, as set forth in Section 22901, for creditable compensation*
21 *beginning with the December 2001 pay period.*

22 (e) *This subdivision shall apply to state employees in State*
23 *Bargaining Units 10, 12, 16, 18, and 19. If the provisions of this*
24 *section are in conflict with the provisions of a memorandum of*
25 *understanding reached pursuant to Section 3517.5 of the*
26 *Government Code, the memorandum of understanding shall be*
27 *controlling without further legislative action, except that if the*
28 *provisions of a memorandum of understanding require the*
29 *expenditure of funds, the provisions may not become effective*
30 *unless approved by the Legislature in the annual Budget Act.*

31 (f) *This section shall become inoperative on July 1, 2003, and,*
32 *as of January 1, 2004, is repealed, unless a later enacted statute*
33 *that is enacted before January 1, 2004, deletes or extends the dates*
34 *on which it becomes inoperative and is repealed.*

35 *SEC. 6. Section 18523.3 of the Government Code is repealed.*

36 ~~18523.3. (a) Notwithstanding Section 18523, this section~~
37 ~~shall apply only to state employees in State Bargaining Unit 19.~~

38 ~~(b) "Class" means a group of positions sufficiently similar~~
39 ~~with respect to duties and responsibilities that the same title may~~
40 ~~reasonably and fairly be used to designate each position allocated~~



1 to the class, that substantially the same tests of fitness may be used,
2 that substantially the same minimum qualifications may be
3 required, and that the same schedule of compensation may be
4 made to apply with equity.

5 ~~(e) The board may also establish “broadband” classes for~~
6 ~~which the same general title may be used to designate each position~~
7 ~~allocated to the class and that may include more than one level or~~
8 ~~more than one specialty area within the same general field of work.~~
9 ~~In addition to the minimum qualifications for each broadband~~
10 ~~class, other job-related qualifications may be required for~~
11 ~~particular positions within the class. When the board establishes~~
12 ~~a broadband class, these levels and specialty areas shall be~~
13 ~~described in the class specification, and the board shall specify any~~
14 ~~instances in which these levels and specialty areas are to be treated~~
15 ~~as separate classes for purposes of applying other provisions of~~
16 ~~law.~~

17 *SEC. 7. Section 18670 of the Government Code is amended to*
18 *read:*

19 18670. (a) The board may hold hearings and make
20 investigations concerning all matters relating to the enforcement
21 and effect of this part and rules prescribed under this part. It may
22 inspect any state institution, office, or other place of employment
23 affected by this part to ascertain whether this part and the board
24 rules are obeyed.

25 The board shall make investigations and hold hearings at the
26 direction of the Governor or the Legislature or upon the petition
27 of an employee or a citizen concerning the enforcement and effect
28 of this part and to enforce the observance of Article VII of the
29 Constitution and of this part and the rules made under this part.

30 (b) Effective January 1, 1996, this subdivision shall apply only
31 to state employees in State Bargaining Unit 5. For purposes of
32 subdivision (a), any discipline, as defined by Section 19576.1, is
33 not subject to either a board investigation or hearing. Board review
34 shall be limited to acceptance or rejection of discipline imposed
35 pursuant to Section 19576.1.

36 (c) This subdivision shall apply only to state employees in State
37 Bargaining Unit 8. For the purposes of subdivision (a), any
38 discipline, as defined by the memorandum of understanding or
39 Section 19576.5, is not subject to either a board investigation or
40 hearing.



1 (d) This subdivision shall apply only to state employees in State
2 Bargaining Unit 11 who have been disciplined or rejected on
3 probation for positive drug test results and who expressly waive
4 appeal to the State Personnel Board and invoke arbitration
5 proceedings pursuant to a collective bargaining agreement. For
6 purposes of subdivision (a) and in the context of positive drug test
7 results, any discipline, as defined by the memorandum of
8 understanding, and rejections on probation are not subject to either
9 a board investigation or a hearing.

10 (e) *This subdivision shall apply only to state employees in State*
11 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
12 *in conflict with the provisions of a memorandum of understanding*
13 *reached pursuant to Section 3517.5, the memorandum of*
14 *understanding shall be controlling without further legislative*
15 *action, except that if the provisions of the memorandum of*
16 *understanding require the expenditure of funds, the provisions may*
17 *not become effective unless approved by the Legislature in the*
18 *annual Budget Act.*

19 SEC. 8. *Section 18717.2 of the Government Code is repealed.*
20 ~~18717.2. Section 18717 does not apply to state employees in~~
21 ~~State Bargaining Unit 19.~~

22 SEC. 9. *Section 19173.1 of the Government Code is amended*
23 *to read:*

24 19173.1. (a) ~~Effective June 1, 1998, notwithstanding Section~~
25 ~~19173, this section shall apply to state employees in State~~
26 ~~Bargaining Unit 16.~~ This section also shall apply to state
27 employees in State Bargaining Unit 8.

28 (b) Any probationer may be rejected by the appointing power
29 during the probationary period for reasons relating to the
30 probationer's qualifications, the good of the service, or failure to
31 demonstrate merit, efficiency, and fitness.

32 (c) A rejection during probationary period is effected by the
33 service upon the probationer of a written notice of rejection that
34 shall include: (1) an effective date for the rejection that shall not
35 be later than the last day of the probationary period; and (2) a
36 statement of the reasons for the rejection. Service of the notice
37 shall be made prior to the effective date of the rejection. Notice of
38 rejection shall be served prior to the conclusion of the prescribed
39 probationary period. The probationary period may be extended
40 when necessary to provide the full notice period required by board



1 rule. Within 15 days after the effective date of the rejection, a copy
2 thereof shall be filed with the board.

3 *SEC. 10. Section 19175.3 of the Government Code is*
4 *amended to read:*

5 19175.3. (a) Notwithstanding Section 19175, this section
6 shall apply to state employees in State Bargaining Unit 8 ~~or 16~~.

7 (b) The board at the written request of a rejected probationer,
8 filed within 15 calendar days of the effective date of rejection, shall
9 only review allegations that the rejection was made for reasons of
10 discrimination as defined for the purposes of subdivision (a) of
11 Section 19702, fraud, or political patronage. If the board
12 determines that the rejected probationer has stated a prima face
13 case of discrimination, fraud, or political patronage, the board may
14 investigate the case with or without a hearing and do any one of the
15 following:

16 (1) Affirm the action of the appointing power.

17 (2) Modify the action of the appointing power.

18 (3) Restore the name of the rejected probationer to the
19 employment list for certification to any position within the class,
20 provided that his or her name shall not be certified to the agency
21 by which he or she was rejected, except with the concurrence of
22 the appointing power thereof.

23 (4) Restore the rejected probationer to the position from which
24 he or she was rejected, but this shall be done only if the board
25 determines that there is substantial evidence to support that the
26 rejection was made for reasons of discrimination as defined for the
27 purposes of subdivision (a) of Section 19702, fraud, or political
28 patronage. At any such investigation or hearing the rejected
29 probationer shall have the burden of proof; subject to rebuttal by
30 him or her, it shall be presumed that the rejection was free from
31 discrimination, fraud, and political patronage, and that the
32 statement of reasons therefor in the notice of rejection is true.

33 *SEC. 11. Section 19570.1 of the Government Code is amended*
34 *to read:*

35 19570.1. Notwithstanding Section 19570, this section shall
36 apply to state employees in State Bargaining Unit 8 ~~or 16~~. As used
37 in this article, “disciplinary action” means dismissal, demotion,
38 suspension, or other disciplinary action. “Disciplinary action”
39 does not include a written or oral reprimand taken against an
40 employee. Reprimands may be considered for the purpose of



1 progressive discipline. This article shall not apply to any
2 disciplinary action affecting managerial employees subject to
3 Article 2 (commencing with Section 19590), except as provided
4 in Sections 19590.5, 19592, and 19592.2.

5 *SEC. 12. Section 19574 of the Government Code is amended*
6 *to read:*

7 19574. (a) The appointing power, or its authorized
8 representative, may take adverse action against an employee for
9 one or more of the causes for discipline specified in this article.
10 Adverse action is valid only if a written notice is served on the
11 employee prior to the effective date of the action, as defined by
12 board rule. The notice shall be served upon the employee either
13 personally or by mail and shall include: (1) a statement of the
14 nature of the adverse action; (2) the effective date of the action; (3)
15 a statement of the reasons therefor in ordinary language; (4) a
16 statement advising the employee of the right to answer the notice
17 orally or in writing; and (5) a statement advising the employee of
18 the time within which an appeal must be filed. The notice shall be
19 filed with the board not later than 15 calendar days after the
20 effective date of the adverse action.

21 (b) Effective January 1, 1996, this subdivision shall apply only
22 to state employees in State Bargaining Unit 5. This section shall
23 not apply to discipline as defined by Section 19576.1.

24 (c) This subdivision shall apply only to state employees in State
25 Bargaining Unit 8. This section shall not apply to minor discipline,
26 as defined by Section 19576.5 or a memorandum of
27 understanding.

28 (e) *This subdivision shall apply only to state employees in State*
29 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
30 *in conflict with the provisions of a memorandum of understanding*
31 *reached pursuant to Section 3517.5, the memorandum of*
32 *understanding shall be controlling without further legislative*
33 *action, except that if the provisions of the memorandum of*
34 *understanding require the expenditure of funds, the provisions may*
35 *not become effective unless approved by the Legislature in the*
36 *annual Budget Act.*

37 *SEC. 13. Section 19574.1 of the Government Code is*
38 *amended to read:*

39 19574.1. (a) An employee who has been served with notice
40 of adverse action, or a representative designated by the employee,



1 shall have the right to inspect any documents in the possession of,
2 or under the control of, the appointing power which are relevant
3 to the adverse action taken or which would constitute “relevant
4 evidence” as defined in Section 210 of the Evidence Code. The
5 employee, or the designated representative, shall also have the
6 right to interview other employees having knowledge of the acts
7 or omissions upon which the adverse action was based. Interviews
8 of other employees and inspection of documents shall be at times
9 and places reasonable for the employee and for the appointing
10 power.

11 (b) The appointing power shall make all reasonable efforts
12 necessary to assure the cooperation of any other employees
13 interviewed pursuant to this section.

14 (c) *This subdivision shall apply only to state employees in State*
15 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
16 *in conflict with the provisions of a memorandum of understanding*
17 *reached pursuant to Section 3517.5, the memorandum of*
18 *understanding shall be controlling without further legislative*
19 *action, except that if the provisions of the memorandum of*
20 *understanding require the expenditure of funds, the provisions may*
21 *not become effective unless approved by the Legislature in the*
22 *annual Budget Act.*

23 *SEC. 14. Section 19574.2 of the Government Code is*
24 *amended to read:*

25 19574.2. (a) Any party claiming that his or her request for
26 discovery pursuant to Section 19574.1 has not been complied with
27 may serve and file a petition to compel discovery with the Hearing
28 Office of the State Personnel Board, naming as respondent the
29 party refusing or failing to comply with Section 19574.1. The
30 petition shall state facts showing that the respondent party failed
31 or refused to comply with Section 19574.1, a description of the
32 matters sought to be discovered, the reason or reasons why the
33 matter is discoverable under Section 19574.1, and the ground or
34 grounds of respondent’s refusal so far as known to petitioner.

35 (b) The petition shall be served upon respondent party and filed
36 within 14 days after the respondent party first evidenced his or her
37 failure or refusal to comply with Section 19574.1 or within 30 days
38 after the request was made and the party has failed to reply to the
39 request, whichever period is longer. However, no petition may be
40 filed within 15 days of the date set for commencement of the



1 administrative hearing, except upon a petition and a determination
2 by the administrative law judge of good cause. In determining
3 good cause, the administrative law judge shall consider the
4 necessity and reasons for the discovery, the diligence or lack of
5 diligence of the moving party, whether the granting of the petition
6 will delay the commencement of the administrative hearing on the
7 date set, and the possible prejudice of the action to any party. The
8 respondent shall have a right to file a written answer to the petition.
9 Any answer shall be filed with the Hearing Office of the State
10 Personnel Board and the petitioner within 15 days of service of the
11 petition.

12 Unless otherwise stipulated by the parties and as provided by
13 this section, the administrative law judge shall review the petition
14 and any response filed by the respondent and issue a decision
15 granting or denying the petition within 20 days after the filing of
16 the petition. Nothing in this section shall preclude the
17 administrative law judge from determining that an evidentiary
18 hearing shall be conducted prior to the issuance of a decision on
19 the petition. In the event that a hearing is ordered, the decision of
20 the administrative law judge shall be issued within 20 days of the
21 closing of the hearing.

22 A party aggrieved by the decision of the administrative law
23 judge may, within 30 days of service of the decision, file a petition
24 to compel discovery in the superior court for the county in which
25 the administrative hearing will be held or in the county in which
26 the headquarters of the appointing power is located. The petition
27 shall be served on the respondent party.

28 (c) If from a reading of the petition the court is satisfied that the
29 petition sets forth good cause for relief, the court shall issue an
30 order to show cause directed to the respondent party; otherwise the
31 court shall enter an order denying the petition. The order to show
32 cause shall be served upon the respondent and his or her attorney
33 of record in the administrative proceeding by personal delivery or
34 certified mail and shall be returnable no earlier than 10 days from
35 its issuance nor later than 30 days after the filing of the petition.
36 The respondent party shall have the right to serve and file a written
37 answer or other response to the petition and order to show cause.

38 (d) The court may, in its discretion, order the administrative
39 proceeding stayed during the pendency of the proceeding, and, if



1 necessary, for a reasonable time thereafter to afford the parties time
2 to comply with the court order.

3 (e) Where the matter sought to be discovered is under the
4 custody or control of the respondent party and the respondent party
5 asserts that the matter is not a discoverable matter under Section
6 19574.1, or is privileged against disclosure under Section
7 19574.1, the court may order lodged with it matters which are
8 provided in subdivision (b) of Section 915 of the Evidence Code
9 and shall examine the matters in accordance with the provisions
10 thereof.

11 (f) The court shall decide the case on the matters examined by
12 the court in camera, the papers filed by the parties, and ~~such~~ any
13 oral argument and additional evidence as the court may allow.

14 (g) Unless otherwise stipulated by the parties, the court shall no
15 later than 45 days after the filing of the petition file its order
16 denying or granting the petition; provided, however, that the court
17 may on its own motion for good cause extend the time an
18 additional 45 days. The order of the court shall be in writing setting
19 forth the matters or parts the petitioner is entitled to discover under
20 Section 19574.1. A copy of the order shall forthwith be served by
21 mail by the clerk upon the parties. Where the order grants the
22 petition in whole or in part, the order shall not become effective
23 until 10 days after the date the order is served by the clerk. Where
24 the order denies relief to the petitioning party, the order shall be
25 effective on the date it is served by the clerk.

26 (h) The order of the superior court shall be final and, except for
27 this subdivision, shall not be subject to review by appeal. A party
28 aggrieved by the order, or any part thereof, may within 30 days
29 after the service of the superior court's order serve and file in the
30 district court of appeal for the district in which the superior court
31 is located, a petition for a writ of mandamus to compel the superior
32 court to set aside, or otherwise modify, its order. Where a review
33 is sought from an order granting discovery, the order of the trial
34 court and the administrative proceeding shall be stayed upon the
35 filing of the petition for writ of mandamus; provided, however,
36 that the court of appeal may dissolve or modify the stay thereafter,
37 if it is in the public interest to do so. Where the review is sought
38 from a denial of discovery, neither the trial court's order nor the
39 administrative proceeding shall be stayed by the court of appeal
40 except upon a clear showing of probable error.



1 (i) Where the superior court finds that a party or his or her
2 attorney, without substantial justification, failed or refused to
3 comply with Section 19574.1, or, without substantial justification,
4 filed a petition to compel discovery pursuant to this section, or,
5 without substantial justification, failed to comply with any order
6 of court made pursuant to this section, the court may award court
7 costs and reasonable attorney fees to the opposing party. Nothing
8 in this subdivision shall limit the power of the superior court to
9 compel obedience to its orders by contempt proceedings.

10 (j) *This subdivision shall apply only to state employees in State*
11 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
12 *in conflict with the provisions of a memorandum of understanding*
13 *reached pursuant to Section 3517.5, the memorandum of*
14 *understanding shall be controlling without further legislative*
15 *action, except that if the provisions of the memorandum of*
16 *understanding require the expenditure of funds, the provisions may*
17 *not become effective unless approved by the Legislature in the*
18 *annual Budget Act.*

19 SEC. 15. Section 19575 of the Government Code is amended
20 to read:

21 19575. (a) The employee has 30 calendar days after the
22 effective date of the adverse action to file with the board a written
23 answer to the notice of adverse action. The answer shall be deemed
24 to be a denial of all of the allegations of the notice of adverse action
25 not expressly admitted and a request for hearing or investigation
26 as provided in this article. With the consent of the board or its
27 authorized representative an amended answer may subsequently
28 be filed. If the employee fails to answer within the time specified
29 or after answer withdraws his or her appeal the adverse action
30 taken by the appointing power shall be final. A copy of the
31 employee's answer and of any amended answer shall promptly be
32 given by the board to the appointing power.

33 (b) *This subdivision shall apply only to state employees in State*
34 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
35 *in conflict with the provisions of a memorandum of understanding*
36 *reached pursuant to Section 3517.5, the memorandum of*
37 *understanding shall be controlling without further legislative*
38 *action, except that if the provisions of the memorandum of*
39 *understanding require the expenditure of funds, the provisions may*



1 *not become effective unless approved by the Legislature in the*
2 *annual Budget Act.*

3 *SEC. 16. Section 19578 of the Government Code is amended*
4 *to read:*

5 19578. (a) Except as provided in Section 19576, whenever
6 an answer is filed to an adverse action, the board or its authorized
7 representative shall within a reasonable time hold a hearing. The
8 board shall notify the parties of the time and place of the hearing.
9 ~~Such~~ The hearing shall be conducted in accordance with the
10 provisions of Section 11513 of the Government Code, except that
11 the employee and other persons may be examined as provided in
12 Section 19580, and the parties may submit all proper and
13 competent evidence against or in support of the causes.

14 (b) *This subdivision shall apply only to state employees in State*
15 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
16 *in conflict with the provisions of a memorandum of understanding*
17 *reached pursuant to Section 3517.5, the memorandum of*
18 *understanding shall be controlling without further legislative*
19 *action, except that if the provisions of the memorandum of*
20 *understanding require the expenditure of funds, the provisions may*
21 *not become effective unless approved by the Legislature in the*
22 *annual Budget Act.*

23 *SEC. 17. Section 19582 of the Government Code is amended*
24 *to read:*

25 19582. (a) Hearings may be held by the board, or by any
26 authorized representative, but the board shall render the decision
27 that in its judgment is just and proper.

28 During a hearing, after the appointing authority has completed
29 the opening statement or the presentation of evidence, the
30 employee, without waiving his or her right to offer evidence in the
31 event the motion is not granted, may move for a dismissal of the
32 charges.

33 If it appears that the evidence presented supports the granting of
34 the motion as to some but not all of the issues involved in the
35 action, the board or the authorized representative shall grant the
36 motion as to those issues and the action shall proceed as to the
37 issues remaining. Despite the granting of the motion, no judgment
38 shall be entered prior to a final determination of the action on the
39 remaining issues, and shall be subject to final review and approval
40 by the board.



1 (b) If a contested case is heard by an authorized representative,
2 he or she shall prepare a proposed decision in a form that may be
3 adopted as the decision in the case. A copy of the proposed
4 decision shall be filed by the board as a public record and furnished
5 to each party within 10 days after the proposed decision is filed
6 with the board. The board itself may adopt the proposed decision
7 in its entirety, may remand the proposed decision, or may reduce
8 the adverse action set forth therein and adopt the balance of the
9 proposed decision.

10 (c) If the proposed decision is not remanded or adopted as
11 provided in subdivision (b), each party shall be notified of the
12 action, and the board itself may decide the case upon the record,
13 including the transcript, with or without taking any additional
14 evidence, or may refer the case to the same or another authorized
15 representative to take additional evidence. If the case is so assigned
16 to an authorized representative, he or she shall prepare a proposed
17 decision as provided in subdivision (b) upon the additional
18 evidence and the transcript and other papers that are part of the
19 record of the prior hearing. A copy of the proposed decision shall
20 be furnished to each party. The board itself shall decide no case
21 provided for in this subdivision without affording the parties the
22 opportunity to present oral and written argument before the board
23 itself. If additional oral evidence is introduced before the board
24 itself, no board member may vote unless he or she heard the
25 additional oral evidence.

26 (d) In arriving at a decision or a proposed decision, the board
27 or its authorized representative may consider any prior suspension
28 or suspensions of the appellant by authority of any appointing
29 power, or any prior proceedings under this article.

30 (e) The decision shall be in writing and contain findings of fact
31 and the adverse action, if any. The findings may be stated in the
32 language of the pleadings or by reference thereto. Copies of the
33 decision shall be served on the parties personally or by mail.

34 (f) This section shall not apply to minor discipline, as defined
35 in a memorandum of understanding or by Section 19576.5, for
36 state employees in State Bargaining Unit 8.

37 (g) This section shall not apply to state employees in State
38 Bargaining Unit 11 who have been disciplined for positive drug
39 test results and who expressly waive appeal to the State Personnel



1 Board and invoke arbitration proceedings pursuant to a collective
2 bargaining agreement.

3 *(h) This subdivision shall apply only to state employees in State*
4 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
5 *in conflict with the provisions of a memorandum of understanding*
6 *reached pursuant to Section 3517.5, the memorandum of*
7 *understanding shall be controlling without further legislative*
8 *action, except that if the provisions of the memorandum of*
9 *understanding require the expenditure of funds, the provisions may*
10 *not become effective unless approved by the Legislature in the*
11 *annual Budget Act.*

12 *SEC. 18. Section 19583 of the Government Code is amended*
13 *to read:*

14 19583. (a) The board shall render a decision within a
15 reasonable time after the hearing or investigation. The adverse
16 action taken by the appointing power shall stand unless modified
17 or revoked by the board. If the board finds that the cause or causes
18 for which the adverse action was imposed were insufficient or not
19 sustained, or that the employee was justified in the course of
20 conduct upon which the causes were based, it may modify or
21 revoke the adverse action and it may order the employee returned
22 to his or her position with appropriate restoration of backpay and
23 lost benefits either as of the date of the adverse action or as of such
24 later date as it may specify. The decision of the board shall be
25 entered upon the minutes of the board and the official roster.

26 *(b) This subdivision shall apply only to state employees in State*
27 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
28 *in conflict with the provisions of a memorandum of understanding*
29 *reached pursuant to Section 3517.5, the memorandum of*
30 *understanding shall be controlling without further legislative*
31 *action, except that if the provisions of the memorandum of*
32 *understanding require the expenditure of funds, the provisions may*
33 *not become effective unless approved by the Legislature in the*
34 *annual Budget Act.*

35 *SEC. 19. Section 19702 of the Government Code is amended*
36 *to read:*

37 19702. (a) A person shall not be discriminated against under
38 this part because of sex, race, religious creed, color, national
39 origin, ancestry, marital status, physical disability, or mental
40 disability. A person shall not be retaliated against because he or she



1 has opposed any practice made an unlawful employment practice,
2 or made a charge, testified, assisted, or participated in any manner
3 in an investigation, proceeding, or hearing under this part. For
4 purposes of this article, “discrimination” includes harassment.
5 This subdivision is declaratory of existing law.

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

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

12 (d) Notwithstanding subdivisions (b) and (c), if the definition
13 of disability used in the federal Americans with Disabilities Act of
14 1990 (Public Law 101-336) would result in broader protection of
15 the civil rights of individuals with a mental disability or physical
16 disability, as defined in subdivision (b) or (c), then that broader
17 protection shall be deemed incorporated by reference into, and
18 shall prevail over conflicting provisions of, the definitions in
19 subdivisions (b) and (c). The definitions of subdivisions (b) and (c)
20 shall not be deemed to refer to or include conditions excluded from
21 the federal definition of “disability” pursuant to Section 511 of the
22 federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
23 12211).

24 (e) If the board finds that a person has engaged in
25 discrimination under this part, and it appears that this practice
26 consisted of acts described in Section 243.4, 261, 262, 286, 288,
27 288a, or 289 of the Penal Code, the board, with the consent of the
28 complainant, shall provide the local district attorney’s office with
29 a copy of its decision and order.

30 (f) ~~(f)~~ If the board finds that discrimination has occurred in
31 violation of this part, the board shall issue and cause to be served
32 on the appointing authority an order requiring the appointing
33 authority to cause the discrimination to cease and desist and to take
34 any action, including, but not limited to, hiring, reinstatement, or
35 upgrading of employees, with or without backpay, and
36 compensatory damages, which, in the judgment of the board, will
37 effectuate the purposes of this part. Consistent with this authority,
38 the board may establish rules governing the award of
39 compensatory damages. The order shall include a requirement of
40 reporting the manner of compliance.



1 ~~(2) Notwithstanding paragraph (1), this paragraph shall apply~~
2 ~~to state employees in State Bargaining Unit 6 or 8. If the board~~
3 ~~finds that discrimination has occurred in violation of this part, the~~
4 ~~board shall issue and cause to be served on the appointing authority~~
5 ~~an order requiring the appointing authority to cause the~~
6 ~~discrimination to cease and desist and to take any action,~~
7 ~~including, but not limited to, hiring, reinstatement, or upgrading~~
8 ~~of employees, with or without backpay, adding additional~~
9 ~~seniority, and compensatory damages, which, in the judgment of~~
10 ~~the board, will effectuate the purposes of this part. Consistent with~~
11 ~~this authority, the board may establish rules governing the award~~
12 ~~of compensatory damages. The order shall include a requirement~~
13 ~~of reporting the manner of compliance.~~

14 (g) Any person claiming discrimination within the state civil
15 service may submit a complaint that shall be in writing and set
16 forth the particulars of the alleged discrimination, the name of the
17 appointing authority, the persons alleged to have committed the
18 unlawful discrimination, and any other information that may be
19 required by the board. The complaint shall be filed with the
20 appointing authority or, in accordance with board rules, with the
21 board itself.

22 (h) (1) Complaints shall be filed within one year of the alleged
23 unlawful discrimination or the refusal to act in accordance with
24 this section, except that this period may be extended for not to
25 exceed 90 days following the expiration of that year, if a person
26 allegedly aggrieved by unlawful discrimination first obtained
27 knowledge of the facts of the alleged unlawful discrimination after
28 the expiration of one year from the date of its occurrence.
29 Complaints of discrimination in adverse actions or rejections on
30 probation shall be filed in accordance with Sections 19175 and
31 19575.

32 (2) Notwithstanding paragraph (1), this paragraph shall apply
33 only to state employees in State Bargaining Unit 8. Complaints
34 shall be filed within one year of the alleged unlawful
35 discrimination or the refusal to act in accordance with this section,
36 except that this period may be extended for not to exceed 90 days
37 following the expiration of that year, if a person allegedly
38 aggrieved by unlawful discrimination first obtained knowledge of
39 the facts of the alleged unlawful discrimination after the expiration
40 of one year from the date of its occurrence. Complaints of



1 discrimination in disciplinary actions defined in Section 19576.5
2 shall be filed in accordance with that section. Complaints of
3 discrimination in all other disciplinary actions shall be filed in
4 accordance with Section 19575. Complaints of discrimination in
5 rejections on probation shall be filed in accordance with Section
6 19175.3.

7 (i) (1) When an employee of the appointing authority refuses,
8 or threatens to refuse, to cooperate in the investigation of a
9 complaint of discrimination, the appointing authority may seek
10 assistance from the board. The board may provide for direct
11 investigation or hearing of the complaint, the use of subpoenas, or
12 any other action which will effect the purposes of this section.

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

15 (j) *This subdivision shall apply only to state employees in State*
16 *Bargaining Units 8, 12, and 13. If the provisions of this section are*
17 *in conflict with the provisions of a memorandum of understanding*
18 *reached pursuant to Section 3517.5, the memorandum of*
19 *understanding shall be controlling without further legislative*
20 *action, except that if the provisions of the memorandum of*
21 *understanding require the expenditure of funds, the provisions may*
22 *not become effective unless approved by the Legislature in the*
23 *annual Budget Act.*

24 *SEC. 20. Section 19818.9 of the Government Code is*
25 *repealed.*

26 ~~19818.9. (a) Notwithstanding Section 19818.6, this section~~
27 ~~shall apply only to state employees in State Bargaining Unit 19.~~

28 ~~(b) The department shall administer the Personnel~~
29 ~~Classification Plan of the State of California including the~~
30 ~~allocation of every position to the appropriate class in the~~
31 ~~classification plan. The allocation of a position to a class shall~~
32 ~~derive from and be determined by the ascertainment of the duties~~
33 ~~and responsibilities of the position and shall be based on the~~
34 ~~principle that all positions that meet the definition of a class~~
35 ~~pursuant to Section 18523.3 shall be included in the same class.~~

36 ~~(c) If the provisions of this section are in conflict with the~~
37 ~~provisions of a memorandum of understanding reached pursuant~~
38 ~~to Section 3517.5, the memorandum of understanding shall be~~
39 ~~controlling without further legislative action, except that if the~~
40 ~~provisions of the memorandum of understanding require the~~



1 ~~expenditure of funds, the provisions shall not become effective~~
2 ~~unless approved by the Legislature in the annual Budget Act.~~

3 ~~(d) A broadband project may not change the terms and~~
4 ~~conditions of employment covered by a memorandum of~~
5 ~~understanding entered into pursuant to the Ralph C. Dills Act~~
6 ~~(Chapter 10.3 (commencing with Section 3512) of Division 4 of~~
7 ~~Title 1), unless there is a written agreement with respect to the~~
8 ~~project between the department and the recognized employee~~
9 ~~organization representing the affected employees.~~

10 *SEC. 21. Section 19823 of the Government Code is amended*
11 *to read:*

12 19823. (a) The department may make awards to current or
13 retired state employees who *do any of the following:*

14 ~~(a)~~

15 (1) Propose procedures or ideas which hereafter have been
16 adopted and which will result in eliminating or reducing state
17 expenditures or improving operations; provided, the proposals are
18 placed in effect; ~~or.~~

19 ~~(b)~~

20 (2) Perform special acts or special services in the public
21 interest; ~~or.~~

22 ~~(c)~~

23 (3) By their superior accomplishments, make exceptional
24 contributions to the efficiency, economy or other improvement in
25 the operations of the state government.

26 (b) Awards for superior accomplishments shall be made in
27 accordance with procedures and standards established by the
28 department.

29 (c) Any award made by the department under the provisions of
30 this section may be paid from the appropriation available to the
31 state agency affected by the award.

32 (d) The director may adopt rules and regulations to carry out
33 the provisions of this section, and may appoint merit award boards
34 made up of state officers, employees, or citizens to consider
35 employee proposals, special acts, special services, or superior
36 accomplishments, and to make recommendations to the
37 department as to the merits of the proposals, special acts, special
38 services, or superior accomplishments, and whether or not the
39 proposals, special acts, special services, or superior
40 accomplishments justify an award.



1 (e) Any award granted under the provisions of this section shall
2 be limited to five thousand dollars (\$5,000) unless a larger award
3 is approved by concurrent resolution of the Legislature.

4 (f) Any expenditures made or costs incurred heretofore or
5 hereafter by the director for the purposes of this section may be
6 paid from funds available for the support of the department.

7 (g) *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 the memorandum of understanding require the*
12 *expenditure of funds, the provisions may not become effective*
13 *unless approved by the Legislature in the annual Budget Act.*

14 SEC. 22. Section 19826.3 of the Government Code is
15 repealed.

16 ~~19826.3. (a) Notwithstanding Section 19826, effective June~~
17 ~~1, 1998, this section shall apply only to state employees in State~~
18 ~~Bargaining Unit 19.~~

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

31 ~~(c) Notwithstanding any other provision of law, the department~~
32 ~~shall not establish, adjust, or recommend a salary range or rate for~~
33 ~~any employees in an appropriate unit where an employee~~
34 ~~organization has been chosen as the exclusive representative~~
35 ~~pursuant to Section 3520.5.~~

36 ~~(d) Notwithstanding Section 7550.5, on or before January 10~~
37 ~~of each year, the department shall prepare and submit to the parties~~
38 ~~meeting and conferring pursuant to Section 3517 and to the~~
39 ~~Legislature, a report containing the department's findings relating~~



1 to the salaries of employees in comparable occupations in private
 2 industry and other governmental agencies.

3 ~~(c) 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. 23. Section 19836.3 of the Government Code is*
 11 *repealed.*

12 ~~19836.3. (a) Effective June 1, 1998, notwithstanding Section~~
 13 ~~19836, this section shall apply only to state employees in State~~
 14 ~~Bargaining Unit 19.~~

15 ~~(b) The appointing power or designee with the approval of the~~
 16 ~~department may authorize payment at any step above the~~
 17 ~~minimum salary limit to classes or positions in order to correct~~
 18 ~~salary inequities.~~

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

26 *SEC. 24. Section 20047.5 is added to the Government Code,*
 27 *to read:*

28 *20047.5. "Industrial," with respect to state miscellaneous*
 29 *members, means death or disability on or after January 1, 2002,*
 30 *resulting from an injury that is a direct consequence of a violent*
 31 *act perpetrated on his or her person by a patient or client of the*
 32 *State Department of Developmental Services, at Porterville*
 33 *Developmental Center if both of the following apply:*

34 *(a) The member either (1) was performing his or her duties*
 35 *within a treatment ward at the time of the injury, or (2) was not*
 36 *within a treatment ward but was acting within the scope of his or*
 37 *her employment at the hospital and is regularly and substantially*
 38 *as part of his or her duties in contact with the patients or clients.*

39 *(b) The member, at the time of injury, was either (1) employed*
 40 *in a state bargaining unit for which a memorandum of*



1 *understanding has been agreed to by the state employer and the*
2 *recognized employee organization to become subject to this*
3 *section, (2) excluded from the definition of “state employee” in*
4 *subdivision (c) of Section 3513, or (3) a non-elected officer or*
5 *employee of the executive branch of government who was not a*
6 *member of the civil service.*

7 SEC. 25. *Section 20405.3 is added to the Government Code,*
8 *to read:*

9 20405.3. (a) *A member who is an employee of the*
10 *Department of Corrections, who made the election to remain under*
11 *the state industrial membership classification, as provided in*
12 *subdivision (d) of Section 20405, may elect to be subject to state*
13 *safety membership within 90 days of notification by the board, if*
14 *the employee is in any of the following classifications:*

15 (1) *Dentist, Correctional Facility.*

16 (2) *Physician and Surgeon, Correctional Facility.*

17 (3) *Staff Psychiatrist, Correctional Facility.*

18 (4) *Podiatrist, Correctional Facility.*

19 (b) *The election, which shall be provided by the board on and*
20 *after January 1, 2002, shall be filed with the board. Past service*
21 *that would have been credited as a state safety member, but for the*
22 *member’s election to remain under the state industrial formula,*
23 *shall be credited as safety service.*

24 (c) *This section shall apply to state employees in State*
25 *Bargaining Unit 16 and, if authorized by the Director of the*
26 *Department of Personnel Administration, state employees that are*
27 *excluded from the definition of “state employee” by paragraph (c)*
28 *of Section 3513.*

29 SEC. 26. *Section 20677.2 is added to the Government Code,*
30 *to read:*

31 20677.2. (a) *Notwithstanding any provisions of Section*
32 *20677 to the contrary, the normal rate of contribution shall be the*
33 *rate specified in this section for all of the following:*

34 (1) *State miscellaneous and state industrial members in State*
35 *Bargaining Units 10, 12, 13, 16, 18, and 19.*

36 (2) *State miscellaneous and state industrial members excepted*
37 *from the definition of “state employee” in subdivision (c) of*
38 *Section 3513 of the Government Code.*



1 (3) *State miscellaneous and state industrial members who are*
2 *officers or employees of the executive branch of state government*
3 *who are not members of the civil service.*

4 (b) (1) *Subject to the provisions of subdivision (f), for a*
5 *member described in subdivision (a) whose service is not included*
6 *in the federal system, 3.5 percent of the compensation in excess of*
7 *three hundred seventeen dollars (\$317) per month paid that*
8 *member for service rendered during the period from August 31,*
9 *2001, to June 30, 2002, inclusive.*

10 (2) *Subject to the provisions of subdivision (f), for a member*
11 *described in subdivision (a) whose service is not included in the*
12 *federal system, 1 percent of the compensation in excess of three*
13 *hundred seventeen dollars (\$317) per month paid that member for*
14 *service rendered during the period from July 1, 2002, to June 30,*
15 *2003, inclusive.*

16 (3) *Subject to the provisions of subdivision (f), for a member*
17 *described in subdivision (a) whose service has been included in the*
18 *federal system, 2.5 percent of the compensation in excess of five*
19 *hundred thirteen dollars (\$513) per month paid that member for*
20 *service rendered during the period from August 31, 2001, to June*
21 *30, 2002, inclusive.*

22 (4) *Subject to the provisions of subdivision (f), for a member*
23 *described in subdivision (a) whose service has been included in the*
24 *federal system, zero percent of the compensation in excess of five*
25 *hundred thirteen dollars (\$513) per month paid that member for*
26 *service rendered during the period from July 1, 2002, to June 30,*
27 *2003, inclusive.*

28 (c) *Subject to the provisions of subdivision (f) and*
29 *notwithstanding any provisions of Section 21073.3, a member who*
30 *elects to become subject to the benefits prescribed in Section*
31 *21354.1 and who is subject to this section shall be subject to the*
32 *normal rate of contribution set forth in this section as of the first*
33 *day of the month following the date the election is received by the*
34 *system and shall be applicable to state service rendered subject to*
35 *Section 21354.1.*

36 (d) *This section does not apply to members employed by the*
37 *California State University or the University of California.*

38 (e) *This section does not apply to state miscellaneous and state*
39 *industrial members who are subject to Section 21076.*



1 (f) If the membership of State Bargaining Unit 10, 12, 13, 16,
2 18, or 19 does not ratify its respective memorandum of
3 understanding by December 15, 2001, the normal contribution
4 rate for the members of that specific state bargaining unit shall be
5 restored to the level in effect on August 30, 2001, as set forth in
6 Section 20677, beginning with the December 2001 pay period for
7 the compensation paid that member for service.

8 (g) This subdivision shall apply to state employees in State
9 Bargaining Units 10, 12, 13, 16, 18, and 19. If the provisions of this
10 section are in conflict with the provisions of a memorandum of
11 understanding reached pursuant to Section 3517.5 of the
12 Government Code, the memorandum of understanding shall be
13 controlling without further legislative action, except that if the
14 provisions of a memorandum of understanding require the
15 expenditure of funds, the provisions may not become effective
16 unless approved by the Legislature in the annual Budget Act.

17 (h) This section shall become inoperative on July 1, 2003, and,
18 as of January 1, 2004, is repealed, unless a later enacted statute
19 that is enacted before January 1, 2004, deletes or extends the dates
20 on which it becomes inoperative and is repealed.

21 SEC. 27. Section 20683.1 is added to the Government Code,
22 to read:

23 20683.1. (a) Notwithstanding any provisions of Section
24 20683 to the contrary, the normal rate of contribution shall be the
25 rate specified in this section for all of the following:

26 (1) State safety members subject to Section 21369.1 in State
27 Bargaining Units 12, 13, 16, 18, and 19.

28 (2) State safety members excepted from the definition of "state
29 employee" in subdivision (c) of Section 3513.

30 (3) State safety members who are officers or employees of the
31 executive branch of state government who are not members of the
32 civil service.

33 (b) (1) Subject to the provisions of subdivision (e), from August
34 31, 2001, to June 30, 2002, inclusive, the normal rate of
35 contribution shall be 3.5 percent of the compensation in excess of
36 three hundred seventeen dollars (\$317) per month paid that
37 member for service rendered.

38 (2) Subject to the provisions of subdivision (e), from July 1,
39 2002, to June 30, 2003, inclusive, the normal rate of contribution
40 shall be 1 percent of compensation in excess of three hundred



1 seventeen dollars (\$317) per month paid that member for service
 2 rendered.

3 (c) This section does not apply to members employed by the
 4 California State University or the University of California.

5 (d) If the membership of State Bargaining Unit 12, 13, 16, 18,
 6 or 19 does not ratify its respective memorandum of understanding
 7 by December 15, 2001, the normal contribution rate for the
 8 members of that specific state bargaining unit shall be restored to
 9 the level in effect on August 30, 2001, as set forth in Section 20683,
 10 beginning with the December 2001 pay period for the
 11 compensation paid that member for service.

12 (e) This subdivision shall apply to state employees in State
 13 Bargaining Units 12, 13, 16, 18, and 19. If the provisions of this
 14 section are in conflict with the provisions of a memorandum of
 15 understanding reached pursuant to Section 3517.5 of the
 16 Government Code, the memorandum of understanding shall be
 17 controlling without further legislative action, except that if the
 18 provisions of a memorandum of understanding require the
 19 expenditure of funds, the provisions may not become effective
 20 unless approved by the Legislature in the annual Budget Act.

21 (f) This section shall become inoperative on July 1, 2003, and,
 22 as of January 1, 2004, is repealed, unless a later enacted statute
 23 that is enacted before January 1, 2004, deletes or extends the dates
 24 on which it becomes inoperative and is repealed.

25 SEC. 28. Section 22013.82 of the Government Code is
 26 repealed.

27 ~~22013.82.—“Policeman” as used in this part also includes~~
 28 ~~persons employed in classifications listed in Section 20405.3, for~~
 29 ~~the purposes of Section 218(d)(5)(A) of the Social Security Act~~
 30 ~~(42 U.S.C. Sec. 418(d)(5)(A)).~~

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

35 In order for the provisions of this act to be applicable as soon as
 36 possible in the 2001–02 fiscal year, and thereby facilitate the
 37 orderly administration of state government at the earliest possible
 38 time, it is necessary that this act take effect immediately.

