

**Assembly Bill No. 146**

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Passed the Assembly May 11, 2006

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*Chief Clerk of the Assembly*

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Passed the Senate April 24, 2006

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2006, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 19999.3 of, and to add Sections 20037.6, 20677.5, and 20683.1 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

AB 146, Nunez. State employees: memorandum of understanding: State Bargaining Unit 2.

(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 of understanding entered into between the state employer and State Bargaining Unit 2, the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment, 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.

The bill would provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would authorize the state employer and the affected employee organization to reopen negotiations on all or part of the memorandum of understanding if the Legislature does not approve or fully fund any provision of the memorandum of understanding that requires the expenditure of funds.

(2) Existing law provides that state employees, as defined, who become new members of the Public Employees' Retirement System, during their first 24 months of employment, do not make

contributions to the system or receive service credit for their service, and the state employer shall not make contributions on their behalf. These members are instead required to contribute 5% of their monthly compensation, as specified, to an alternate retirement program, administered by the Department of Personnel Administration, and these contributions cease when these state employees begin making their own contributions to the system.

This bill would require that state employees who are hired on or after July 1, 2006, who are members of State Bargaining Unit 2, shall contribute 6% of their monthly compensation, as specified, to the alternative retirement program, as described above.

(3) The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month period.

This bill would provide that final compensation for a person who becomes a state member, as specified, on or after July 1, 2006, and who is represented by State Bargaining Unit 2, means the highest annual average compensation earnable by the member during a designated 36-month period.

(4) The Public Employees' Retirement Law provides that the contribution rate for a state miscellaneous or state industrial member whose service is not included in the federal system is 6% of the compensation in excess of \$317 per month for service rendered on or after July 1, 1976. Existing law provides that the contribution rate for a state miscellaneous or state industrial member whose service has been included in the federal system is 5% of compensation in excess of \$513 per month for service rendered on or after July 1, 1976. Existing law provides that the contribution rate for specified state safety members whose service is not included in the federal system is 6% of the compensation in excess of \$317 per month.

This bill would increase the contribution rates by 1% for the membership classifications described above that are represented

by State Bargaining Unit 2, beginning with the July 2006 pay period.

(5) The annual Budget Act appropriates specified amounts from the General Fund, unallocated special funds, and unallocated nongovernmental cost funds, for state employee compensation.

This bill would appropriate \$13,048,000 from those funds for state employee compensation, in augmentation of the Budget Act of 2005.

(6) 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 the provisions of an agreement pursuant to Section 3517.6 of the Government Code entered into by the state employer and State Bargaining Unit 2, the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) that requires the expenditure of funds.

SEC. 2. The provisions of the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 2 (CASE), on October 21, 2005, and that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2005, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memorandum of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, 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.

SEC. 5. Section 19999.3 of the Government Code is amended to read:

19999.3. (a) The Legislature finds and declares that this chapter is intended to provide an alternate retirement program for new state employees who are members of the Public Employees' Retirement System pursuant to Section 20281.5 and who, during the 24 months of employment following the date they qualify for membership in the system pursuant to that section, do not make contributions into the defined benefit retirement program.

(b) The Legislature hereby authorizes the development of a retirement program under the Deferred Compensation Plan, the tax-deferred Savings Plan, or any other acceptable defined contribution plan.

(c) The state employees described in subdivision (a) who are employed in positions that are subject to the federal system, as defined in Section 20033, shall contribute to the retirement program 5 percent of compensation, as set forth in Part 3 (commencing with Section 20000), in excess of five hundred thirteen dollars (\$513) per month paid that member for service rendered. The state employer shall pick up the contribution, as authorized by Section 414(h) of the Internal Revenue Code, and shall deduct the contribution from the employee's compensation. The contributions required by this subdivision shall cease when the state employee begins making contributions to the defined benefit retirement program.

(d) State employees hired on or after July 1, 2006, who are represented by State Bargaining Unit 2 and are employed in positions that are subject to the federal system, as defined in Section 20033, shall contribute to the retirement program 6 percent of compensation, as set forth in Part 3 (commencing with Section 20000), in excess of five hundred thirteen dollars (\$513) per month paid that member for service rendered. The state employer shall pick up the contribution, as authorized by Section 414 (h) of the Internal Revenue Code, and shall deduct the contribution from the employee's compensation. The contributions required by this subdivision shall cease when the

state employee begins making contributions to the defined benefit retirement program.

(e) (1) “State employees,” as used in this section, include employees, as defined in Section 19815.

(2) This section shall not apply to employees of the California State University, the University of California, or the legislative or judicial branch.

(f) If the retirement program authorized by this section is inconsistent with federal laws or rules or becomes unnecessary under state or federal law, this section shall become inoperative.

SEC. 6. Section 20037.6 is added to the Government Code, to read:

20037.6. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after July 1, 2006, and is represented by State Bargaining Unit 2, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 2.

(c) This section does not apply to:

(1) Former state employees who return to state employment on or after July 1, 2006.

(2) State employees hired prior to July 1, 2006, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to July 1, 2006, who become subject to representation by State Bargaining Unit 2 on or after July 1, 2006.

(4) State employees on an approved leave of absence who return to active employment on or after July 1, 2006.

SEC. 7. Section 20677.5 is added to the Government Code, to read:

20677.5. (a) Notwithstanding any provisions of Section 20677.4 to the contrary, effective with the beginning of the July 2006 pay period, the normal rate of contribution for state

miscellaneous or state industrial members who are subject to Section 21354.1, and are represented by State Bargaining Unit 2, shall be:

(1) Seven percent of the compensation in excess of three hundred seventeen dollars (\$317) per month paid to a member whose service is not included in the federal system.

(2) Six percent of compensation in excess of five hundred thirteen dollars (\$513) per month paid to that member whose service has been included in the federal system.

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

(c) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 8. Section 20683.1 is added to the Government Code, to read:

20683.1. (a) For each state safety member subject to Section 21369 or 21369.1 who are represented by State Bargaining Unit 2, the normal rate of contribution shall be 7 percent of compensation in excess of three hundred seventeen dollars (\$317) per month paid to a member whose service is not included in the federal system beginning with the July 2006 pay period. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions

of the memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 9. The sum of thirteen million forty-eight thousand dollars (\$13,048,000) is hereby appropriated for expenditure in the 2005–06 fiscal year in augmentation of, and for the purpose of state employee compensation, as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2005 to implement the provisions of the memorandum of understanding approved by this act in accordance with the following schedule:

(a) Four million, seven hundred twelve thousand dollars (\$4,712,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Five million, three hundred thirty-five thousand dollars (\$5,335,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Three million, one thousand dollars (\$3,001,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 10. 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 for the 2005–06 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.















Approved \_\_\_\_\_, 2006

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*Governor*