

Assembly Bill No. 1625

CHAPTER 728

An act to add Sections 19829.96, 19829.97, 19829.98, 20677.71, 20677.91, and 20682 to the Government Code, relating to public employment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 19, 2010. Filed with
Secretary of State October 19, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1625, John A. Pérez. Public employment: collective bargaining.

(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 a memorandum of understanding entered into between the state employer and State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21, 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 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 organizations 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) The Public Employees' Retirement Law (PERL) provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. PERL prescribes contribution rates for state employees who are state miscellaneous, state industrial, state safety members, patrol members, or state peace officer/firefighter members, among others, in amounts based on percentages of monthly compensation. PERL reduces those contributions by excepting from the definition of monthly compensation specified amounts ranging between \$238 and \$863, based on member classification, among other things. Member contributions are deposited into the Public Employees' Retirement Fund, which is a continuously appropriated trust fund.

This bill would increase the contribution rates by 3% for those state miscellaneous or state industrial members, and state safety members of State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21.

The bill would also increase the rate of contribution for a state employee who is excepted from the definition of “state employee,” and for an officer or employee of the executive branch who is not a member of civil service as follows: the rate for state miscellaneous or state industrial members would increase to 9% for those employees not included in the federal system, and to 8% for those included in the federal system, except that for those persons related to Bargaining Unit 2, the increase would be to 10% or 9%, respectively; the rate for state safety members would increase to 9%; the rate for peace officer/firefighter members who are related to Bargaining Unit 6 or 7 would increase to 11%. By increasing member contributions into a continuously appropriated fund, this bill would make an appropriation.

(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, in the event that the annual Budget Act is not enacted prior to July 1 of each year covered by the memoranda of understanding for State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21, provide for a continuous appropriation for the amount necessary for the payment of compensation and benefits to members of those bargaining units.

(4) Existing law requires the Department of Personnel Administration to provide a memorandum of understanding to the Legislative Analyst who shall have 10 calendar days from the date the tentative agreement is received to issue a fiscal analysis to the Legislature. Existing law prohibits the memorandum of understanding from being subject to legislative determination until either the Legislative Analyst has presented a fiscal analysis of the memorandum of understanding or until 10 calendar days has elapsed since the memorandum was received by the Legislative Analyst.

This bill would state that any failure to comply with those provisions shall not affect the validity of this act.

(5) 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 agreement pursuant to Section 3517.5 of the Government Code entered into by the state employer and State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21 that require 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 Units 1, 3, 4, 11, 14, 15, 17, 20, and 21, dated October 7, 2010, 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, 2010, 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 18929.96 is added to the Government Code, to read:

18929.96. (a) Notwithstanding Section 13340, for the 2011–12 fiscal year, if the 2011–12 Budget Act is not enacted by July 1, 2011, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2011–12 Budget Act is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2011, of the 2011–12 fiscal year and the enactment of the 2011–12 Budget Act.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the 2011–12 Budget Act, these expenditures shall be subsumed by the expenditure authority approved in the 2011–12 Budget Act for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 memoranda of understanding (each effective July 1, 2010, to July 1, 2013, inclusive). Notwithstanding Section 3517.8, this section shall not apply after the term

of the memorandum of understanding has expired. For purposes of this section, the memorandum of understanding for each unit expires on July 1, 2013.

SEC. 6. Section 19829.97 is added to the Government Code, to read:

19829.97. (a) Notwithstanding Section 13340, for the 2012–13 fiscal year, if the 2012–13 Budget Act is not enacted by July 1, 2012, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2012–13 Budget Act is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2012, of the 2012–13 fiscal year and the enactment of the 2012–13 Budget Act.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the 2012–13 Budget Act, these expenditures shall be subsumed by the expenditure authority approved in the 2012–13 Budget Act for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 memoranda of understanding (each effective July 1, 2010, to July 1, 2013, inclusive). Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding has expired. For purposes of this section, the memorandum of understanding for each unit expires on July 1, 2013.

SEC. 7. Section 19829.98 is added to the Government Code, to read:

19829.98. (a) Notwithstanding Section 13340, for the 2013–14 fiscal year, if the 2013–14 Budget Act is not enacted by July 1, 2013, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated,

the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2013–14 Budget Act is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2013, of the 2013–14 fiscal year and the enactment of the 2013–14 Budget Act.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the 2013–14 Budget Act, these expenditures shall be subsumed by the expenditure authority approved in the 2013–14 Budget Act for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 memoranda of understanding (each effective July 1, 2010, to July 1, 2013, inclusive). Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding has expired. For purposes of this section, the memorandum of understanding for each unit expires on July 1, 2013.

SEC. 8. Section 20677.71 is added to the Government Code, to read:

20677.71. (a) Notwithstanding Section 20677.4, effective with the beginning of the pay period following ratification by the affected union membership and enactment of this section, the normal rate of contribution for state miscellaneous or state industrial members who are represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 shall be:

(1) Nine 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) Eight 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) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal

rate of contribution for a related 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.

SEC. 9. Section 20677.91 is added to the Government Code, to read:

20677.91. (a) Notwithstanding Section 20683, effective with the beginning of the pay period following ratification by the affected union membership and enactment of this section, the normal rate of contribution for state safety members who are represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 shall be 9 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 or in excess of five hundred thirteen dollars (\$513) for one whose service is 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 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.

(c) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related 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.

SEC. 10. Section 20682 is added to the Government Code, to read:

20682. Notwithstanding Sections 20677.4, 20677.5, 20677.6, 20677.9, 20683, 20683.1, 20686, and 20687, effective with the beginning of the pay period following enactment of this section, 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 shall be the following:

(a) For state miscellaneous or state industrial members:

(1) Nine 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) Eight 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) For state miscellaneous or state industrial members who are excepted from the definition of “state employee” in subdivision (c) of Section 3513 and related to State Bargaining Unit 2:

(1) Ten 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) Nine 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.

(c) State safety members shall be 9 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 or in excess of five hundred thirteen dollars (\$513) for one whose service is included in the federal system.

(d) Peace officer/firefighter members shall be 11 percent of compensation in excess of eight hundred sixty-three dollars (\$863) for state employees who are excepted from the definition of “state employee” in subdivision (c) of Section 3513 and related to State Bargaining Unit 6.

(e) Peace officer/firefighter members shall be 11 percent of compensation in excess of five hundred thirteen dollars (\$513) for state employees who are excepted from the definition of “state employee” in subdivision (c) of Section 3513 and related to State Bargaining Unit 7.

SEC. 11. Any failure to comply with Section 19829.5 of the Government Code shall not affect the validity of this act.

SEC. 12. 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 2010–11 fiscal year, and thereby facilitate the orderly administration of state government at the earliest time possible, it is necessary that this act take effect immediately.