

AMENDED IN ASSEMBLY APRIL 14, 2009

AMENDED IN ASSEMBLY MARCH 25, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 53**

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**Introduced by Assembly Member Portantino**

**(Coauthors: Assembly Members Ammiano, Arambula, Brownley, Caballero, DeVore, Huffman, Jeffries, Nestande, Salas, Smyth, Swanson, Torrico, and Tran)**

**(Coauthor: Senator Huff)**

December 3, 2008

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An act to add and repeal Section 18005 of the Government Code, relating to state employment.

### LEGISLATIVE COUNSEL'S DIGEST

AB 53, as amended, Portantino. State employment: salary freeze.

Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. Existing law requires the salary range to be based on the principle that like salaries shall be paid for comparable duties and responsibilities. Existing law allows the state to enter into memoranda of understanding relating to employer-employee relations with employee organizations representing certain state employees.

This bill would make findings and declarations regarding the budget deficit facing the state. The bill would, until January 1, 2012, prohibit a person employed by the state whose base salary on *or after* the effective date of the bill is greater than \$150,000 per year from receiving a salary increase while employed in the same position or classification,

and from receiving payment for overtime work. The bill would exempt from this prohibition a person whose compensation is governed by an operative memorandum of understanding, as described above, a person who has been exempted by executive order of the Governor, as specified, and a person whose salary is set pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 18005 is added to the Government Code,  
2 to read:

3 18005. (a) The Legislature finds and declares all of the  
4 following:

5 (1) For several years, the State of California has faced budget  
6 deficits requiring cuts and changes in priorities in order to fund  
7 state activities.

8 (2) In recent months, the United States economy has been dealt  
9 severe blows due to the credit crisis and the housing market crisis,  
10 and their resulting effects upon the financial markets.

11 (3) The ongoing structural deficit in state finances, complicated  
12 by worsening economic developments, has created a fiscal crisis  
13 in the governance of the state.

14 (4) After a nearly three-month deadlock, the Legislature passed  
15 the \$103.4 billion Budget Act of 2008 that addressed a \$15.2 billion  
16 budget shortfall.

17 (5) As the new fiscal year begins, the state is once again facing  
18 a large budget shortfall. In the third quarter of 2008, the state took  
19 in \$1.1 billion less than projected. Economic conditions, including  
20 declining property values and stock prices and soaring  
21 unemployment rates, have generated capital losses rather than  
22 capital gains and reduced sales tax, property tax, and income tax  
23 revenues. These conditions have been estimated to lead to a \$15  
24 billion to \$18 billion budget deficit entering the 2009–10 budget  
25 year.

26 (6) In addition, the state may be required to spend as much as  
27 \$3.5 billion during the 2008–09 fiscal year on prison health care.

28 (7) Freezing certain state salaries will help alleviate the budget  
29 shortfall currently facing the state.

1 (b) Except as provided in subdivision (c), a person employed  
2 by the state whose base salary on *or after* the effective date of this  
3 section is greater than one hundred fifty thousand dollars  
4 (\$150,000) per year shall not receive either of the following:

5 (1) A salary increase while employed in the same position or  
6 classification.

7 (2) Payment for overtime work.

8 (c) Subdivision (b) shall not apply to any of the following:

9 (1) A person whose base salary or other compensation is  
10 governed by an operative memorandum of understanding entered  
11 into pursuant to Chapter 10.3 (commencing with Section 3512) or  
12 Chapter 12 (commencing with Section 3560) of Division 4 of Title  
13 1, or pursuant to another collective bargaining agreement.

14 (2) A person employed in a classification that has been  
15 designated by the Governor to be necessary for protecting the  
16 safety and security of the people of California. The Governor shall  
17 make such a designation only by an executive order that lists the  
18 name of each individual to whom the order applies, his or her job  
19 classification, and the reason for exempting the individual from  
20 the requirements of subdivision (a).

21 (3) A person whose salary is set pursuant to the California  
22 Constitution.

23 (d) For the purposes of this section, a “person employed by the  
24 state” means a person employed by the executive, legislative, or  
25 judicial branch of state government, an appointee to a state board  
26 or commission, and a person employed by the California State  
27 University system.

28 (e) The Controller may reject a request for a disbursement of  
29 funds that violates this section.

30 (f) The Legislature urges the Regents of the University of  
31 California and the Board of Directors of the Hastings College of  
32 the Law to adopt the policy expressed in this section for individuals  
33 employed by those entities.

34 (g) This section shall not be enforced to the extent it is  
35 preempted by federal law.

36 (h) This section shall remain in effect only until January 1, 2012,  
37 and as of that date is repealed, unless a later enacted statute that  
38 is enacted before January 1, 2012, deletes or extends that date.

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