

AMENDED IN ASSEMBLY MARCH 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 964**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Fong (Vice Chair), Beall, and Torrico)**

February 26, 2009

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*An act to amend Section 22708 of the Education Code, and to amend Section 20968 of 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 964, as amended, Committee on Public Employees, Retirement and Social Security. State employees: memorandum of understanding. ~~Under~~

(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 pursuant to ~~a memorandum~~ *memoranda* of understanding entered into between the state employer and ~~an unspecified bargaining unit~~ *State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21, the Service Employees International Union, Local 1000*, 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**

(2) *The Public Employees' Retirement Law and the State Teachers' Retirement Law provide retirement benefits based upon final compensation and years of credited service. Both laws provide that state employees in the personal leave program shall receive credit for service that would have been credited had the employee not been in the personal leave program.*

*This bill would provide that the calculations of retirement allowances under the Public Employees' Retirement Law for state employees in the Mandatory Personal Furlough Leave Program, as defined, shall include earnings, contributions, and compensation earnable that would have been reported had the employee not been in the Mandatory Personal Furlough Leave Program. The bill also would provide, for all retirement purposes under the State Teachers' Retirement Law, including benefit eligibility and calculations of retirement allowances for state employees in the Mandatory Personal Furlough Leave Program, credit for service shall be based on the amount of service that would have been credited had the employee not been in the Mandatory Personal Furlough Leave Program.*

(3) *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 \$9,474,000 from those funds for state employee compensation in augmentation of the Budget Act of 2008.*

(4) *This bill would provide that provisions of the ~~memorandum 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 ~~require the state employer and the affected employee organization to meet and confer to renegotiate the affected provisions if funds for these provisions are not specifically appropriated by the Legislature~~ authorize either party to reopen negotiations on all or part of the memoranda of understanding if the Legislature does not approve or fully fund any provision of the memoranda of understanding that requires the expenditure of funds.*

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

Vote:  $\frac{2}{3}$ . Appropriation: ~~no~~ yes. 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 agreements pursuant to Section*  
3 *3517 of the Government Code entered into by the state employer*  
4 *and State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21 on*  
5 *February 13, 2009, that require the expenditure of funds.*

6     *SEC. 2. The provisions of the memoranda of understanding*  
7 *prepared pursuant to Section 3517.5 of the Government Code and*  
8 *entered into by the state employer and the following employee*  
9 *organizations, and that require the expenditure of funds, are hereby*  
10 *approved for the purposes of subdivision (b) of Section 3517.6 of*  
11 *the Government Code:*

12     *(a) State Bargaining Unit 1, Service Employees International*  
13 *Union, Local 1000.*

14     *(b) State Bargaining Unit 3, Service Employees International*  
15 *Union, Local 1000.*

16     *(c) State Bargaining Unit 4, Service Employees International*  
17 *Union, Local 1000.*

18     *(d) State Bargaining Unit 11, Service Employees International*  
19 *Union, Local 1000.*

20     *(e) State Bargaining Unit 14, Service Employees International*  
21 *Union, Local 1000.*

22     *(f) State Bargaining Unit 15, Service Employees International*  
23 *Union, Local 1000.*

24     *(g) State Bargaining Unit 17, Service Employees International*  
25 *Union, Local 1000.*

26     *(h) State Bargaining Unit 20, Service Employees International*  
27 *Union, Local 1000.*

28     *(i) State Bargaining Unit 21, Service Employees International*  
29 *Union, Local 1000.*

30     *SEC. 3. The provisions of the memoranda of understanding*  
31 *approved by Section 2 of this act that are scheduled to take effect*  
32 *on or after February 1, 2009, and that require the expenditure of*  
33 *funds, shall not take effect unless funds for these provisions are*  
34 *specifically appropriated by the Legislature. If the Legislature*  
35 *does not approve or fully fund any provision of the memoranda of*  
36 *understanding that requires the expenditure of funds, either party*  
37 *may reopen negotiations on all or part of the memoranda of*  
38 *understanding.*

1     *SEC. 4. Notwithstanding Section 3517.6 of the Government*  
2 *Code, the provisions of any memorandum of understanding*  
3 *included in Section 2 that require the expenditure of funds shall*  
4 *become effective even if the provisions of the memorandum of*  
5 *understanding are approved by the Legislature in legislation other*  
6 *than the annual Budget Act.*

7     *SEC. 5. Section 22708 of the Education Code is amended to*  
8 *read:*

9     22708. (a) The calculations of retirement allowances under  
10 this part for state employees in the personal leave program shall  
11 include credit for service that would have been credited had the  
12 employee not been in the personal leave program. The costs that  
13 result from the increased service credit shall be paid for by the  
14 employer in a manner prescribed by the system.

15     (b) *The calculations of retirement allowances under this part*  
16 *for state employees in the Mandatory Personal Furlough Leave*  
17 *Program shall include earnings, contributions, and compensation*  
18 *earnable that would have been reported had the employee not been*  
19 *in the Mandatory Personal Furlough Leave Program. The costs*  
20 *that result from the increased service credit shall be paid by the*  
21 *employer in a manner prescribed by the system pursuant to Section*  
22 *22909.*

23     (c) *For purposes of subdivision (b), “Mandatory Personal*  
24 *Furlough Leave Program” means the Mandatory Personal*  
25 *Furlough Leave Program effective in the 2008–09 and 2009–10*  
26 *fiscal years for any of the following state employees:*

27     (1) *Individuals covered by a collective bargaining agreement*  
28 *that contains provisions defining the Mandatory Personal Furlough*  
29 *Leave Program.*

30     (2) *Individuals who are excepted from the definition of “state*  
31 *employee” in subdivision (c) of Section 3513, and officers or*  
32 *employees of the executive branch of state government who are*  
33 *not members of the civil service.*

34     (3) *Individuals subject to an Executive Order requiring a*  
35 *mandatory furlough for state employees.*

36     *SEC. 6. Section 20968 of the Government Code is amended to*  
37 *read:*

38     20968. (a) For all retirement purposes, including benefit  
39 eligibility and calculations of retirement allowances for state  
40 employees in the personal leave program, credit for service shall

1 be based on the amount of service that would have been credited  
2 had the employee not been in the personal leave program.

3 *(b) For all retirement purposes, including benefit eligibility and*  
4 *calculations of retirement allowances for state employees in the*  
5 *Mandatory Personal Furlough Leave Program, credit for service*  
6 *shall be based on the amount of service that would have been*  
7 *credited had the employee not been in the Mandatory Personal*  
8 *Furlough Leave Program.*

9 *(c) For purposes of subdivision (b), “Mandatory Personal*  
10 *Furlough Leave Program” means the Mandatory Personal*  
11 *Furlough Leave Program effective in the 2008–09 and 2009–10*  
12 *fiscal years for any of the following state employees:*

13 *(1) Individuals covered by a collective bargaining agreement*  
14 *that contains provisions defining the Mandatory Personal Furlough*  
15 *Leave Program.*

16 *(2) Individuals who are excepted from the definition of “state*  
17 *employee” in subdivision (c) of Section 3513, and officers or*  
18 *employees of the executive branch of state government who are*  
19 *not members of the civil service.*

20 *(3) Individuals subject to an Executive Order requiring a*  
21 *mandatory furlough for state employees.*

22 *SEC. 7. The sum of nine million four hundred seventy-four*  
23 *thousand dollars (\$9,474,000) is hereby appropriated for*  
24 *expenditure in the 2008–09 fiscal year in augmentation of, and*  
25 *for the purpose of state employee compensations as provided in*  
26 *Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of*  
27 *Section 2.00 of the Budget Act of 2008 in accordance with the*  
28 *following schedule:*

29 *(a) Four million three hundred fifty-seven thousand dollars*  
30 *(\$4,357,000) from the General Fund in augmentation of Item*  
31 *9800-001-0001.*

32 *(b) Three million four hundred twenty-eight thousand dollars*  
33 *(\$3,428,000) from unallocated special funds in augmentation of*  
34 *Item 9800-001-0494.*

35 *(c) One million six hundred eighty-nine thousand dollars*  
36 *(\$1,689,000) from other unallocated nongovernmental cost funds*  
37 *in augmentation of Item 9800-001-0988.*

38 *SEC. 8. This act is an urgency statute necessary for the*  
39 *immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*  
2 *immediate effect. The facts constituting the necessity are:*

3 *In order for the provisions of this act to be applicable as soon*  
4 *as possible in the 2008–09 fiscal year, and thereby facilitate the*  
5 *orderly administration of state government at the earliest possible*  
6 *time, it is necessary that this act take effect immediately.*

7 ~~SECTION 1. The Legislature finds and declares that the~~  
8 ~~purpose of this act is to approve an agreement pursuant to Section~~  
9 ~~3517.5 of the Government Code entered into by the state employer~~  
10 ~~and State Bargaining Unit \_\_\_\_.~~

11 ~~SEC. 2. The provisions of the memorandum of understanding~~  
12 ~~prepared pursuant to Section 3517.5 of the Government Code and~~  
13 ~~entered into by the state employer and State Bargaining Unit \_\_\_\_~~  
14 ~~and that require the expenditure of funds, are hereby approved for~~  
15 ~~the purposes of Section 3517.6 of the Government Code.~~

16 ~~SEC. 3. The provisions of the memorandum of understanding~~  
17 ~~approved by Section 2 of this act that require the expenditure of~~  
18 ~~funds, shall not take effect unless funds for these provisions are~~  
19 ~~specifically appropriated by the Legislature. If funds for these~~  
20 ~~provisions are not specifically appropriated by the Legislature, the~~  
21 ~~state employer and the affected employee organization shall meet~~  
22 ~~and confer to renegotiate the affected provisions.~~

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

28 ~~SEC. 5. This act is an urgency statute necessary for the~~  
29 ~~immediate preservation of the public peace, health, or safety within~~  
30 ~~the meaning of Article IV of the Constitution and shall go into~~  
31 ~~immediate effect. The facts constituting the necessity are:~~

32 ~~In order for the provisions of this act to be applicable as soon as~~  
33 ~~possible in the 2008–09 fiscal year, and thereby facilitate the~~  
34 ~~orderly administration of state government at the earliest possible~~  
35 ~~time, it is necessary that this act take effect immediately.~~