

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 18, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 357

Introduced by Senator ~~Dunn~~ Perata
(Principal coauthor: ~~Senator Perata~~)
(Principal coauthor: Assembly Member Nunez)
(Coauthors: ~~Senators Alquist and Cedillo~~)
(Coauthors: Assembly Members Klehs and Ridley-Thomas)

February 16, 2005

~~An act to amend Section 11106 of, and to add Sections 12313, 12314, 12315, 12315.1, 12315.2, and 12315.3 to, the Penal Code, relating to ammunition. An act to amend Section 21537.5 of, and to add Section 20037.8 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

SB 357, as amended, ~~Dunn~~ Perata. ~~Ammunition: serialized handgun ammunition. State employees: memoranda of understanding: State Bargaining Units 12 and 13.~~

(1) Under existing law, a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that

requires the expenditure of funds does 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 12 and 13, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.

This bill would further provide that provisions of the memoranda 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 memoranda if funds for those provisions are not specifically appropriated by the Legislature.

(2) 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 of 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 January 1, 2007, and who is represented by State Bargaining Units 12 or 13 means the highest annual average compensation earnable by the member during a designated 36-month period.

(3) Existing law entitles the survivor of a state miscellaneous member in State Bargaining Unit 12 employed by the Department of Transportation who is killed as a result of injury arising out of, and in the course of, his or her duties, to a special death benefit.

This bill would instead allow for that special death benefit only if the member's death occurred as a direct result of injury arising out of, and in the course of, those duties while working on the California highway system performing highway maintenance.

(4) This bill would also appropriate \$47,756,000 from the General Fund and other unallocated funds for expenditure for the 2006–07 fiscal year for state employee compensation in augmentation of the Budget Act of 2006, as specified.

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

~~Existing law generally regulates the sale of ammunition.~~

~~This bill would establish a program requiring serialization of handgun ammunition, as defined, to be enforced by the Department of Justice. The bill would require, commencing January 1, 2009, that handgun ammunition be serialized. The bill would specify the nature of the serialization and provide various exceptions to certain prohibitions in the bill. Manufacture and transfer, of nonserialized handgun ammunition after that date would be an offense, as specified. Possession of nonserialized ammunition, subject to exceptions, after January 1, 2016, would be an infraction or a misdemeanor. The bill would require ammunition vendors and manufacturers to register with the Department of Justice, as specified. The bill would require specified information in connection with handgun ammunition transactions be recorded and maintained by the vendor and manufacturer. Willful failure to comply with certain record requirements by a vendor would be an offense. Provision of false information to a vendor by a prospective ammunition purchaser would be an offense. The bill would impose a fee of \$.005 per bullet or round of ammunition, and a \$50 annual registration fee for handgun ammunition vendors. The Department of Justice would be authorized to adopt regulations relating to assessing and collecting those fees. The fees would be deposited in the Serialized Handgun Ammunition Fund, which would be established by the bill. Manufacturers who fail to comply with certain registry and recordkeeping requirements would be liable for civil penalties, as specified. Persons who obliterate the serialization on assembled ammunition or bullets would be guilty of an offense.~~

~~By creating new crimes, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority $\frac{2}{3}$. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: ~~yes~~-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 the provisions of agreements*
3 *pursuant to Section 3517 of the Government Code entered into*
4 *by the state employer and State Bargaining Units 12 and 13,*
5 *International Union of Operating Engineers, on June 29, 2006*
6 *(State Bargaining Unit 12), and July 10, 2006, (State Bargaining*
7 *Unit 13), that require the expenditure of funds.*

8 *SEC. 2. The provisions of the memoranda of understanding*
9 *prepared pursuant to Section 3517.5 of the Government Code*
10 *and entered into by the state employer and State Bargaining*
11 *Units 12 and 13, International Union of Operating Engineers,*
12 *and that require the expenditure of funds, are hereby approved*
13 *for the purposes of subdivision (b) of Section 3517.6 of the*
14 *Government 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, 2006, and that require the expenditure of*
18 *funds, shall not take effect unless funds for these provisions are*
19 *specifically appropriated by the Legislature. If the Legislature*
20 *does not approve or fully fund any provision of the memoranda*
21 *of understanding that requires the expenditure of funds, either*
22 *party may reopen negotiations on all or part of the memoranda*
23 *of understanding.*

24 *SEC. 4. Notwithstanding Section 3517.6 of the Government*
25 *Code, the provisions of any memorandum of understanding*
26 *included in Section 2 that require the expenditure of funds shall*
27 *become effective even if the provisions of the memoranda of*
28 *understanding are approved by the Legislature in legislation*
29 *other than the annual Budget Act.*

30 *SEC. 5. Section 20037.8 is added to the Government Code, to*
31 *read:*

32 20037.8. (a) *Notwithstanding Sections 20035 and 20037,*
33 *final compensation for a person who becomes a state member of*
34 *the system on or after January 1, 2007, and is represented by*
35 *State Bargaining Unit 12 or 13, means the highest average*
36 *annual compensation earnable by the member during the*
37 *consecutive 36-month period immediately preceding the effective*
38 *date of his or her retirement, or the date of his or her last*

1 *separation from state service if earlier, or during any other*
2 *period of 36 consecutive months during his or her state*
3 *membership that the member designates on the application for*
4 *retirement.*

5 *(b) This section applies to service credit accrued while a*
6 *member of State Bargaining Unit 12 or 13.*

7 *(c) This section does not apply to:*

8 *(1) Former state employees previously employed before*
9 *January 1, 2007, who return to state employment on or after*
10 *January 1, 2007.*

11 *(2) State employees hired prior to January 1, 2007, who were*
12 *subject to Section 20281.5 during the first 24 months of state*
13 *employment.*

14 *(3) State employees hired prior to January 1, 2007, who*
15 *become subject to representation by State Bargaining Unit 12 or*
16 *13 on or after January 1, 2007.*

17 *(4) State employees on an approved leave of absence*
18 *employed before January 1, 2007, who return to active*
19 *employment on or after January 1, 2007.*

20 *SEC. 6. Section 21537.5 of the Government Code is amended*
21 *to read:*

22 21537.5. (a) The special death benefit is payable if the
23 deceased was a state miscellaneous member in State Bargaining
24 Unit 12 employed by the Department of Transportation, if his or
25 her death occurred as a *direct* result of injury arising out of and in
26 the course of his or her official duties with the department
27 *working on the California highway system performing highway*
28 *maintenance*, and if there is a survivor who qualifies under
29 subdivision (b) of Section 21541. The Workers' Compensation
30 Appeals Board, using the same procedures as in workers'
31 compensation hearings, shall in disputed cases determine
32 whether the death of the member occurred as a result of that
33 injury.

34 (b) The jurisdiction of the Workers' Compensation Appeals
35 Board shall be limited solely to the issue of industrial causation,
36 and this section may not be construed to authorize the Workers'
37 Compensation Appeals Board to award costs against this system
38 pursuant to Section 4600, 5811, or any other provision of the
39 Labor Code.

1 (c) This section shall not become operative unless and until a
2 memorandum of understanding has been agreed to by the state
3 employer and the recognized employee organization making this
4 section applicable to those members described in subdivision (a).

5 *SEC. 7. The sum of forty-seven million seven hundred fifty-six*
6 *thousand dollars (\$47,756,000) is hereby appropriated for*
7 *expenditure in the 2006–07 fiscal year in augmentation of, and*
8 *for the purpose of state employee compensation as provided in,*
9 *Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of*
10 *Section 2.00 of the Budget Act of 2006 in accordance to the*
11 *following schedule:*

12 (a) *Seventeen million five hundred sixty-three thousand*
13 *dollars (\$17,563,000) from the General Fund in augmentation of*
14 *Item 9800-001-0001.*

15 (b) *Nineteen million three hundred twenty-three thousand*
16 *dollars (\$19,323,000) from unallocated special funds in*
17 *augmentation of Item 9800-001-0494.*

18 (c) *Ten million eight hundred seventy thousand dollars*
19 *(\$10,870,000) from other unallocated nongovernmental cost*
20 *funds in augmentation of Item 9800-001-0988.*

21 *SEC. 8. This act is an urgency statute necessary for the*
22 *immediate preservation of the public peace, health, or safety*
23 *within the meaning of Article IV of the Constitution and shall go*
24 *into immediate effect. The facts constituting the necessity are:*

25 *In order for the provisions of this act to be applicable as soon*
26 *as possible in the 2006–07 fiscal year, and thereby facilitate the*
27 *orderly administration of state government at the earliest*
28 *possible time, it is necessary that this act take effect immediately.*
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**All matter omitted in this version of the bill
appears in the bill as amended in
Assembly, 06/22/05.**