

## Senate Bill No. 1110

### CHAPTER 217

An act to add Section 12811.3 to the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 11, 2004. Filed with Secretary of State August 11, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1110, Cedillo. State employees: State Bargaining Unit 6.

(1) Existing law provides that if any provision of a memorandum of understanding (MOU) 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 an addendum to an MOU entered into between the state employer and State Bargaining Unit 6 (California Correctional Peace Officers Association).

This bill would also provide that provisions of any addendum to the memorandum of understanding approved by this bill that require the expenditure of funds on or after July 1, 2004, may 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.

This bill would appropriate, from any appropriate fund sources, the sum necessary to satisfy the economic requirements for employee compensation for employees in State Bargaining Unit 6 for the term of the Unit 6 MOU, which expires on July 2, 2006, as modified by the ratified addendum, and state the intent of the Legislature in that regard.

(2) Existing law contains various provisions relating to civil service and employer-employee relations between the state and its employees that apply to state employees generally and to State Bargaining Unit 6, with respect to, among other things, promotions, transfers, compensation, salary ranges, and entering into an MOU that provides for salary increases and other employee benefits.

This bill would authorize the Secretary of the Youth and Adult Correctional Agency, when he or she certifies in writing that it is



necessary to prevent or minimize employment actions, including, among other things, layoffs, demotions, reductions in time base, or involuntary transfers, to designate departments, boards, or commissions that are eligible to have their peace officer employees transfer to another department, board, or commission. The bill would also specify the criteria for making the transfer and any requirements or exceptions that may apply to a peace officer employee who desires to transfer to another department, board, or commission.

This bill would provide that provisions of the Unit 6 MOU, which expires July 2, 2006, as modified by the ratified addendum, relating to the release of copies of videotaped incidents, shall be subject to the California Public Records Act.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve an addendum to an agreement reached pursuant to Sections 3517 and 3517.5 of the Government Code entered into by the state employer and State Bargaining Unit 6.

SEC. 2. The provisions of the addendum to the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code, entered into by the state employer and State Bargaining Unit 6, the California Correctional Peace Officers Association, which requires the expenditure of funds, are hereby approved for the purposes of Sections 3517.6 and 3517.61 of the Government Code.

SEC. 3. The provisions of the addendum to the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2004, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that 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 provisions of the addendum to the memorandum of understanding.

SEC. 4. Notwithstanding Sections 3517.6 and 3517.61 of the Government Code, the provisions of any addendum to a memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the addendum are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 12811.3 is added to the Government Code, to read:



12811.3. (a) Notwithstanding any other provision of law and subject to the provisions of subdivision (i), any employee of a department, board, or commission under the jurisdiction of the Youth and Adult Correctional Agency, who is designated as a peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may transfer from his or her current position to another department, board, or commission under the jurisdiction of the Youth and Adult Correctional Agency.

(b) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a), and who is prohibited from carrying a firearm pursuant to paragraph (8) of subdivision (g) of Section 922 of Title 18 of the United States Code or Section 12021 of the Penal Code may not transfer to a department, board, or commission that requires the use of a firearm.

(c) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a) to a position requiring the ability to carry a firearm, as determined by the department, board, or commission, and who has not completed the required training pursuant to Section 832 of the Penal Code, shall successfully complete the required training before appointment to his or her new peace officer position.

(d) (1) Any peace officer who desires to transfer shall not be required to undergo a psychological screening pursuant to subdivision (f) of Section 1031 or subdivision (a) of Section 13601 of the Penal Code, unless the Secretary of the Youth and Adult Correctional Agency, or his or her designee, makes a determination that a peace officer is required to undergo all or a portion of a psychological screening as described in subdivision (f) of Section 1031 of this code or subdivision (a) of Section 13601 of the Penal Code.

(2) The Secretary of the Youth and Adult Correctional Agency shall promulgate emergency regulations in order to implement paragraph (1). Notwithstanding subdivision (b) of Section 11346.1, no showing of an emergency shall be necessary in order to adopt, amend, or repeal the emergency regulations required by this paragraph.

(e) Any peace officer who has successfully completed a course of training pursuant to Section 13602 of the Penal Code and who transfers to another department, board, or commission pursuant to subdivision (a) shall not be required to complete a new course of training pursuant to Section 13602 of the Penal Code. However, each department, board, or commission may prescribe additional training to be provided to an employee who transfers pursuant to subdivision (a) and shall provide that training within the first six months of appointment to his or her new peace officer position.



(f) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a) shall not be required to undergo a new background investigation pursuant to Section 1029.1.

(g) Nothing in this section shall affect an employee's seniority calculation as provided for under current law or any memorandum of understanding between the state and any applicable bargaining unit agreement in effect upon the effective date of this section.

(h) The provisions of the Unit 6 Memorandum of Understanding, which expires July 2, 2006, as modified by the ratified addendum dated June 30, 2004, relating to the release of copies of videotaped incidents, shall be subject to the California Public Records Act.

(i) This section shall become operative only when the Secretary of the Youth and Adult Correctional Agency certifies in writing that it is necessary to prevent or minimize employment actions, including, but not limited to, layoffs, demotions, reductions in time base, or involuntary transfers of employees. In addition, the Secretary of the Youth and Adult Correctional Agency shall have the sole authority to designate any or all departments, boards, or commissions eligible to have its peace officer employees transfer pursuant to subdivision (a) and any or all departments, boards, or commissions that shall accept peace officer employees under this section.

SEC. 6. (a) Notwithstanding Section 13340 of the Government Code, there is hereby appropriated, from any appropriate fund sources, the sum necessary to satisfy the economic requirements for employee compensation for employees included in State Bargaining Unit 6, for the term of the Unit 6 Memorandum of Understanding, which expires July 2, 2006, as modified by the ratified addendum dated June 30, 2004.

(b) It is the intent of the Legislature that the appropriation made by this section shall not be construed to set precedent for the funding of the provisions of any future memorandum of understanding entered into pursuant to Sections 3517 and 3517.5 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2004–05 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

