

June 9, 2011

STATUTORY PROVISIONS

An act to amend Sections 107, 4809.8, 11310, 19428, and 19816 of the Business and Professions Code, to amend Sections 22717.5, 22901.3, 24003, 24103, 59008, 59104, 59205, 70120, and 70122 of the Education Code, to amend Sections 6006, 6042, 6047.4, 6988, 14581, 14971, 27574, 29028, 40576, 41008, 41867, 52885, 54442, 74743, 77939, and 78239 of the Food and Agricultural Code, to amend Section 17450 of the Family Code, to amend Section 2203 of the Fish and Game Code, to amend Sections 927.13, 1150, 1156, 1156.1, 3513, 3517.63, 3527, 3535, 3537, 3539.5, 3541, 3572.1, 7507, 8001, 8164.1, 8546, 8870.4, 8880.18, 8903, 9149.4, 11270, 11552, 11565.5, 12010.6, 12012.85, 13332.07, 14876, 14998.3, 16649.94, 18000.5, 18573, 18574, 18706, 18707, 18708, 18711, 18714, 18717, 18801.1, 18802, 18904, 18905, 19134, 19172, 19253.5, 19261, 19576.1, 19582, 19583, 19592, 19608, 19770, 19775, 19775.1, 19775.15, 19775.16, 19775.17, 19775.18, 19815, 19815.8, 19815.41, 19816.21, 19816.22, 19819.5, 19822.6, 19822.7, 19827.3, 19829.5, 19829.6, 19844.7, 19849.11, 19849.13, 19849.14, 19849.16, 19853, 19853.1, 19867, 19995.5, 19997.15, 19999.1, 19999.3, 19999.21, 19999.31, 20068, 20090, 20090.1, 20398, 20405, 20405.1, 20405.2, 20405.3, 20407, 20408, 20632, 20636, 20672.5, 20677.4, 20683, 20683.1, 20867, 20963.1, 21070, 21159, 21160, 21195, 21223, 21251.13, 21353, 21354.1, 21362.2, 21363, 21363.1, 21363.4, 21363.8, 21369, 21369.1, 21369.2, 21410, 21465, 21672, 21674, 22808, 22811, 22814, 22815, 22816, 22850, 22865, 22871.5, 22877, 22944.3, 22953, 22954, 22959, 22959.2, 22959.4,

22959.6, 22960, 22960.35, 22960.60, 22960.100, 68203, 77601, 77602, and 100503 of, to amend the heading of Chapter 1 (commencing with Section 19815) of Part 2.6 of Division 5 of Title 2 of, to add Section 19573 to, to repeal Section 19702 of, and to repeal and add Section 19815.2 to, the Government Code, to amend Sections 1777, 11755, and 50909 of the Health and Safety Code, to amend Sections 10203.2, 11871, 12693.65, and 12710 of the Insurance Code, to amend Sections 122, 123, 3352, and 4600 of the Labor Code, to amend Sections 322 and 1011 of the Military and Veterans Code, to amend Sections 10295, 10344.1, and 10349 of the Public Contract Code, to amend Sections 832.9 and 6050 of the Penal Code, to amend Sections 309.1 and 185024 of the Public Utilities Code, to amend Section 19270 of the Revenue and Taxation Code, to amend Section 2266 of the Vehicle Code, and to amend Section 80122 of the Water Code, relating to state human resource functions.

LEGISLATIVE COUNSEL'S DIGEST

Governor's Reorganization Plan No. 1 of 2011

Governor's Reorganization Plan: state human resources functions.

The California Constitution establishes the State Personnel Board, and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary actions. The constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Existing statutory law establishes the Department of Personnel Administration for purposes of managing the nonmerit aspects of the state's personnel system.

This reorganization plan would create the Department of Human Resources, which would be vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Personnel Board as its designee with respect to the State Personnel Board's administrative and ministerial functions. The plan would abolish the Department of Personnel Administration, and would transfer the functions and duties performed by the Department of Personnel Administration to the Department of Human Resources. The plan would authorize the Department of Human Resources to establish disciplinary criteria applicable to adverse actions taken by appointing bodies pursuant to causes of discipline for employees and individuals established pursuant to specified provisions of law. The plan would require the State

Personnel Board to give consideration and respect to any applicable disciplinary criteria established by the Department of Human Resources in making certain decisions relating to disciplinary proceedings. The plan would eliminate certain functions of the State Personnel Board relating to investigating and hearing complaints of discrimination in the civil service.

This reorganization plan would become operative on July 1, 2012.

1 SECTION 1. Section 107 of the Business and Professions Code
2 is amended to read:

3 107. Pursuant to subdivision (e) of Section 4 of Article VII of
4 the California Constitution, each board may appoint a person
5 exempt from civil service and may fix his or her salary, with the
6 approval of the ~~Department of Personnel Administration~~
7 *Department of Human Resources* pursuant to Section 19825 of
8 the Government Code, who shall be designated as an executive
9 officer unless the licensing act of the particular board designates
10 the person as a registrar.

11 SEC. 2. Section 4809.8 of the Business and Professions Code
12 is amended to read:

13 4809.8. (a) The board shall establish an advisory committee
14 to assist, advise, and make recommendations for the
15 implementation of rules and regulations necessary to ensure proper
16 administration and enforcement of this chapter and to assist the
17 board in its examination, licensure, and registration programs. This
18 committee shall be known as the Veterinary Medicine
19 Multidisciplinary Advisory Committee. Members of the
20 multidisciplinary committee shall be appointed by the board from
21 lists of nominees solicited by the board. The committee shall
22 consist of the following seven members: four licensed
23 veterinarians, two registered veterinary technicians, and one public
24 member. Members of the multidisciplinary committee shall
25 represent a sufficient cross section of the interests in veterinary
26 medicine in order to address the issues before it, as determined by
27 the board, including veterinarians, registered veterinary technicians,
28 and members of the public.

29 (b) Multidisciplinary committee members shall hold office for
30 a term of three years and appointments shall be staggered
31 accordingly. A member may be reappointed, but no person shall
32 serve as a member of the committee for more than two consecutive

1 terms. Vacancies occurring shall be filled by appointment for the
2 unexpired term, within 90 days after they occur.

3 (c) The multidisciplinary committee shall be subject to the
4 requirements of Article 9 (commencing with Section 11120) of
5 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
6 Code.

7 (d) Multidisciplinary committee members shall receive a per
8 diem as provided in Section 103 and shall be compensated for their
9 actual travel expenses in accordance with the rules and regulations
10 adopted by the ~~Department of Personnel Administration~~
11 *Department of Human Resources*.

12 (e) The board may remove a member of the multidisciplinary
13 committee for continued neglect of a duty required by this chapter,
14 for incompetency, or for unprofessional conduct.

15 SEC. 3. Section 11310 of the Business and Professions Code
16 is amended to read:

17 11310. The Governor shall appoint, subject to confirmation
18 by the Senate, the Director of the Office of Real Estate Appraisers
19 who shall, in consultation with the Governor and secretary,
20 administer the licensing and certification program for real estate
21 appraisers. In making the appointment, consideration shall be given
22 to the qualifications of an individual that demonstrate knowledge
23 of the real estate appraisal profession.

24 (a) The director shall serve at the pleasure of the Governor. The
25 salary for the director shall be fixed and determined by the secretary
26 with approval of the ~~Department of Personnel Administration~~
27 *Department of Human Resources*.

28 (b) The director shall not be actively engaged in the appraisal
29 business or any other affected industry for the term of appointment,
30 and thereafter the director shall be subject to Section 87406 of the
31 Government Code.

32 (c) The director, in consultation with the secretary and in
33 accordance with the State Civil Service Act, may appoint and fix
34 the compensation of legal, clerical, technical, investigation, and
35 auditing personnel as may be necessary to carry out this part. All
36 personnel shall perform their respective duties under the
37 supervision and direction of the director.

38 (d) The director may appoint not more than four deputy directors
39 as he or she deems appropriate. The deputy directors shall perform

1 their respective duties under the supervision and direction of the
2 director.

3 (e) Every power granted to or duty imposed upon the director
4 under this part may be exercised or performed in the name of the
5 director by the deputy directors, subject to conditions and
6 limitations as the director may prescribe.

7 SEC. 4. Section 19428 of the Business and Professions Code
8 is amended to read:

9 19428. The board shall appoint an executive director who shall
10 receive the annual salary established by the board and approved
11 by the ~~Department of Personnel Administration~~ *Department of*
12 *Human Resources*. The executive director shall be the board's
13 executive officer and shall carry out and execute the duties as
14 specified by law and by the board.

15 SEC. 5. Section 19816 of the Business and Professions Code
16 is amended to read:

17 19816. (a) The commission shall have an executive director
18 appointed by the commission. A person is ineligible for
19 appointment as executive director or deputy executive director if,
20 within two years prior to appointment, the person, or any
21 partnership or corporation in which the person is a principal, was
22 employed by, retained by, or derived substantial income from, any
23 gambling establishment, whether or not a controlled gambling
24 establishment.

25 (b) The executive director shall receive the annual salary
26 established by the commission and approved by the ~~Department~~
27 ~~of Personnel Administration~~ *Department of Human Resources*.
28 The executive director shall be the commission's executive officer
29 and shall carry out and execute the duties as specified by law and
30 by the commission.

31 (c) The commission may appoint other staff and clerical
32 personnel as necessary to carry out its duties under this chapter.

33 SEC. 6. Section 22717.5 of the Education Code is amended to
34 read:

35 22717.5. (a) A member shall be credited at service retirement
36 for each day of accumulated and unused leave of absence for
37 education for which full salary is allowed on the member's final
38 day of employment with the state.

39 (b) The amount of service credit to be granted shall be 0.004
40 years of service for each unused day of educational leave credit.

1 (c) When the member has made application for service
2 retirement under this part, the employer shall certify to the board,
3 within 30 days following the effective date of the member's service
4 retirement, the number of days of accumulated and unused leave
5 of absence for education that the member was entitled to on the
6 final day of employment. The board may assess a penalty on
7 delinquent reports.

8 (d) This section shall apply to eligible state employees in state
9 bargaining units that have agreed to this section in a memorandum
10 of understanding, or as authorized by the Director of the
11 ~~Department of Personnel Administration~~ *Department of Human*
12 *Resources* for classifications of state employees that are excluded
13 from the definition of "state employee" by paragraph (c) of Section
14 3513 of the Government Code.

15 (e) The provisions of this section shall be effective for eligible
16 members who retire directly from state employment on or after
17 January 1, 2000.

18 SEC. 7. Section 22901.3 of the Education Code is amended to
19 read:

20 22901.3. (a) Notwithstanding Section 22901, the normal rate
21 of contribution for a "state employee," as defined in subdivision
22 (c) of Section 3513 of the Government Code, who is a member of
23 the Defined Benefit Program, may be established by a
24 memorandum of understanding reached pursuant to Section 3517.5
25 of the Government Code. The memorandum of understanding shall
26 be controlling without further legislative action, except that if the
27 provisions of the memorandum of understanding require the
28 expenditure of funds, the provisions may not become effective
29 unless approved by the Legislature in the annual Budget Act.

30 (b) The Director of the ~~Department of Personnel Administration~~
31 *Department of Human Resources* may establish the normal rate
32 of contribution for a state employee who is a member of the
33 Defined Benefit Program who is excepted from the definition of
34 "state employee" in subdivision (c) of Section 3513 of the
35 Government Code, and an officer or employee of the executive
36 branch of state government who is not a member of the civil
37 service. The normal rate of contribution shall be the same for all
38 members identified in this subdivision. The contribution rate shall
39 be effective the beginning of the pay period indicated by the
40 Director of the ~~Department of Personnel Administration~~

1 *Department of Human Resources* but shall be no earlier than the
2 beginning of the pay period following the date the board receives
3 notification.

4 SEC. 8. Section 24003 of the Education Code is amended to
5 read:

6 24003. (a) The member shall provide medical documentation
7 to substantiate the impairment qualifying the member for the
8 disability allowance.

9 (b) On receipt of an application for disability allowance under
10 this part, the system may order a medical examination of a member
11 to determine whether the member is incapacitated for performance
12 of service. The medical examination shall be conducted by a
13 practicing physician, selected by the board, with expertise in the
14 member's disability and the board shall pay all costs associated
15 with the examination. The board shall pay all other reasonable
16 costs related to travel and meals in accordance with the rates set
17 for state employees by the ~~Department of Personnel Administration~~
18 *Department of Human Resources*. If the member refuses to submit
19 to the required medical examination, the application for disability
20 allowance shall be rejected. The member shall either remain in
21 this state, or return to this state at the member's own expense, to
22 undergo the initial evaluations or examinations, or the application
23 shall be rejected, unless this requirement is waived by the board.
24 If the member is too ill to be examined, the system shall postpone
25 the examination until the member can be examined. The member
26 or the member's treating physician shall inform the system, in
27 writing, when the medical examination can be rescheduled.

28 (c) The system may reject the disability allowance application
29 under this part if the member fails to provide requested medical
30 documentation to substantiate a disability, as defined in Section
31 22126, within 45 days from the date of the request or within 30
32 days from the time that a legally designated representative is
33 empowered to act on behalf of a member who is mentally or
34 physically incapacitated.

35 (d) If the board determines that a member who has applied for
36 a disability allowance under this part may perform service in the
37 member's former position of employment or in a comparable level
38 position with the assistance of reasonable accommodation, the
39 board may require the member to request reasonable
40 accommodation from the employer. Failure of the member to

1 request reasonable accommodation, as directed by the board, may
2 be grounds for cancellation of the disability allowance application.

3 (e) If the employer fails or refuses to provide reasonable
4 accommodation, the board may require the member to pursue an
5 administrative appeal of the employer's denial as a condition for
6 receiving a disability allowance under this part.

7 (f) The system shall inform the member of the rejection or
8 cancellation of the member's disability allowance application under
9 this part within 30 days after that determination is made by the
10 system.

11 (g) In determining whether a member meets the definition of
12 disability pursuant to Section 22126, the board shall make a
13 determination on the basis of competent medical documentation
14 and shall not use the awarding of a disability allowance as a
15 substitute for the disciplinary process.

16 SEC. 9. Section 24103 of the Education Code is amended to
17 read:

18 24103. (a) The member shall provide medical documentation
19 substantiating the impairment qualifying the member for the
20 disability retirement under this part.

21 (b) On receipt of an application for disability retirement under
22 this part, the system may order a medical examination of a member
23 to determine whether the member is incapacitated for performance
24 of service. The medical examination shall be conducted by a
25 practicing physician, selected by the board, with expertise in the
26 member's disability, and the board shall pay all costs associated
27 with the examination. The board shall pay all other reasonable
28 costs related to travel and meals in accordance with the rates set
29 for state employees by the ~~Department of Personnel Administration~~
30 *Department of Human Resources*. If the member refuses to submit
31 to the required medical examination, the application for disability
32 retirement shall be rejected. The member shall either remain in
33 this state, or return to this state at the member's own expense, to
34 undergo the initial evaluations or examinations or the application
35 shall be rejected, unless this requirement is waived by the board.
36 If the member is too ill to be examined, the system shall postpone
37 the examination until the member can be examined. The member
38 or the member's treating physician shall inform the system, in
39 writing, when the medical examination can be rescheduled.

1 (c) The system may reject the disability retirement application
2 under this part if the member fails to provide requested medical
3 documentation to substantiate a disability, as defined in Section
4 22126, within 45 days from the date of the request or within 30
5 days from the time that a legally designated representative is
6 empowered to act on behalf of a member who is mentally or
7 physically incapacitated.

8 (d) If the board determines that a member who has applied for
9 disability retirement under this part may perform service in the
10 member's former position of employment or in a comparable level
11 position with the assistance of reasonable accommodation, the
12 board may require the member to request reasonable
13 accommodation from the employer. Failure of the member to
14 request reasonable accommodation, as directed by the board, may
15 be grounds for cancellation of the disability retirement application
16 under this part.

17 (e) If the employer fails or refuses to provide reasonable
18 accommodation, the board may require the member to pursue an
19 administrative appeal of the employer's denial as a condition for
20 receiving a disability retirement allowance under this part.

21 (f) The system shall inform the member of the rejection or
22 cancellation of the member's disability retirement allowance
23 application under this part within 30 days after that determination
24 is made by the system.

25 (g) In determining whether a member meets the definition of
26 disability pursuant to Section 22126, the board shall make a
27 determination on the basis of competent medical documentation
28 and shall not use the awarding of a disability retirement as a
29 substitute for the disciplinary process.

30 SEC. 10. Section 59008 of the Education Code is amended to
31 read:

32 59008. (a) ~~The Department of Personnel Administration~~
33 *Department of Human Resources* shall consider making salaries
34 for teachers, specialists, and administrators of the California School
35 for the Deaf competitive with the salaries of similarly qualified
36 school teachers, specialists, and administrators who are employed
37 by the encompassing school districts.

38 (b) For purposes of this section, "teachers," "teacher specialists,"
39 and "administrators" mean those individuals who hold the
40 appropriate teaching, service, or teaching and administrative

1 credential, as appropriate, as issued by the Commission on Teacher
2 Credentialing, as determined by the employing state agency.

3 SEC. 11. Section 59104 of the Education Code is amended to
4 read:

5 59104. (a) ~~The Department of Personnel Administration~~
6 *Department of Human Resources* shall consider making salaries
7 for teachers, specialists, and administrators of the California School
8 for the Blind competitive with the salaries of similarly qualified
9 school teachers, specialists, and administrators who are employed
10 by the encompassing school districts.

11 (b) For purposes of this section, “teachers,” “teacher specialists,”
12 and “administrators” mean those individuals who hold the
13 appropriate teaching, service, or teaching and administrative
14 credential, as appropriate, as issued by the Commission on Teacher
15 Credentialing, as determined by the employing state agency.

16 SEC. 12. Section 59205 of the Education Code is amended to
17 read:

18 59205. (a) ~~The Department of Personnel Administration~~
19 *Department of Human Resources* shall consider making salaries
20 for teachers, specialists, and administrators of the Diagnostic
21 Center, Southern California, the Diagnostic Center, Central
22 California, and the Diagnostic Center, Northern California,
23 competitive with the salaries of similarly qualified school teachers,
24 specialists, and administrators who are employed by the
25 encompassing school districts.

26 (b) For purposes of this section, “teachers,” “teacher specialists,”
27 and “administrators” mean those individuals who hold the
28 appropriate teaching, service, or teaching and administrative
29 credential, as appropriate, as issued by the Commission on Teacher
30 Credentialing, as determined by the employing state agency.

31 SEC. 13. Section 70120 of the Education Code is amended to
32 read:

33 70120. (a) (1) Any person enrolled in an eligible institution,
34 or any person who agrees to work full time as a registered nurse
35 in a state-operated 24-hour facility that employs registered nurses,
36 may be eligible to enter into an agreement for loan assumption, to
37 be redeemed pursuant to Section 70122 upon becoming employed
38 as a clinical registered nurse in a state-operated 24-hour facility
39 that employs registered nurses and that has a clinical registered
40 nurse vacancy rate of greater than 10 percent as reported annually

1 to the commission by the ~~Department of Personnel Administration~~
2 *Department of Human Resources* pursuant to Section 70121. In
3 order to be eligible to enter into an agreement for loan assumption,
4 an applicant shall satisfy all of the conditions specified in
5 subdivision (b).

6 (2) As used in this article, “eligible institution” means a
7 postsecondary institution that is determined by the Student Aid
8 Commission to meet both of the following requirements:

9 (A) The institution is eligible to participate in state and federal
10 financial aid programs.

11 (B) The institution maintains an accredited program of
12 professional preparation for licensing as a registered nurse in
13 California.

14 (3) As used in this article, “state-operated 24-hour facility”
15 includes, but is not necessarily limited to, a state-operated prison,
16 psychiatric hospital, or veterans’ home.

17 (b) (1) The applicant has been admitted to, or is enrolled in, or
18 has successfully completed an accredited program of professional
19 preparation for licensing as a registered nurse in California.
20 However, a person who is currently employed as a registered nurse
21 in a state-operated 24-hour facility may be eligible to enter into
22 an agreement for loan assumption under Article 1 (commencing
23 with Section 70100), but is not eligible to enter into an agreement
24 for loan assumption under this article.

25 (2) The applicant is currently enrolled, or has been admitted to
26 a program in which he or she will be enrolled, on a full-time basis,
27 as determined by the participating institution. The applicant shall
28 agree to maintain satisfactory academic progress and a minimum
29 of full-time enrollment, as defined by the participating eligible
30 institution.

31 (3) The applicant has been judged by his or her postsecondary
32 institution to have outstanding ability on the basis of criteria that
33 may include, but need not be limited to, any of the following:

34 (A) Grade point average.

35 (B) Test scores.

36 (C) Faculty evaluations.

37 (D) Interviews.

38 (E) Other recommendations.

39 (4) The applicant has received, or is approved to receive, a loan
40 under one or more of the following designated loan programs:

1 (A) The Federal Family Education Loan Program (20 U.S.C.
2 Sec. 1071 et seq.).

3 (B) Any loan program approved by the Student Aid
4 Commission.

5 (5) The applicant has agreed to work full time for at least four
6 consecutive years as a clinical registered nurse in a state-operated
7 24-hour facility that employs registered nurses and that has a
8 clinical registered nurse vacancy rate of greater than 10 percent
9 as reported annually to the commission by the ~~Department of~~
10 ~~Personnel Administration~~ *Department of Human Resources*.

11 (c) No applicant who has completed fewer than 60 semester
12 units, or the equivalent, shall be eligible under this section to
13 participate in the loan assumption program set forth in this article.

14 (d) An agreement shall remain valid even if the state-operated
15 facility at which the applicant is employed ceases to be listed
16 pursuant to Section 70121 after the applicant is employed there.

17 (e) A person participating in the program pursuant to this section
18 shall not enter into more than one agreement.

19 SEC. 14. Section 70122 of the Education Code is amended to
20 read:

21 70122. The commission shall commence loan assumption
22 payments, as specified in Section 70123, upon verification that
23 the applicant has fulfilled all of the following:

24 (a) The applicant has become a registered nurse licensed to
25 practice in California.

26 (b) The applicant is working full time as a clinical registered
27 nurse in a state-operated 24-hour facility that employs registered
28 nurses and that, at the time the applicant commenced employment
29 there, had a clinical registered nurse vacancy rate of greater than
30 10 percent as reported, pursuant to Section 70121, by the
31 ~~Department of Personnel Administration~~ *Department of Human*
32 *Resources* in its most recent annual report to the commission.

33 (c) The applicant has met the requirements of the agreement
34 and all other pertinent conditions of this article.

35 SEC. 15. Section 6006 of the Food and Agricultural Code is
36 amended to read:

37 6006. The director shall appoint a Cotton Pest Control Board,
38 consisting of 10 members, to assist and advise him or her on
39 matters which pertain to the control of cotton pests and to carry
40 out its authority specified in this article.

1 The membership shall consist of at least one cottongrower from
2 each of the major cotton-growing counties in the state, and one
3 member who is not a cottongrower and who represents the public.

4 Any member of the board who misses two meetings without the
5 permission of the board, is deemed to have resigned as a member
6 of the board.

7 The board may meet in regular session each month. The
8 chairperson of the board or the director may call any other meeting
9 of the board at any time. Each member shall be allowed per diem
10 and mileage in accordance with ~~Department of Personnel~~
11 ~~Administration~~ *Department of Human Resources* rules for attending
12 any meeting of the board.

13 The board shall annually review the effectiveness of the cotton
14 pest control program.

15 SEC. 16. Section 6042 of the Food and Agricultural Code is
16 amended to read:

17 6042. The board shall meet at the call of its chairman or the
18 secretary or at the request of any three members of the board. The
19 board shall meet at least once a year. Members of the board shall
20 be allowed per diem and mileage in accordance with rules of the
21 ~~Department of Personnel Administration~~ *Department of Human*
22 *Resources* for attendance at meetings and other board activities
23 authorized by the board and approved by the secretary.

24 SEC. 17. Section 6047.4 of the Food and Agricultural Code is
25 amended to read:

26 6047.4. (a) The powers of the board shall be the following:

27 (1) Submit recommendations to the secretary on, but not limited
28 to, the following:

29 (A) Selection of officers.

30 (B) Terms of office for board members.

31 (C) Annual assessment rate.

32 (D) Annual budget.

33 (E) Expenditures authorized under Sections 6047.5 and 6047.30.

34 (2) Receive money from the assessment and other sources.

35 (3) Adopt, amend, and rescind all proper and necessary bylaws
36 and procedures.

37 (4) Coordinate its activities with the secretary's science advisory
38 board and agricultural/governmental advisory task force.

39 (b) A majority of the members of the board shall constitute a
40 quorum of the board. The vote of a majority of the members present

1 at a meeting at which there is a quorum constitutes an act of the
2 board, except for actions taken pursuant to subdivision (a) of
3 Section 6047.7, which shall require a majority of the vote of the
4 board. The board may continue to transact business at a meeting
5 where a quorum is initially present, notwithstanding the withdrawal
6 of members, provided any action is approved by the requisite
7 majority of the required quorum.

8 (c) As authorized by the board, members of the board may
9 receive per diem and mileage in accordance with the rules of the
10 ~~Department of Personnel Administration~~ *Department of Human*
11 *Resources* for attendance at meetings and other approved board
12 activities.

13 SEC. 18. Section 6988 of the Food and Agricultural Code is
14 amended to read:

15 6988. The secretary, upon consultation with the pome and stone
16 fruit tree, nut tree, and grapevine nursery industry, shall appoint
17 a board to assist and advise him or her concerning the
18 implementation of this article.

19 (a) Membership on the board shall consist of 11 representatives,
20 a majority of whom are licensed producers of pome, stone, nut,
21 and grape nursery stock, but also users and a public member as
22 follows:

23 (1) Two each from the stone fruit (including almonds), pome
24 fruit, and nut (other than almond) industries.

25 (2) Four from the grape industry.

26 (3) One public representative.

27 (b) Board members shall represent all areas of the state involved
28 in the production of pome and stone fruit trees, nut trees, and
29 grapevines.

30 (c) The members of the board shall serve for fixed terms of up
31 to two years. The secretary, upon nomination by the industry, may
32 appoint a member for three consecutive terms. The secretary shall
33 reappoint no more than eight of the then-current members of the
34 board within a two-year period.

35 (d) The board shall meet at least twice a year. The chair or the
36 secretary may call any other meeting when it is deemed necessary
37 by one or both of them. Each member shall be allowed per diem
38 and mileage in accordance with ~~Department of Personnel~~
39 ~~Administration~~ *Department of Human Resources* rules for attending
40 any meeting of the board.

1 (e) The board shall review and make recommendations to the
2 secretary concerning the ongoing operations of the department and
3 the University of California pertaining to this article. This shall
4 include advice on fiscal expenditure, assessments needed to cover
5 costs, and proposals concerning the development of planting
6 materials.

7 SEC. 19. Section 14581 of the Food and Agricultural Code is
8 amended to read:

9 14581. There is, in the department, a Fertilizer Inspection
10 Advisory Board consisting of nine persons appointed by the
11 secretary, eight of whom shall be licensed under this chapter and
12 subject to the payment of the inspection fee in accordance with
13 this chapter, and one of whom shall be a public member. The
14 members of the board shall receive no compensation, but are
15 entitled to payment of necessary traveling expenses in accordance
16 with the rules of the ~~Department of Personnel Administration~~
17 *Department of Human Resources*. These expenses shall be paid
18 out of appropriations made to the department pursuant to this
19 chapter.

20 SEC. 20. Section 14971 of the Food and Agricultural Code is
21 amended to read:

22 14971. There is in state government a Feed Inspection Advisory
23 Board consisting of eight persons appointed by the director, who
24 are licensed under this chapter, and who are subject to payment
25 of the inspection tonnage tax in accordance with this chapter. The
26 director may appoint one additional member to the board who shall
27 be a public member. The members of the board shall receive no
28 salary, but are entitled to payment of necessary traveling expenses
29 in accordance with ~~Department of Personnel Administration~~
30 *Department of Human Resources* rules. These expenses shall be
31 paid out of appropriations made to the department.

32 Upon the director's request, the board shall submit to the director
33 the names of three or more natural persons, each of whom shall
34 be a citizen and resident of this state and not a producer, shipper,
35 or processor nor financially interested in any producer, shipper,
36 or processor, for appointment by the director as a public member
37 of the board. The director may appoint one of the nominees as the
38 public member on the board. If all nominees are unsatisfactory to
39 the director, the board shall continue to submit lists of nominees
40 until the director has made a selection. Any vacancy in the office

1 of the public member of the board shall be filled by appointment
2 by the director from the nominee or nominees similarly qualified
3 submitted by the board. The public member of the board shall
4 represent the interests of the general public in all matters coming
5 before the board and shall have the same voting and other rights
6 and immunities as other members of the board.

7 SEC. 21. Section 27574 of the Food and Agricultural Code is
8 amended to read:

9 27574. The committee shall meet at the call of its chairman,
10 the director, or at the request of any three members of the
11 committee. The committee shall meet at least once a year.
12 Necessary expenditures incurred by the committee members in
13 attending committee meetings may be reimbursed in accordance
14 with ~~Department of Personnel Administration~~ *Department of*
15 *Human Resources* rules.

16 SEC. 22. Section 29028 of the Food and Agricultural Code is
17 amended to read:

18 29028. Each member of the board shall serve without
19 compensation, but each member shall be reimbursed for actual
20 and necessary expenses, including travel expenses, incurred in
21 attending meetings of the board and any other official duty
22 authorized by the board and approved by the director. The
23 reimbursements shall be made in accordance with the rules of the
24 ~~Department of Personnel Administration~~ *Department of Human*
25 *Resources*.

26 SEC. 23. Section 40576 of the Food and Agricultural Code is
27 amended to read:

28 40576. Each member of the committee, or any alternate
29 member serving in the absence of a regular member, may, with
30 the approval of the director, be reimbursed for the actual and
31 necessary expenses incurred in the performance of his or her
32 official duties. However, a member or alternate member may not
33 receive any other consideration for serving on the committee. The
34 reimbursement shall be made at the rate permitted under the rules
35 of the ~~Department of Personnel Administration~~ *Department of*
36 *Human Resources*.

37 SEC. 24. Section 41008 of the Food and Agricultural Code is
38 amended to read:

39 41008. Each member of the committee, any alternate member
40 serving in the absence of a regular member, and any member of

1 an advisory committee appointed by the chairman of the committee,
2 may, with approval of the director, be reimbursed for the actual
3 and necessary expenses incurred in the performance of their official
4 duties. However, members may not receive any other consideration.
5 Any of these reimbursements shall be made at the rate permitted
6 under the rules of the ~~Department of Personnel Administration~~
7 *Department of Human Resources*.

8 SEC. 25. Section 41867 of the Food and Agricultural Code is
9 amended to read:

10 41867. Each member of the committee, any alternate member
11 serving in the absence of a regular member, and any member of
12 an advisory committee appointed by the chairman of the committee,
13 with approval of the secretary, may be reimbursed for the actual
14 necessary expenses incurred in the performance of their official
15 duties. Any reimbursement shall be made at the rate permitted
16 under the rules of the ~~Department of Personnel Administration~~
17 *Department of Human Resources* and a member shall not receive
18 any other compensation.

19 SEC. 26. Section 52885 of the Food and Agricultural Code is
20 amended to read:

21 52885. No board member, alternate, member of a committee
22 who is a nonmember of the board, or ex officio member shall
23 receive a salary, but may, if approved by the board, be allowed
24 per diem in accordance with ~~Department of Personnel~~
25 *Administration Department of Human Resources* rules for each
26 day spent in actual attendance on, or in traveling to and from,
27 meetings of the board or committees of the board, or on special
28 assignment for the board.

29 SEC. 27. Section 54442 of the Food and Agricultural Code is
30 amended to read:

31 54442. (a) To aid in preparation of the report required under
32 this chapter, the secretary shall establish an advisory committee
33 consisting of the following persons:

34 (1) Six representatives of cooperative bargaining associations
35 from names submitted by cooperative bargaining associations, two
36 of whom shall be appointed by the Governor, two of whom shall
37 be appointed by the Speaker of the Assembly, and two of whom
38 shall be appointed by the Senate Committee on Rules.

39 (2) Six representatives of processors from names submitted by
40 processors, two of whom shall be appointed by the Governor, two

1 of whom shall be appointed by the Speaker of the Assembly, and
2 two of whom shall be appointed by the Senate Committee on Rules.

3 (b) The members of the advisory committee shall be reimbursed
4 for travel expenses pursuant to the rules and regulations adopted
5 by the Director of the ~~Department of Personnel Administration~~
6 *Department of Human Resources* pursuant to Section 19820 of
7 the Government Code for attendance at a meeting approved by the
8 Secretary of Food and Agriculture.

9 SEC. 28. Section 74743 of the Food and Agricultural Code is
10 amended to read:

11 74743. No board member or alternate member or member of
12 a committee established by the commission who is a nonmember
13 of the commission shall receive any compensation. Each board
14 member or each alternate member serving in place of a board
15 member, except ex officio members who are state officers or
16 employees, and each member of a committee established by the
17 commission who is not a board member or alternate member, may
18 receive per diem not to exceed one hundred dollars (\$100) per day,
19 as established by the commission. In addition, board members and
20 alternate members of the commission and members of committees
21 established by the commission shall be reimbursed for actual and
22 necessary travel expenses under the rules of the ~~Department of~~
23 ~~Personnel Administration~~ *Department of Human Resources*. The
24 per diem and reimbursement for travel expenses shall be paid to
25 those members for each day spent in actual attendance at, or in
26 traveling to and from, meetings of the commission or committees
27 of the commission, or on special assignment for the commission,
28 as provided by the commission.

29 SEC. 29. Section 77939 of the Food and Agricultural Code is
30 amended to read:

31 77939. Members and alternate members of the commission
32 and members of committees established by the commission shall
33 not receive any compensation but shall receive the per diem
34 established by Section 11564.5 of the Government Code. Ex officio
35 members who are state officers or employees and who are
36 compensated by the state are not eligible for per diem pursuant to
37 this section. In addition, members and alternate members of the
38 commission and members of committees established by the
39 commission shall be reimbursed for actual and necessary travel
40 expenses under the rules of the ~~Department of Personnel~~

1 ~~Administration~~ *Department of Human Resources*. The per diem
2 and reimbursement for travel expenses shall be paid to those
3 members for each day spent in actual attendance at, or in traveling
4 to and from, meetings of the commission or committees of the
5 commission, or on special assignment for the commission, as
6 approved by the commission.

7 SEC. 30. Section 78239 of the Food and Agricultural Code is
8 amended to read:

9 78239. Members and alternate members of the commission,
10 and members of committees established by the commission, shall
11 not receive any compensation, but notwithstanding Section 11564.5
12 of the Government Code, shall receive the per diem established
13 by the commission, not to exceed one hundred dollars (\$100) per
14 day. Ex officio members who are state officers or employees are
15 not eligible for per diem pursuant to this section. In addition,
16 members and alternate members of the commission, and members
17 of committees established by the commission, shall be reimbursed
18 for actual and necessary travel expenses under the rules of the
19 ~~Department of Personnel Administration~~ *Department of Human*
20 *Resources*. The per diem and reimbursement for travel expenses
21 shall be paid to those members for each day spent in actual
22 attendance at, or in traveling to and from, meetings of the
23 commission or committees of the commission, or on special
24 assignment for the commission, as approved by the commission.

25 SEC. 31. Section 17450 of the Family Code is amended to
26 read:

27 17450. (a) For purposes of this article:

28 (1) “Child support delinquency” means a delinquency defined
29 in subdivision (c) of Section 17500.

30 (2) “Earnings” shall include the items described in Section 5206.

31 (b) (1) When a delinquency is submitted to the department
32 pursuant to subdivision (c) of Section 17500, the amount of the
33 child support delinquency shall be collected by the department in
34 any manner authorized under state or federal law.

35 (2) Any compensation, fee, commission, expense, or any other
36 fee for service incurred by the department in the collection of a
37 child support delinquency authorized under this article shall not
38 be an obligation of, or collected from, the obligated parent.

39 (c) (1) The department may return or allow a local child support
40 agency to retain a child support delinquency for a specified purpose

1 for collection where the department determines that the return or
2 retention of the delinquency for the purpose so specified will
3 enhance the collectibility of the delinquency. The department shall
4 establish a process whereby a local child support agency may
5 request and shall be allowed to withdraw, rescind, or otherwise
6 recall the submittal of an account that has been submitted.

7 (2) If an obligor is disabled, meets the federal Supplemental
8 Security Income resource test, and is receiving Supplemental
9 Security Income/State Supplementary Payments (SSI/SSP), or,
10 but for excess income as described in Section 416.1100 and
11 following of Part 416 of Title 20 of the Code of Federal
12 Regulations, would be eligible to receive as SSI/SSP, pursuant to
13 Section 12200 of the Welfare and Institutions Code, and the obligor
14 has supplied the local child support agency with proof of his or
15 her eligibility for, and, if applicable, receipt of, SSI/SSP or Social
16 Security Disability Insurance benefits, then the child support
17 delinquency shall not be referred to the department for collection,
18 and, if referred, shall be withdrawn, rescinded, or otherwise recalled
19 from the department by the local child support agency. The
20 department shall not take any collection action, or if the local child
21 support agency has already taken collection action, shall cease
22 collection actions in the case of a disabled obligor when the
23 delinquency is withdrawn, rescinded, or otherwise recalled by the
24 local child support agency in accordance with the process
25 established as described in paragraph (1).

26 (d) It is the intent of the Legislature that when the California
27 Child Support Automation System (CCSAS) is fully operational,
28 any statutes that should be modified based upon the status of the
29 system shall be revised. During the development and
30 implementation of CCSAS, the department, as the Title IV-D
31 agency, may, through appropriate interagency agreement, delegate
32 any and all of the functions or procedures specified in this article
33 to the Franchise Tax Board. The Franchise Tax Board shall perform
34 those functions or procedures as specified in Sections 19271 to
35 19275, inclusive, of the Revenue and Taxation Code until such
36 time as the director, by letter to the executive officer of the
37 Franchise Tax Board, revokes such delegation of Title IV-D
38 functions. Sections 19271 to 19275, inclusive, of the Revenue and
39 Taxation Code shall be effective for these purposes until the
40 revocation of delegation to the Franchise Tax Board.

1 (e) Consistent with the development and implementation of the
2 California Child Support Automation System (CCSAS), the
3 Franchise Tax Board and the department shall enter into a letter
4 of agreement and an interagency agreement whereby the
5 department shall assume responsibility for collection of child
6 support delinquencies and the Financial Institution Data Match
7 System as set forth in this article. The letter of agreement and
8 interagency agreement shall, at a minimum, set forth all of the
9 following:

10 (1) Contingent upon the enactment of the Budget Act, and
11 staffing authorization from the Department of Finance and the
12 ~~Department of Personnel Administration~~ *Department of Human*
13 *Resources*, the department shall assume responsibility for
14 leadership and staffing of the collection of child support
15 delinquencies and the Financial Institution Data Match System.

16 (2) All employees and other personnel who staff or provide
17 support for the collection of child support delinquencies and the
18 Financial Institution Data Match System at the Franchise Tax
19 Board shall become the employees of the department at their
20 existing or equivalent classification, salaries, and benefits.

21 (3) Any other provisions necessary to ensure continuity of
22 function and meet or exceed existing levels of service, including,
23 but not limited to, agreements for continued use of automated
24 systems used by the Franchise Tax Board to locate child support
25 obligors and their assets.

26 SEC. 32. Section 2203 of the Fish and Game Code is amended
27 to read:

28 2203. (a) The director, with the advice of the committee
29 established pursuant to Section 2150.3, shall adopt regulations to
30 establish and administer a grant program, including eligibility
31 criteria, by which persons or governmental agencies who operate
32 facilities to care and shelter mammals may apply for grants for
33 maintenance, operations, and capital improvements. The program
34 shall include provisions for emergency grants with an expedited
35 review process.

36 (b) Each member of the committee who is eligible to receive
37 per diem and mileage shall be allowed per diem and mileage in
38 accordance with the rules of the ~~Department of Personnel~~
39 ~~Administration~~ *Department of Human Resources* for attending
40 any meeting of the committee involving this article.

1 SEC. 33. Section 927.13 of the Government Code is amended
2 to read:

3 927.13. (a) Unless otherwise provided for by statute, any state
4 agency that fails to submit a correct claim schedule to the
5 Controller within 30 days of receipt of a notice of refund or other
6 payment due, and fails to issue payment within 45 days from the
7 notice of refund or other payment due, shall be liable for penalties
8 on the undisputed amount pursuant to this section. The penalties
9 shall be paid out of the agency's funds at a rate equal to the Pooled
10 Money Investment Account daily rate on June 30 of the prior fiscal
11 year minus 1 percent. The penalties shall cease to accrue on the
12 date full payment or refund is made. If the amount of the penalty
13 is ten dollars (\$10) or less, the penalty shall be waived and not
14 paid by the state agency. On an exception basis, state agencies
15 may avoid payment of penalties for failure to submit a correct
16 claim schedule to the Controller by paying the claimant directly
17 from the state agency's revolving fund within 45 calendar days
18 following the agency's receipt of the notice of refund or other
19 payment due.

20 (b) The Controller shall pay claimants within 15 calendar days
21 of receipt of a correct claim schedule from the state agency. If the
22 Controller fails to make payment within 15 calendar days of receipt
23 of the claim schedule from a state agency, and payment is not
24 issued within 45 calendar days following the agency's receipt of
25 a notice of refund or undisputed payment due, the Controller shall
26 pay applicable penalties to the claimant. Penalties shall cease to
27 accrue on the date full payment is made, and shall be paid out of
28 the Controller's funds. If the amount of the penalty is ten dollars
29 (\$10) or less, the penalty shall be waived and not paid by the
30 Controller.

31 (c) No person shall receive an interest payment pursuant to this
32 section if it is determined that the person has intentionally overpaid
33 on a liability solely for the purpose of receiving a penalty payment.

34 (d) No penalty shall accrue during any time period for which
35 there is no Budget Act in effect, nor on any payment or refund that
36 is the result of a federally mandated program or that is directly
37 dependent upon the receipt of federal funds by a state agency.

38 (e) This section shall not apply to any of the following:

39 (1) Payments, refunds, or credits for income tax purposes.

1 (2) Payment of claims for reimbursement for health care services
2 or mental health services provided under the Medi-Cal program,
3 pursuant to Chapter 7 (commencing with Section 14000) of Part
4 3 of Division 9 of the Welfare and Institutions Code.

5 (3) Any payment made pursuant to a public social service or
6 public health program to a recipient of benefits under that program.

7 (4) Payments made on claims by the California Victim
8 Compensation and Government Claims Board.

9 (5) Payments made by the Commission on State Mandates.

10 (6) Payments made by the ~~Department of Personnel~~
11 ~~Administration~~ *Department of Human Resources* pursuant to
12 Section 19823.

13 SEC. 34. Section 1150 of the Government Code is amended
14 to read:

15 1150. As used in this article:

16 (a) “State employee” means all persons who receive wages for
17 services through the uniform payroll system established and
18 administered by the Controller under Section 12470.

19 (b) “Public agency” includes counties, cities, municipal
20 corporations, political subdivisions, public districts, and other
21 public agencies of the state.

22 (c) “Employee organization” means an organization which
23 represents employees of the state or the California State University
24 in their employer-employee relations, and which is registered with
25 the ~~Department of Personnel Administration~~ *Department of Human*
26 *Resources* or the Trustees of the California State University, or
27 which has been recognized or certified by the Public Employment
28 Relations Board.

29 (d) “Bona fide association” means an organization of employees
30 and former employees of an agency of the state and the California
31 State University, and which does not have as one of its purposes
32 representing these employees in their employer-employee relations.

33 (e) “Deduction” does not include direct deposit by electronic
34 fund transfer, as authorized by Sections 7506 and 12480.

35 SEC. 35. Section 1156 of the Government Code is amended
36 to read:

37 1156. (a) Any eligible employee who is participating in a
38 flexible benefits program may elect to receive one or more benefits
39 that qualify to be excluded from gross income in lieu of a portion
40 of his or her salary.

1 (b) For purposes of this section, an “eligible employee” means
2 any of the following:

3 (1) An employee excluded from the definition of “state
4 employee” in Section 3513.

5 (2) A “managerial employee” as defined in Section 3513.

6 (3) A “confidential employee” as defined in Section 3513 and
7 Section 3562.

8 (4) A “supervisory employee” as defined in Section 3580.3.

9 (5) An officer or employee of the State of California in the
10 executive or judicial branch of government who is not a state civil
11 service employee pursuant to Part 2 (commencing with Section
12 18500) of Division 5 of Title 2.

13 (6) A “state employee,” as defined by Section 3513 or employed
14 by the state as provided for in Article VI of the Constitution.

15 (c) Any eligible employee participating in the flexible benefits
16 program shall be subject to federal laws and implementing
17 regulations of the ~~Department of Personnel Administration~~
18 *Department of Human Resources* which affects the flexible benefit
19 program throughout the period of the employee’s enrollment.

20 (d) Unless the trustee or the administrator of the state’s flexible
21 benefit program is the Controller or another state officer, that
22 program shall be administered in compliance with the federal
23 Employee Retirement Income Security Act of 1974 (ERISA: 29
24 U.S.C. Sec. 1001 et seq.).

25 (e) As a condition of participating in a flexible benefits program,
26 each eligible employee shall provide evidence, in a manner
27 satisfactory to the ~~Department of Personnel Administration~~
28 *Department of Human Resources*, that the employee is covered
29 by a basic health benefits plan, and his or her agreement to remain
30 covered for the period of participation in the flexible benefits plan.

31 (f) There is in the State Treasury the Flexelect Benefit Fund
32 which, notwithstanding Section 13340, is continuously appropriated
33 without regard to fiscal years to the ~~Department of Personnel~~
34 *Administration Department of Human Resources* for expenditure
35 to implement the flexible benefits program and to pay the related
36 administrative costs. The fund shall consist of the amounts received
37 from state employee compensation excluded from gross income
38 and transmitted to the Flexelect Benefit Fund, income of whatever
39 nature earned on the money in the Flexelect Benefit Fund during

1 any fiscal year and credited to the fund, and amounts appropriated
2 therefor in the annual Budget Act and other statutes.

3 (g) On or after July 1, 1990, any funds remaining in the State
4 Employees' Dependent Care Assistance and Health Care Assistance
5 Fund shall be transmitted into the account in the Flexelect Benefit
6 Fund for the administrative expenses of the Controller's office to
7 pay the related administrative costs.

8 SEC. 36. Section 1156.1 of the Government Code is amended
9 to read:

10 1156.1. (a) Any eligible employee may elect to participate in
11 the State Employees' Pretax Parking Payroll Deduction Program.
12 The program shall be administered by the ~~Department of Personnel~~
13 ~~Administration~~ *Department of Human Resources*. An amount
14 equivalent to the value of the parking, to the extent permitted by
15 Internal Revenue Code Section 132, shall be excluded from the
16 gross income of the employee, in lieu of a portion of the
17 employee's compensation, and shall be transmitted to the State
18 Employees' Pretax Parking Fund. Each eligible employee electing
19 to participate in the program, for the period that he or she is
20 enrolled as a participant in the program, shall be subject to the
21 applicable federal law and regulations and related state
22 administrative regulations adopted by the ~~Department of Personnel~~
23 ~~Administration~~ *Department of Human Resources*.

24 (b) For purposes of this section, an "eligible employee" means
25 any of the following:

26 (1) A "state employee," as defined in Section 3513.

27 (2) An "excluded employee," as defined in Section 3527.

28 (3) An officer or employee of the State of California in the
29 executive branch of government who is not a state civil service
30 employee pursuant to Part 2 (commencing with Section 18500) of
31 Division 5 of Title 2.

32 (c) There is in the State Treasury the State Employees' Pretax
33 Parking Fund which, notwithstanding Section 13340, is
34 continuously appropriated without regard to fiscal years to the
35 ~~Department of Personnel Administration~~ *Department of Human*
36 *Resources* for expenditure to implement the State Employees'
37 Pretax Parking Payroll Deduction Program. The fund shall consist
38 of the amounts received from employee compensation excluded
39 from gross income and transmitted to the State Employees' Pretax
40 Parking Fund pursuant to subdivision (a).

1 SEC. 37. Section 3513 of the Government Code is amended
2 to read:

3 3513. As used in this chapter:

4 (a) “Employee organization” means any organization that
5 includes employees of the state and that has as one of its primary
6 purposes representing these employees in their relations with the
7 state.

8 (b) “Recognized employee organization” means an employee
9 organization that has been recognized by the state as the exclusive
10 representative of the employees in an appropriate unit.

11 (c) “State employee” means any civil service employee of the
12 state, and the teaching staff of schools under the jurisdiction of the
13 State Department of Education or the Superintendent of Public
14 Instruction, except managerial employees, confidential employees,
15 supervisory employees, employees of the ~~Department of Personnel~~
16 ~~Administration~~ *Department of Human Resources*, professional
17 employees of the Department of Finance engaged in technical or
18 analytical state budget preparation other than the auditing staff,
19 professional employees in the Personnel/Payroll Services Division
20 of the Controller’s office engaged in technical or analytical duties
21 in support of the state’s personnel and payroll systems other than
22 the training staff, employees of the Legislative Counsel Bureau,
23 employees of the Bureau of State Audits, employees of the office
24 of the Inspector General, employees of the board, conciliators
25 employed by the State Conciliation Service within the Department
26 of Industrial Relations, employees of the Office of the State Chief
27 Information Officer except as otherwise provided in Section
28 11546.5, and intermittent athletic inspectors who are employees
29 of the State Athletic Commission.

30 (d) “Mediation” means effort by an impartial third party to assist
31 in reconciling a dispute regarding wages, hours and other terms
32 and conditions of employment between representatives of the
33 public agency and the recognized employee organization or
34 recognized employee organizations through interpretation,
35 suggestion and advice.

36 (e) “Managerial employee” means any employee having
37 significant responsibilities for formulating or administering agency
38 or departmental policies and programs or administering an agency
39 or department.

1 (f) “Confidential employee” means any employee who is
2 required to develop or present management positions with respect
3 to employer-employee relations or whose duties normally require
4 access to confidential information contributing significantly to the
5 development of management positions.

6 (g) “Supervisory employee” means any individual, regardless
7 of the job description or title, having authority, in the interest of
8 the employer, to hire, transfer, suspend, lay off, recall, promote,
9 discharge, assign, reward, or discipline other employees, or
10 responsibility to direct them, or to adjust their grievances, or
11 effectively to recommend this action, if, in connection with the
12 foregoing, the exercise of this authority is not of a merely routine
13 or clerical nature, but requires the use of independent judgment.
14 Employees whose duties are substantially similar to those of their
15 subordinates shall not be considered to be supervisory employees.

16 (h) “Board” means the Public Employment Relations Board.
17 The Educational Employment Relations Board established pursuant
18 to Section 3541 shall be renamed the Public Employment Relations
19 Board as provided in Section 3540. The powers and duties of the
20 board described in Section 3541.3 shall also apply, as appropriate,
21 to this chapter.

22 (i) “Maintenance of membership” means that all employees
23 who voluntarily are, or who voluntarily become, members of a
24 recognized employee organization shall remain members of that
25 employee organization in good standing for a period as agreed to
26 by the parties pursuant to a memorandum of understanding,
27 commencing with the effective date of the memorandum of
28 understanding. A maintenance of membership provision shall not
29 apply to any employee who within 30 days prior to the expiration
30 of the memorandum of understanding withdraws from the
31 employee organization by sending a signed withdrawal letter to
32 the employee organization and a copy to the Controller’s office.

33 (j) “State employer,” or “employer,” for the purposes of
34 bargaining or meeting and conferring in good faith, means the
35 Governor or his or her designated representatives.

36 (k) “Fair share fee” means the fee deducted by the state
37 employer from the salary or wages of a state employee in an
38 appropriate unit who does not become a member of and financially
39 support the recognized employee organization. The fair share fee
40 shall be used to defray the costs incurred by the recognized

1 employee organization in fulfilling its duty to represent the
2 employees in their employment relations with the state, and shall
3 not exceed the standard initiation fee, membership dues, and
4 general assessments of the recognized employee organization.

5 SEC. 38. Section 3517.63 of the Government Code is amended
6 to read:

7 3517.63. (a) Any side letter, appendix, or other addendum to
8 a properly ratified memorandum of understanding that requires
9 the expenditure of two hundred fifty thousand dollars (\$250,000)
10 or more related to salary and benefits and that is not already
11 contained in the original memorandum of understanding or the
12 Budget Act, shall be provided by the ~~Department of Personnel~~
13 ~~Administration~~ *Department of Human Resources* to the Joint
14 Legislative Budget Committee. The Joint Legislative Budget
15 Committee shall determine within 30 days after receiving the side
16 letter, appendix, or other addendum if it presents substantial
17 additions that are not reasonably within the parameters of the
18 original memorandum of understanding and thereby requires
19 legislative action to ratify the side letter, appendix, or other
20 addendum.

21 (b) A side letter, appendix, or other addendum to a properly
22 ratified memorandum of understanding that does not require the
23 expenditure of funds shall be expressly identified by the
24 ~~Department of Personnel Administration~~ *Department of Human*
25 *Resources* if that side letter, appendix, or other addendum is to be
26 incorporated in a subsequent memorandum of understanding
27 submitted to the Legislature for approval.

28 SEC. 39. Section 3527 of the Government Code is amended
29 to read:

30 3527. As used in this chapter:

31 (a) "Employee" means a civil service employee of the State of
32 California. The "State of California" as used in this chapter
33 includes such state agencies, boards, and commissions as may be
34 designated by law that employ civil service employees, except the
35 University of California, Hastings College of the Law, and the
36 California State University.

37 (b) "Excluded employee," means all managerial employees, as
38 defined in subdivision (e) of Section 3513, all confidential
39 employees, as defined in subdivision (f) of Section 3513, and all
40 supervisory employees, as defined in subdivision (g) of Section

1 3513, and all civil service employees of the ~~Department of~~
2 ~~Personnel Administration~~ *Department of Human Resources*,
3 professional employees of the Department of Finance engaged in
4 technical or analytical state budget preparation other than the
5 auditing staff, professional employees in the Personnel/Payroll
6 Services Division of the Controller's office engaged in technical
7 or analytical duties in support of the state's personnel and payroll
8 systems other than the training staff, employees of the Legislative
9 Counsel Bureau, employees of the Bureau of State Audits,
10 employees of the Public Employment Relations Board, conciliators
11 employed by the State Conciliation Service within the Department
12 of Industrial Relations, employees of the office of the State Chief
13 Information Officer except as provided in Section 11546.5, and
14 intermittent athletic inspectors who are employees of the State
15 Athletic Commission.

16 (c) "Supervisory employee organization" means an organization
17 that represents members who are supervisory employees under
18 subdivision (g) of Section 3513.

19 (d) "Excluded employee organization" means an organization
20 that includes excluded employees of the state, as defined in
21 subdivision (b), and that has as one of its primary purposes
22 representing its members in employer-employee relations.
23 Excluded employee organization includes supervisory employee
24 organizations.

25 (e) "State employer" or "employer," for purposes of meeting
26 and conferring on matters relating to supervisory
27 employer-employee relations, means the Governor or his or her
28 designated representatives.

29 SEC. 40. Section 3535 of the Government Code is amended
30 to read:

31 3535. The ~~Department of Personnel Administration~~ *Department*
32 *of Human Resources* may adopt rules and regulations for the
33 administration of excluded employer-employee relations, including
34 supervisory employer-employee relations, under these provisions.
35 Such rules and regulations may include provisions for:

36 (a) Verifying that an excluded employee organization does in
37 fact represent excluded employees.

38 (b) Verifying the official status of excluded employee
39 organization officers and representatives.

1 (c) Access of excluded employee organization officers and
2 representatives to work locations.

3 (d) Use of official bulletin boards and other means of
4 communication by excluded employee organizations.

5 (e) Furnishing nonconfidential information pertaining to
6 excluded employee relations to excluded employee organizations.

7 (f) Any other matters as are necessary to carry out the purposes
8 of this chapter.

9 SEC. 41. Section 3537 of the Government Code is amended
10 to read:

11 3537. Every excluded employee organization shall submit an
12 annual registration statement on or before July 1 of each calendar
13 year to the ~~Department of Personnel Administration~~ *Department*
14 *of Human Resources*. The registration statement shall, at a
15 minimum, list the name of the organization, its affiliations,
16 headquarters, and other business addresses, its principal business
17 telephone number, a list of principal officers and representatives,
18 and a copy of its organization bylaws.

19 SEC. 42. Section 3539.5 of the Government Code is amended
20 to read:

21 3539.5. (a) ~~The Department of Personnel Administration~~
22 *Department of Human Resources* may adopt or amend regulations
23 to implement employee benefits for those state officers and
24 employees excluded from, or not otherwise subject to, the Ralph
25 C. Dills Act (Chapter 10.3 (commencing with Section 3512)).

26 (b) These regulations shall not be subject to the review and
27 approval of the Office of Administrative Law pursuant to the
28 Administrative Procedure Act (Chapter 3.5 (commencing with
29 Section 11340) of Part 1 of Division 3 of Title 2). These regulations
30 shall become effective immediately upon filing with the Secretary
31 of State.

32 SEC. 43. Section 3541 of the Government Code is amended
33 to read:

34 3541. (a) There is in state government the Public Employment
35 Relations Board which shall be independent of any state agency
36 and shall consist of five members. The members of the board shall
37 be appointed by the Governor by and with the advice and consent
38 of the Senate. One of the original members shall be chosen for a
39 term of one year, one for a term of three years, and one for a term
40 of five years. The first term for the two new members of the board

1 resulting from the expansion of the board to five members shall
2 be reduced by the Governor as necessary so that the term of only
3 one member of the board shall expire in any given year. Thereafter,
4 terms shall be for a period of five years, except that any person
5 chosen to fill a vacancy shall be appointed only for the unexpired
6 term of the member whom he or she succeeds. Members of the
7 board shall be eligible for reappointment. The Governor shall select
8 one member to serve as chairperson. A member of the board may
9 be removed by the Governor upon notice and hearing for neglect
10 of duty or malfeasance in office, but for no other cause.

11 (b) A vacancy in the board shall not impair the right of the
12 remaining members to exercise all the powers of the commission,
13 and three members of the board shall at all times constitute a
14 quorum.

15 (c) The board may delegate its powers to any group of three or
16 more board members. Nothing shall preclude any board member
17 from participating in any case pending before the board.

18 (d) Members of the board shall hold no other public office in
19 the state, and shall not receive any other compensation for services
20 rendered.

21 (e) Each member of the board shall receive the salary provided
22 for by Chapter 6 (commencing with Section 11550) of Part 1 of
23 Division 3 of Title 2. In addition to his or her salary, each member
24 of the board shall be reimbursed for all actual and necessary
25 expenses incurred by him or her in the performance of his or her
26 duties, subject to the rules of the ~~Department of Personnel~~
27 ~~Administration~~ *Department of Human Resources* relative to the
28 payment of these expenses to state officers generally.

29 (f) The board shall appoint an executive director who shall be
30 the chief administrative officer. The executive director shall appoint
31 other persons that may, from time to time, be deemed necessary
32 for the performance of the board's administrative functions,
33 prescribe their duties, fix their compensation, and provide for
34 reimbursement of their expenses in the amounts made available
35 therefor by appropriation. The executive director shall be a person
36 familiar with employer-employee relations. The executive director
37 shall be subject to removal at the pleasure of the board. The
38 Governor shall appoint a general counsel, upon the
39 recommendation of the board, to assist the board in the

1 performance of its functions under this chapter. The general counsel
2 shall serve at the pleasure of the board.

3 (g) The executive director and general counsel serving the board
4 on December 31, 1977, shall become employees of the Public
5 Employment Relations Board and shall continue to serve at the
6 discretion of the board. A person so employed may, independently
7 of the Attorney General, represent the board in any litigation or
8 other matter pending in a court of law to which the board is a party
9 or in which it is otherwise interested.

10 (h) The Governor shall appoint one legal adviser for each
11 member of the board upon the recommendation of that board
12 member. Each appointee shall serve at the pleasure of the
13 recommending board member and shall receive a salary as shall
14 be fixed by the board with the approval of the ~~Department of~~
15 ~~Personnel Administration~~ *Department of Human Resources*.

16 (i) Attorneys serving the board on May 19, 1978, shall not be
17 appointed as legal advisers to board members pursuant to
18 subdivision (h) until the time that they have attained permanent
19 civil service status.

20 (j) Notwithstanding subdivision (a), the member of the board
21 appointed by the Governor for the term beginning on January 1,
22 1991, shall not be subject to the advice and consent of the Senate.

23 SEC. 44. Section 3572.1 of the Government Code is amended
24 to read:

25 3572.1. This section shall apply only to the California Maritime
26 Academy.

27 (a) The duty to engage in meeting and conferring requires the
28 parties to begin meeting and conferring at least 60 days prior to
29 the expiration of memoranda of understanding, or May 1, if earlier,
30 of any year in which a memorandum shall expire, or May 1, if
31 there is no existing memorandum of understanding. The trustees
32 shall maintain close liaison with the Department of Finance and
33 the Legislature relative to the meeting and conferring on provisions
34 of the written memoranda that have fiscal ramifications.

35 No written memoranda reached pursuant to this chapter that
36 require budgetary or curative action by the Legislature or other
37 funding agencies, including the Federal Maritime Administration,
38 shall be effective unless and until that action has been taken.
39 Following execution of written memoranda of understanding, an
40 appropriate request for financing or budgetary funding for all

1 state-funded employees or for necessary legislation will be
2 forwarded promptly to the Legislature and the Governor or other
3 funding agencies. When memoranda require legislative action
4 pursuant to this section, if the Legislature or the Governor fails
5 fully to fund the memoranda or to take the requisite curative action,
6 the entire memoranda shall be referred back to the parties for
7 further meeting and conferring; provided, however, that the parties
8 may agree that provisions of the memoranda that are nonbudgetary
9 and do not require funding shall take effect whether or not the
10 funding requests submitted to the Legislature are approved.

11 The Legislature recognizes that the California Maritime
12 Academy's sources of funding are multiple, and approval by the
13 Legislature, and by other public agencies, as to employees funded
14 by those agencies, may be required prior to implementation of
15 increased expenditures resulting from agreements reached in
16 accordance with this chapter.

17 (b) The Legislature finds that federal funding in support of the
18 California Maritime Academy is essential. The trustees may
19 suspend or modify any provision of a memorandum of
20 understanding that jeopardizes federal funding, but shall provide
21 notice to exclusive representatives of any such suspension or
22 modification and shall meet and confer with the exclusive
23 representative, if requested to do so, to explain the need for, and
24 the effects of, the suspension or modification.

25 (c) Any memorandum of understanding that is in effect at the
26 time that the employer-employee relations of the California
27 Maritime Academy is transferred from the Ralph C. Dills Act
28 (Chapter 10.3 (commencing with Section 3512) of Division 4 of
29 Title 1), to the Higher Education Employer-Employee Relations
30 Act (Chapter 12 (commencing with Section 3560) of Division 4
31 of Title 1), shall remain in effect until the end of the term of the
32 memorandum of understanding, upon extension of the contracts
33 in existence on June 30, 1995, or until superseded by a new
34 memorandum of understanding.

35 (d) If agreement is reached to extend existing memoranda of
36 understanding covering California Maritime Academy employees
37 beyond the current June 30, 1995, expiration date, then any
38 decisions, agreements, or settlements made by the California State
39 University in the administration of the memoranda of understanding
40 relative to employees of the California Maritime Academy shall

1 not be binding upon, or considered as precedent required to be
2 followed by, the ~~Department of Personnel Administration~~
3 *Department of Human Resources*.

4 (e) This section shall become operative on July 1, 1995.

5 SEC. 45. Section 7507 of the Government Code is amended
6 to read:

7 7507. (a) For the purpose of this section:

8 (1) "Actuary" means an actuary who is an associate or fellow
9 of the Society of Actuaries.

10 (2) "Future annual costs" includes, but is not limited to, annual
11 dollar changes, or the total dollar changes involved when available,
12 as well as normal cost and any change in accrued liability.

13 (b) (1) Except as provided in paragraph (2), the Legislature and
14 local legislative bodies, including community college district
15 governing boards, when considering changes in retirement benefits
16 or other postemployment benefits, shall secure the services of an
17 actuary to provide a statement of the actuarial impact upon future
18 annual costs, including normal cost and any additional accrued
19 liability, before authorizing changes in public retirement plan
20 benefits or other postemployment benefits.

21 (2) The requirements of this subdivision do not apply to:

22 (A) An annual increase in a premium that does not exceed 3
23 percent under a contract of insurance.

24 (B) A change in postemployment benefits, other than pension
25 benefits, mandated by the state or federal government or made by
26 an insurance carrier in connection with the renewal of a contract
27 of insurance.

28 (c) (1) (A) With regard to local legislative bodies, including
29 community college district governing boards, the future costs of
30 changes in retirement benefits or other postemployment benefits,
31 as determined by the actuary, shall be made public at a public
32 meeting at least two weeks prior to the adoption of any changes
33 in public retirement plan benefits or other postemployment benefits.
34 If the future costs of the changes exceed one-half of 1 percent of
35 the future annual costs, as defined in paragraph (2) of subdivision
36 (a), of the existing benefits for the legislative body, an actuary
37 shall be present to provide information as needed at the public
38 meeting at which the adoption of a benefit change shall be
39 considered. The adoption of any benefit to which this section
40 applies shall not be placed on a consent calendar.

1 (B) The requirements of this paragraph do not apply to:
2 (i) An annual increase in a premium that does not exceed 3
3 percent under a contract of insurance.

4 (ii) A change in postemployment benefits, other than pension
5 benefits, mandated by the state or federal government or made by
6 an insurance carrier in connection with the renewal of a contract
7 of insurance.

8 (2) With regard to the Legislature, the future costs as determined
9 by the actuary shall be made public at the policy and fiscal
10 committee hearings to consider the adoption of any changes in
11 public retirement plan benefits or other postemployment benefits.
12 The adoption of any benefit to which this section applies shall not
13 be placed on a consent calendar.

14 (d) Upon the adoption of any benefit change to which this
15 section applies, the person with the responsibilities of a chief
16 executive officer in an entity providing the benefit, however that
17 person is denominated, shall acknowledge in writing that he or
18 she understands the current and future cost of the benefit as
19 determined by the actuary. For the adoption of benefit changes by
20 the state, this person shall be the ~~director~~ *Director* of the
21 ~~Department of Personnel Administration~~ *Department of Human*
22 *Resources*.

23 (e) The requirements of this section do not apply to a school
24 district or a county office of education, which shall instead comply
25 with requirements regarding public notice of, and future cost
26 determination for, benefit changes that have been enacted to
27 regulate these entities. These requirements include, but are not
28 limited to, those enacted by Chapter 1213 of the Statutes of 1991
29 and by Chapter 52 of the Statutes of 2004.

30 SEC. 46. Section 8001 of the Government Code is amended
31 to read:

32 8001. (a) Notwithstanding any other provision of law, the
33 following advisory bodies are hereby abolished:

- 34 (1) Law Enforcement Mutual Aid Radio System.
35 (2) Law Enforcement Regional Coordinator Advisory
36 Committee.
37 (3) California Criminalistic Institute User.
38 (4) Crack Down Task Force Advisory Committee.
39 (5) Tear Gas Advisory Committee.
40 (6) Wanted Persons System Advisory Group.

- 1 (8) Contract Time Overrun and Claims Review Panel.
- 2 (9) Advanced Lighting Professional Advisory Committee.
- 3 (10) California Building Officials Advisory Group in the State
- 4 Energy Resources, Conservation and Development Commission.
- 5 (11) Geothermal Development Grant Program Advisory Group.
- 6 (12) Professional Advisory Group in the State Energy
- 7 Conservation and Development Commission.
- 8 (13) Technical Review Committee in the State Energy
- 9 Conservation and Development Commission.
- 10 (14) Local Jurisdiction Advisory Committee.
- 11 (15) Residential Implementation Advisory Group.
- 12 (16) Forest (Coast) District, Technical Advisory Committee.
- 13 (17) Forest (Northern) District, Technical Advisory Committee.
- 14 (18) Forest (Southern) District, Technical Advisory Committee.
- 15 (19) Forestry Research Advisory Committee.
- 16 (20) Reforestation Advisory Committee.
- 17 (21) Council for Women in Parks.
- 18 (22) Disabled Advisory Committee.
- 19 (23) Underwater Parks and Reserves, Advisory Board.
- 20 (24) Women's Advisory Committee in the ~~Department of~~
- 21 ~~Personnel Administration~~ *Department of Human Resources*.
- 22 (25) State Advisory Board on Alcohol Related Problems.
- 23 (26) State Advisory Board on Drug Program.
- 24 (27) AIDS Vaccine Research and Development, Advisory
- 25 Committee.
- 26 (28) California Children Services Advisory Committee.
- 27 (29) Chronic Disease Prevention and Control.
- 28 (30) California Family Planning Advisory Board.
- 29 (31) State Social Services Advisory Board.
- 30 (32) American Indian Educational Council.
- 31 (33) Equal Educational Opportunities Commission.
- 32 (34) Legal Compliance Committee.
- 33 (35) Microcomputer Advisory Committee.
- 34 (36) Common Form Committee.
- 35 (37) Graduate Fellowship Advisory Committee.
- 36 (38) Career Criminal Apprehension Program Steering
- 37 Committee.
- 38 (39) Crime Prevention & Suppression Technical Advisory
- 39 Committee.
- 40 (40) Crime Resistance Task Force.

- 1 (41) Suppression of Drugs in Schools State Advisory
2 Committee.
- 3 (42) Auctioneer Disciplinary Review Committee.
- 4 (43) Acarine Mite Science Advisory Panel.
- 5 (44) Boll Weevil Science Advisory Panel.
- 6 (45) Brucellosis Review Committee.
- 7 (46) Carob Moth Science Advisory Panel.
- 8 (47) Department of Food and Agriculture EEO/Disabled
9 Advisory Committee.
- 10 (48) Department of Food and Agriculture Women’s Advisory
11 Committee.
- 12 (49) Direct Marketing Advisory Committee.
- 13 (50) Foreign Market Development Export Incentive Program
14 Advisory Committee.
- 15 (51) Gypsy Moth Science Advisory Panel.
- 16 (52) Hydrilla Science Advisory Panel.
- 17 (53) Japanese Beetle Science Advisory Panel.
- 18 (54) Melon Fruit Fly Science Advisory Panel.
- 19 (55) Oriental Fruit Fly Science Advisory Panel.
- 20 (56) Pest Detection Advisory Committee.
- 21 (57) Red Imported Fire Ant Science Advisory Panel.
- 22 (58) White Garden Snail Science Advisory Panel.
- 23 (59) Whitefringed Beetle Science Advisory Panel.
- 24 (60) Displaced Homemakers Emergency Loan Program,
25 Advisory Committee.
- 26 (61) California Forum on Information Technology.
- 27 (62) Farm Products Trust Fund Review Board.
- 28 (63) Economic Opportunity Advisory Commission in the
29 Department of Economic Opportunity.
- 30 (b) As used in this section “advisory body” means any
31 committee, council, task force, board, panel, or other governmental
32 entity.
- 33 SEC. 47. Section 8164.1 of the Government Code is amended
34 to read:
35 8164.1. There is in state government a Capitol Area Committee
36 consisting of nine members who shall be appointed in the following
37 manner:
38 (a) Four members of the committee shall be appointed by the
39 Governor of which at least one member shall be appointed from
40 a list of three candidates submitted by the City of Sacramento and

1 at least one member shall be appointed from a list of three
2 candidates submitted by the County of Sacramento. Two members
3 shall be appointed for a term expiring December 31, 1979, and
4 two for a term expiring December 31, 1981.

5 (b) Two members shall be appointed by the Speaker of the
6 Assembly, one of whom may be a Member of the Assembly, and
7 two members shall be appointed by the Senate Rules Committee,
8 one of whom may be a Member of the Senate. Legislative members
9 of the committee shall meet and, except as otherwise provided by
10 the Constitution, advise the department to the extent that the
11 advisory participation is not incompatible with their respective
12 positions as Members of the Legislature. Of the four appointments
13 by the Legislature, two shall be appointed for a term expiring
14 December 31, 1979, and two for a term expiring December 31,
15 1981.

16 (c) One shall be appointed by and serve at the pleasure of the
17 director.

18 Subsequent appointments pursuant to subdivisions (a) and (b)
19 shall be for terms of four years, ending on December 31st of the
20 fourth year after the end of the prior term, except that appointments
21 to fill vacancies occurring for any reason other than the expiration
22 of the term shall be for the unexpired portion of the term in which
23 they occur. The members of the board shall hold office until their
24 successors are appointed and qualify.

25 The members of the committee shall not receive compensation
26 from the state for their services under this article but, when called
27 to attend a meeting of the committee, shall be reimbursed for their
28 actual and necessary expenses incurred in connection with the
29 meeting in accordance with the rules of the ~~Department of~~
30 ~~Personnel Administration~~ *Department of Human Resources*.

31 (d) This section shall remain in effect only until January 1, 2013,
32 and as of that date is repealed, unless a later enacted statute, that
33 is enacted before January 1, 2013, deletes or extends that date.

34 SEC. 48. Section 8546 of the Government Code is amended
35 to read:

36 8546. It is the intent of the Legislature that the Bureau of State
37 Audits have the independence necessary to conduct all of its audits
38 in conformity with "Government Auditing Standards" published
39 by the Comptroller General of the United States and the standards
40 published by the American Institute of Certified Public

1 Accountants, free from influence of existing state control agencies
2 that could be the subject of audits conducted by the bureau.
3 Therefore, all of the following exclusions apply to the office:

4 (a) Notwithstanding Section 19790, the State Auditor shall
5 establish an equal employment opportunity program that shall
6 meet the criteria and objectives established by the State Personnel
7 Board. The State Auditor shall report annually to the State
8 Personnel Board and the commission regarding the program.

9 (b) Notwithstanding Section 12470, the State Auditor shall be
10 responsible for maintaining its payroll system. In lieu of audits of
11 the uniform payroll system performed by the Controller or any
12 other department, the office shall contract pursuant to subdivision
13 (e) of Section 8544.5 for an annual audit of its payroll and financial
14 operations by an independent public accountant.

15 (c) Notwithstanding Section 13292, the State Auditor is
16 delegated the authority to establish and administer the fiscal and
17 administrative policies of the bureau in conformity with the State
18 Administrative Manual without oversight by the Department of
19 Finance, the Department of Information Technology, or any other
20 state agency.

21 (d) Notwithstanding Section 11032, the State Auditor may
22 approve actual and necessary traveling expenses for travel outside
23 the state for officers and employees of the bureau.

24 (e) Notwithstanding Section 11033, the State Auditor or officers
25 and employees of the bureau may be absent from the state on
26 business of the state upon approval of the State Auditor or Chief
27 Deputy State Auditor.

28 (f) Sections 11040, 11042, and 11043 shall not apply to the
29 Bureau of State Audits. The State Auditor may employ legal
30 counsel under those terms that he or she deems necessary to
31 conduct the legal business of, or render legal counsel to, the State
32 Auditor.

33 (g) The provisions and definitions of Article 2 (commencing
34 with Section 11342.510) of Chapter 3.5 of Division 3 shall not be
35 construed to include the Bureau of State Audits. The State Auditor
36 may adopt regulations necessary for the operation of the bureau
37 pursuant to the provisions of the Administrative Procedure Act
38 (Chapter 3.5 (commencing with Section 11340) of Division 3),
39 but these regulations shall not be subject to the review or approval
40 of the Office of Administrative Law.

1 (h) The State Auditor shall be exempt from all contract
2 requirements of the Public Contract Code that require oversight,
3 review, or approval by the Department of General Services or any
4 other state agency. The State Auditor may contract on behalf of
5 the State of California for goods and services that he or she deems
6 necessary for the furtherance of the purposes of the bureau.

7 (i) (1) Subject to Article VII of the California Constitution, the
8 State Auditor is delegated the authority to establish and administer
9 the personnel policies and practices of the Bureau of State Audits
10 in conformity with Part 2.6 (commencing with Section 19815) of
11 Division 5 of Title 2 without oversight or approval by the
12 ~~Department of Personnel Administration~~ *Department of Human*
13 *Resources*.

14 (2) At the election of the State Auditor, officers and employees
15 of the bureau may participate in benefits programs administered
16 by the ~~Department of Personnel Administration~~ *Department of*
17 *Human Resources* subject to the same conditions for participation
18 that apply to civil service employees in other state agencies. For
19 the purposes of benefits programs administration only, the State
20 Auditor is subject to the determinations of the department. The
21 Bureau of State Audits shall reimburse the ~~Department of Personnel~~
22 ~~Administration~~ *Department of Human Resources* for the normal
23 administrative costs incurred by the ~~Department of Personnel~~
24 ~~Administration~~ *Department of Human Resources* and for any
25 extraordinary costs resulting from the inclusion of the bureau
26 employees in these state benefit programs.

27 SEC. 49. Section 8870.4 of the Government Code is amended
28 to read:

29 8870.4. (a) Except as provided in subdivision (d), the members
30 of the Alfred E. Alquist Seismic Safety Commission shall serve
31 without compensation but shall be paid per diem expenses of one
32 hundred dollars (\$100) for each day's attendance at a meeting of
33 the commission, plus actual necessary travel expenses as
34 determined by ~~Department of Personnel Administration~~
35 *Department of Human Resources* rules.

36 (b) The members of the commission who represent the
37 California Emergency Management Agency, the California
38 Building Standards Commission, and the Division of the State
39 Architect shall be employees in good standing of those respective
40 entities. Any per diem and travel expenses of those members of

1 the commission shall be paid by the agencies that they represent
2 on the commission, in compliance with applicable conditions or
3 regulations set by the ~~Department of Personnel Administration~~
4 *Department of Human Resources*.

5 SEC. 50. Section 8880.18 of the Government Code is amended
6 to read:

7 8880.18. Compensation and Expenses

8 Commissioners shall be compensated at the rate of one hundred
9 dollars (\$100) for each day they are engaged in Commission
10 business. Commission members shall be reimbursed for actual
11 expenses incurred on Commission business, including necessary
12 travel expenses as determined by the ~~Department of Personnel~~
13 ~~Administration~~ *Department of Human Resources*.

14 SEC. 51. Section 8903 of the Government Code is amended
15 to read:

16 8903. When traveling to and from a session of the Legislature,
17 or when traveling to and from a meeting of a committee of which
18 he or she is a member, or when traveling pursuant to any other
19 legislative function or responsibility as authorized or directed by
20 the rules of the house of which he or she is a member or by the
21 joint rules, when that travel is by a common carrier of passengers,
22 a Member of the Legislature shall be entitled to reimbursement
23 for the actual costs of travel by the common carrier. If the member
24 travels by other means and common carrier service is available
25 and feasible he or she shall be reimbursed in the amount of the
26 fare of available common carrier service. If common carrier service
27 is unavailable or not feasible, a member shall be reimbursed at a
28 rate not to exceed the rate established by the ~~Department of~~
29 ~~Personnel Administration~~ *Department of Human Resources* for
30 the reimbursement of officers and employees of the state pursuant
31 to Section 19820. No mileage shall be allowed or paid for travel
32 in a conveyance owned or provided by and at the expense of a
33 public agency. As used in this section, "common carrier" means
34 carrier by aircraft, railroad, bus, or vessel.

35 SEC. 52. Section 9149.4 of the Government Code is amended
36 to read:

37 9149.4. The members of the commission shall serve without
38 compensation, but shall receive reimbursement for travel and living
39 expenses in connection with their official duties, at rates established

1 by the ~~Department of Personnel Administration~~ *Department of*
2 *Human Resources*.

3 SEC. 53. Section 11270 of the Government Code is amended
4 to read:

5 11270. As used in this article, “administrative costs” means
6 the amounts expended by the Legislature, the Legislative Counsel
7 Bureau, the office of the Governor, the office of the State Chief
8 Information Officer, the Office of Planning and Research, the
9 Department of Justice, the office of the Controller, the office of
10 the Treasurer, the State Personnel Board, the Department of
11 Finance, the Office of Administrative Law, the ~~Department of~~
12 ~~Personnel Administration~~ *Department of Human Resources*, the
13 Secretary of the State and Consumer Services Agency, the
14 Secretary of the California Health and Human Services Agency,
15 the Bureau of State Audits, and the California State Library, and
16 a proration of any other cost to or expense of the state for services
17 or facilities provided for the Legislature and the above agencies,
18 for supervision or administration of the state government or for
19 services to other state agencies.

20 SEC. 54. Section 11552 of the Government Code is amended
21 to read:

22 11552. (a) Effective January 1, 1988, an annual salary of
23 eighty-five thousand four hundred two dollars (\$85,402) shall be
24 paid to each of the following:

- 25 (1) Commissioner of Financial Institutions.
- 26 (2) Commissioner of Corporations.
- 27 (3) Director of Transportation.
- 28 (4) Real Estate Commissioner.
- 29 (5) Director of Social Services.
- 30 (6) Director of Water Resources.
- 31 (7) Chief Deputy Secretary for Adult Operations of the
32 Department of Corrections and Rehabilitation.
- 33 (8) Director of General Services.
- 34 (9) Director of Motor Vehicles.
- 35 (10) Chief Deputy Secretary for Juvenile Justice in the
36 Department of Corrections and Rehabilitation.
- 37 (11) Executive Officer of the Franchise Tax Board.
- 38 (12) Director of Employment Development.
- 39 (13) Director of Alcoholic Beverage Control.
- 40 (14) Director of Housing and Community Development.

- 1 (15) Director of Alcohol and Drug Programs.
- 2 (16) Director of Statewide Health Planning and Development.
- 3 (17) Director of the ~~Department of Personnel Administration~~
- 4 *Department of Human Resources*.
- 5 (18) Director of Health Care Services.
- 6 (19) Director of Mental Health.
- 7 (20) Director of Developmental Services.
- 8 (21) State Public Defender.
- 9 (22) Director of the California State Lottery.
- 10 (23) Director of Fish and Game.
- 11 (24) Director of Parks and Recreation.
- 12 (25) Director of Rehabilitation.
- 13 (26) Director of the Office of Administrative Law.
- 14 (27) Director of Consumer Affairs.
- 15 (28) Director of Forestry and Fire Protection.
- 16 (29) The Inspector General pursuant to Section 6125 of the
- 17 Penal Code.
- 18 (30) Director of Child Support Services.
- 19 (31) Director of Industrial Relations.
- 20 (32) Chief Deputy Secretary for Adult Programs in the
- 21 Department of Corrections and Rehabilitation.
- 22 (33) Director of Toxic Substances Control.
- 23 (34) Director of Pesticide Regulation.
- 24 (35) Director of Managed Health Care.
- 25 (36) Director of Environmental Health Hazard Assessment.
- 26 (37) Director of Technology.
- 27 (38) Director of California Bay-Delta Authority.
- 28 (39) Director of California Conservation Corps.
- 29 (b) The annual compensation provided by this section shall be
- 30 increased in any fiscal year in which a general salary increase is
- 31 provided for state employees. The amount of the increase provided
- 32 by this section shall be comparable to, but shall not exceed, the
- 33 percentage of the general salary increases provided for state
- 34 employees during that fiscal year.
- 35 SEC. 55. Section 11565.5 of the Government Code is amended
- 36 to read:
- 37 11565.5. Notwithstanding Sections 11553, 11553.5, 11555,
- 38 11556, 11563.7, and 11564, with respect to any salary increase
- 39 made after January 1, 1997, for nonelected members of state boards
- 40 and commissions specified in Sections 11553, 11553.5, 11555,

1 11556, 11563.7, and 11564, the annual compensation provided by
2 these sections shall not automatically increase but may be increased
3 in any fiscal year in which there is a general increase in the salary
4 ranges and rates for state civil service classifications. The amount
5 of the increase, as determined by the ~~Department of Personnel~~
6 ~~Administration~~ *Department of Human Resources* and subject to
7 the appropriation of funds by the Legislature in the annual Budget
8 Act, shall not exceed the percentage of the general increase in the
9 salary rates and ranges for classifications provided during that
10 fiscal year for state employees designated as managerial.

11 SEC. 56. Section 12010.6 of the Government Code is amended
12 to read:

13 12010.6. (a) The purpose of this section is to increase the
14 Governor's managerial flexibility without increasing costs. It is
15 the intent of the Legislature that positions designated as exempt
16 from civil service by this section shall be filled by a Governor's
17 appointment only after they are vacated by civil service employees.

18 (b) The Governor may designate as exempt from civil service
19 positions in the executive agencies over which he has line
20 responsibility and which have civil-service-exempt officers and
21 employees appointed pursuant to subdivision (f) or (g) of Section
22 4 of Article VII of the California Constitution; provided that the
23 designations shall be limited to positions covered by these
24 subdivisions and shall not cause the total number of positions
25 exempted under these subdivisions to exceed one-half of 1 percent
26 of the number of full-time equivalent positions in these agencies
27 collectively.

28 (c) The Governor may appoint a person to a position designated
29 as exempt from civil service pursuant to this section only after the
30 position is no longer held by a civil service employee.

31 (d) Positions designated by the Governor as exempt from civil
32 service pursuant to this section shall be limited to those designated
33 as managerial positions under Section 3513 by the ~~Department of~~
34 ~~Personnel Administration~~ *Department of Human Resources*.

35 (e) The authority to designate positions as exempt from civil
36 service shall not result in the displacement of civil service
37 employees and shall not result in hiring additional employees into
38 positions not authorized in the Budget Act.

39 (f) The ~~Department of Personnel Administration~~ *Department*
40 *of Human Resources* shall report to the Joint Legislative Audit

1 Committee by January 31 of each year the current percentage of
2 civil-service-exempt officers and employees in state service.

3 SEC. 57. Section 12012.85 of the Government Code is amended
4 to read:

5 12012.85. There is hereby created in the State Treasury a fund
6 called the “Indian Gaming Special Distribution Fund” for the
7 receipt and deposit of moneys received by the state from Indian
8 tribes pursuant to the terms of tribal-state gaming compacts. These
9 moneys shall be available for appropriation by the Legislature for
10 the following purposes:

11 (a) Grants, including any administrative costs, for programs
12 designed to address gambling addiction.

13 (b) Grants, including any administrative costs, for the support
14 of state and local government agencies impacted by tribal
15 government gaming.

16 (c) Compensation for regulatory costs incurred by the State
17 Gaming Agency and the Department of Justice in connection with
18 the implementation and administration of tribal-state gaming
19 compacts.

20 (d) Payment of shortfalls that may occur in the Indian Gaming
21 Revenue Sharing Trust Fund. This shall be the priority use of
22 moneys in the Indian Gaming Special Distribution Fund.

23 (e) Disbursements for the purpose of implementing the terms
24 of tribal labor relations ordinances promulgated in accordance with
25 the terms of tribal-state gaming compacts ratified pursuant to
26 Chapter 874 of the Statutes of 1999. No more than 10 percent of
27 the funds appropriated in the Budget Act of 2000 for
28 implementation of tribal labor relations ordinances promulgated
29 in accordance with those compacts shall be expended in the
30 selection of the Tribal Labor Panel. ~~The Department of Personnel~~
31 ~~Administration~~ *Department of Human Resources* shall consult
32 with and seek input from the parties prior to any expenditure for
33 purposes of selecting the Tribal Labor Panel. Other than the cost
34 of selecting the Tribal Labor Panel, there shall be no further
35 disbursements until the Tribal Labor Panel, which is selected by
36 mutual agreement of the parties, is in place.

37 (f) Any other purpose specified by law.

38 (g) Priority for funding from the Indian Gaming Special
39 Distribution Fund is in the following descending order:

1 (1) An appropriation to the Indian Gaming Revenue Sharing
2 Trust Fund in an aggregate amount sufficient to make payments
3 of any shortfalls that may occur in the Indian Gaming Revenue
4 Sharing Trust Fund.

5 (2) An appropriation to the Office of Problem and Pathological
6 Gambling within the State Department of Alcohol and Drug
7 Programs for problem gambling prevention programs.

8 (3) The amount appropriated in the annual Budget Act for
9 allocation between the Department of Justice and the California
10 Gambling Control Commission for regulatory functions that
11 directly relates to Indian gaming.

12 (4) An appropriation for the support of local government
13 agencies impacted by tribal gaming.

14 SEC. 58. Section 13332.07 of the Government Code is amended
15 to read:

16 13332.07. No funds shall be used to purchase furnishings for
17 any house, mobilehome, or apartment of three or more rooms other
18 than a dormitory that is rented to a state employee. This provision
19 shall not apply to the purchase of refrigerators, heaters,
20 air-conditioning equipment, stoves, linoleum, or equipment
21 normally furnished in the construction of a house, as may be
22 determined by the ~~Department of Personnel Administration~~
23 *Department of Human Resources*. It is the intent of the Legislature
24 that furnishings are not to be provided by the state and that no
25 moneys shall be paid from any appropriation for their replacement
26 or repair, except in connection with the disposal thereof.

27 SEC. 59. Section 14876 of the Government Code is amended
28 to read:

29 14876. (a) Pressmen, typographers, linotypers, compositors,
30 bookbinders, lithographers, engravers, apprentices and assistants
31 and all other employees of the Office of State Printing employed
32 in allied work shall be paid on an hourly wage basis. The basic
33 wage of those employees shall be the prevailing hourly wage paid
34 to persons identified by the ~~Department of Personnel~~
35 *Administration Department of Human Resources* to be in similar
36 and comparable employment by private printers in the major
37 metropolitan areas in California. The ~~Department of Personnel~~
38 *Administration Department of Human Resources* shall accept and
39 give validity to certified copies of agreed upon contracts submitted

1 by either the employer, the employer group, or the employee
2 organization.

3 ~~The Department of Personnel Administration~~ *Department of*
4 *Human Resources* shall survey only major employers where there
5 are agreed upon contracts. If any agreed upon contract contains
6 any provision or provisions that do not reflect the actual practice
7 of the employer, the ~~Department of Personnel Administration~~
8 *Department of Human Resources* shall disregard the provision or
9 provisions.

10 If the ~~Department of Personnel Administration~~ *Department of*
11 *Human Resources* finds that salary relationships between surveyed
12 classes do not accurately reflect relationships in duties and
13 responsibilities of employees of the Office of State Printing, the
14 department shall adjust those wage rates on an equitable basis
15 notwithstanding the survey findings.

16 As used in this section, prevailing wages and prevailing benefits
17 means wages and benefits arrived at through negotiation between
18 an employer or employer organization and an employee
19 organization that is the bona fide representative of the employer's
20 employees and certified as the bona fide representative by the
21 Director of Industrial Relations. In order to be so certified, the
22 employee organization shall be free from employer influence and
23 domination.

24 (b) In addition to these wages, and the rights and privileges
25 afforded state employees under the provisions of the State Civil
26 Service Act, and other statutes, there shall be paid to each employee
27 of the Office of State Printing, either directly or to a health and
28 welfare fund on his or her behalf, an amount equal to the prevailing
29 individual contributions paid to health and welfare plans for
30 employees in similar and comparable employment by private
31 printers in the major metropolitan areas. Where those contracts do
32 not disclose the dollar value of health and welfare benefits, the
33 state shall provide the same or substantially the same level of
34 benefits as provided for in the agreed upon contracts. Any
35 adjustments made pursuant to subdivisions (a) and (b) of this
36 section shall be effective as of March 1, 1977, and each March 1,
37 thereafter.

38 (c) As an alternative to subdivision (b), a person first employed
39 to any position described in subdivision (a) after October 1, 1977,
40 may elect to become an "employee" as defined in paragraph (5)

1 of subdivision (a) of Section 22772 within 90 days of commencing
2 that employment.

3 Any person who is a member of a health and welfare plan
4 described in subdivision (b) who loses eligibility for participation
5 in the plan, or if the plan of which the person is a member ceases
6 to exist, that person may elect to become an “employee,” as defined
7 in paragraph (5) of subdivision (a) of Section 22772, within 90
8 days of the date that eligibility is lost or the plan ceases to exist.

9 (d) In no instance shall the wages and the health and welfare
10 contributions paid by the state to the persons covered under this
11 section be less than the dollar amount paid as of the effective date
12 of this section.

13 (e) If the provisions of this section are in conflict with the
14 provisions of a memorandum of understanding reached pursuant
15 to Section 3517.5, the memorandum of understanding shall be
16 controlling without further legislative action, except that if the
17 provisions of a memorandum of understanding require the
18 expenditure of funds, the provisions may not become effective
19 unless approved by the Legislature in the annual Budget Act.

20 SEC. 60. Section 14998.3 of the Government Code is amended
21 to read:

22 14998.3. (a) The commission shall submit a list of
23 recommended candidates for the position of Director of the Film
24 Commission to the Governor for consideration. The Governor
25 shall appoint the director.

26 (b) The Director of the Film Commission shall receive a salary
27 to be determined by the ~~Department of Personnel Administration~~
28 *Department of Human Resources*.

29 (c) The secretary, or his or her designee, shall act as the director
30 during the absence from the state or other temporary absence,
31 disability, or unavailability of the director, or during a vacancy in
32 that position.

33 SEC. 61. Section 16649.94 of the Government Code is amended
34 to read:

35 16649.94. This chapter shall not apply to any Internal Revenue
36 Code Section 457, 401(k), or 403(b) defined contribution plan
37 administered by the ~~Department of Personnel Administration~~
38 *Department of Human Resources*.

39 SEC. 62. Section 18000.5 of the Government Code is amended
40 to read:

1 18000.5. (a) Notwithstanding Sections 18000 and 19990, any
2 officer or employee of the state may receive for his or her personal
3 use compensation from any nonprofit corporation formed
4 exclusively to aid and assist an entity described in subdivision (b)
5 for services rendered to the nonprofit corporation and for his or
6 her expenses of performing these services, provided that the
7 nonprofit corporation obtains the prior written approval of the
8 ~~Department of Personnel Administration~~ *Department of Human*
9 *Resources* to provide the compensation to any officer or employee
10 and files with the Controller and the ~~Department of Personnel~~
11 ~~Administration~~ *Department of Human Resources* by September
12 30 of each year a statement disclosing the names of state officers
13 and employees compensated and their respective amounts of
14 compensation for the preceding fiscal year, and the giving or receipt
15 of the compensation is not in violation of any state or federal law.
16 Any subsequent changes to the compensation for any officer or
17 employee provided under this section must be approved by the
18 ~~Department of Personnel Administration~~ *Department of Human*
19 *Resources*.

20 The board of directors of the entities described in subdivision
21 (b) shall determine whether the services are incompatible with the
22 state responsibilities of the officer or employee and whether the
23 services rendered to the nonprofit corporation interfere with the
24 officer's or employee's full-time obligation to the state. The board
25 of directors of the entities described in subdivision (b) also shall
26 review any issues of compliance of the nonprofit corporation with
27 the terms of any contractual arrangements with the state
28 independently of the officer's or employee's receiving
29 compensation from the nonprofit corporation.

30 (b) Any officer or employee of the state may be compensated,
31 as described in subdivision (a), by a nonprofit corporation formed
32 to aid and assist any of the following entities:

- 33 (1) A state museum.
- 34 (2) A district agricultural association, as provided for in Section
35 3951 of the Food and Agricultural Code.

36 SEC. 63. Section 18573 of the Government Code is amended
37 to read:

38 18573. Each appointing power shall report promptly to the
39 board *and the Department of Human Resources* such information
40 as the board may require in connection with each appointment,

1 separation from service, or other change in position or salary, or
2 other matter affecting the status of positions or the performance
3 of duties of employees in the state civil service, ~~and all these.~~ *The*
4 reports shall be prepared in the manner and form prescribed by
5 the board.

6 Information given to the board *and the Department of Human*
7 *Resources* by any person shall not be open to public inspection
8 except under conditions prescribed by board rule, except that a
9 person may inspect any record relating to his or her own services.

10 SEC. 64. Section 18574 of the Government Code is amended
11 to read:

12 18574. All officers and employees of the State and any county,
13 city, district, or other subdivision of the State recognized by law
14 shall aid in all proper ways in carrying this part and the board rules
15 into effect, ~~and~~ allow the reasonable use of public buildings and
16 heat, and light them for the purpose of making examinations of
17 applicants and holding hearings and investigations under this part.
18 ~~Such persons~~ *Officers and employees* shall afford to the board *and*
19 *the Department of Human Resources*, or ~~its~~ *the board's or*
20 *department's* authorized representatives, all reasonable facilities
21 ~~and~~, permit inspection of all books and papers applying or in any
22 way appertaining to all offices subject to the authority of the ~~State,~~
23 ~~and state,~~ produce ~~such~~ *the* books or papers, and attend and testify
24 when required so to do.

25 SEC. 65. Section 18706 of the Government Code is amended
26 to read:

27 18706. The board may make agreements with personnel
28 agencies in other jurisdictions, political subdivisions, and ~~State~~
29 ~~state~~ agencies excepted from the ~~State~~ *state* civil service.

30 SEC. 66. Section 18707 of the Government Code is amended
31 to read:

32 18707. The board *and the Department of Human Resources*
33 may enter into agreements to make available ~~its~~ *their* services and
34 facilities, upon request, to any county, city, district or other
35 subdivision of the state recognized by law, and to state agencies
36 excepted from the state civil service, and they may enter into
37 ~~ageements~~ *agreements* for the exchange of personnel services or
38 the utilization of the services and facilities ~~of the board.~~ ~~Such.~~ *The*
39 agreements shall be approved by the Director of General Services.

1 SEC. 67. Section 18708 of the Government Code is amended
2 to read:

3 18708. The board shall cooperate with the Director of Finance,
4 ~~the Department of Personnel Administration~~ *Department of Human*
5 *Resources*, the California Victim Compensation and Government
6 Claims Board, the Controller, and other state agencies, in matters
7 not covered by this part, and not inconsistent with this part, to
8 promote the efficient and economical administration of the state's
9 business.

10 SEC. 68. Section 18711 of the Government Code is amended
11 to read:

12 18711. The board *and the Department of Human Resources*
13 may join associations of personnel agencies having as their purpose
14 the interchanging or supplying of information relating to the
15 technique of personnel administration.

16 SEC. 69. Section 18714 of the Government Code is amended
17 to read:

18 18714. (a) Nothing in this part shall preclude the ~~Department~~
19 ~~of Personnel Administration~~ *Department of Human Resources*
20 from providing by rule for a system of adjusting employee
21 grievances which shall be administered within the departments
22 before recourse to any remedy provided in this part.

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

30 SEC. 70. Section 18717 of the Government Code is amended
31 to read:

32 18717. (a) The board shall develop objective criteria for
33 determining the application of the state safety category of
34 membership in the Public Employees' Retirement System to
35 positions in the state civil service. Upon the request of the
36 ~~Department of Personnel Administration~~ *Department of Human*
37 *Resources* or an employee organization, the board shall then
38 determine which classes of positions meet all or part of the
39 elements of the criteria and shall list the positions in order based
40 upon the degree in which their duties meet the criteria. An

1 employee organization that requests a determination with respect
2 to a class of position previously determined not to meet the criteria
3 shall submit a written argument supporting the assertion that the
4 class of position meets the criteria. The board, if it finds the written
5 argument to be unpersuasive, may refuse to commence
6 determination proceedings unless and until either the ~~Department~~
7 ~~of Personnel Administration~~ *Department of Human Resources*
8 requests a determination with respect to that class of position or
9 the employee organization submits to the board a supporting
10 argument which the board finds persuasive. The board shall
11 indicate to the department whether the classes qualify for state
12 safety membership. The Public Employees' Retirement System
13 and employing agencies shall assist and cooperate with the board
14 in preparation of the report.

15 (b) The board shall transmit the report directly to the department,
16 which shall make a copy available to the exclusive representative
17 of any employee organization upon its written request.

18 (c) The department may use the results of the study in
19 subsequent negotiations with the exclusive employee
20 representatives; however, the report shall in no way obligate the
21 department to take any action or make any recommendations as it
22 relates to state safety membership.

23 (d) The department shall not recommend safety membership
24 for any class of employees who have not been determined by the
25 board to meet the established criteria.

26 (e) For classes of employees recommended for state safety
27 membership by a memorandum of understanding reached pursuant
28 to Section 3517.5, a copy of the report authorized under this section
29 shall be submitted to the Legislature with the signed memorandum
30 of understanding.

31 (f) This section does not apply to state employees who are
32 subject to Sections 19816.20 and 20405.1.

33 SEC. 71. Section 18801.1 of the Government Code is amended
34 to read:

35 18801.1. ~~The Department of Personnel Administration~~
36 *Department of Human Resources* shall designate managerial
37 positions, as defined in subdivision (e) of Section 3513, and shall
38 report those designations to the board annually. Any disputes as
39 to the managerial classification or position designations may be
40 appealed to the State Personnel Board.

1 SEC. 72. Section 18802 of the Government Code is amended
2 to read:

3 18802. From time to time as it deems necessary, the board may
4 establish additional classes and divide, combine, alter, or abolish
5 existing classes. In establishing, altering, or abolishing classes, the
6 board shall consider the recommendations of the ~~Department of~~
7 ~~Personnel Administration~~ *Department of Human Resources*. When
8 those actions are taken the board shall determine in each instance
9 whether positions affected are to be reallocated to another class
10 or classes after taking into account the duties and responsibilities,
11 qualifications, performance standards, and other related criteria
12 before and after the change, and shall determine the status of the
13 probationary and permanent employees affected.

14 SEC. 73. Section 18904 of the Government Code is amended
15 to read:

16 18904. For each class there shall be maintained a separate
17 departmental reemployment list within a given state agency, which
18 shall consist of the names of persons on the general reemployment
19 list but employed in that state agency at the time of separation.
20 There shall also be maintained a separate subdivisional
21 reemployment list within a given state agency which shall consist
22 of the names of persons employed in a subdivision of a state agency
23 at the time of separation if subdivisions for that state agency have
24 been set up with the approval of the ~~Department of Personnel~~
25 ~~Administration~~ *Department of Human Resources* for layoff
26 purposes.

27 SEC. 74. Section 18905 of the Government Code is amended
28 to read:

29 18905. The order in which names appear on reemployment
30 lists shall be determined by the relative order of the scores
31 determined as for layoff in accordance with Section 19997.3 and
32 ~~Department of Personnel Administration~~ *Department of Human*
33 *Resources* rules.

34 SEC. 75. Section 19134 of the Government Code is amended
35 to read:

36 19134. (a) Personal services contracts entered into by a state
37 agency in accordance with Section 19130 for persons providing
38 janitorial and housekeeping services, custodians, food service
39 workers, laundry workers, window cleaners, and security guard
40 services shall include provisions for employee wages and benefits

1 that are valued at least 85 percent of the state employer cost of
2 wages and benefits provided to state employees for performing
3 similar duties.

4 (b) For purposes of this section, “benefits” includes “health,
5 dental, retirement, and vision benefits, and holiday, sick, and
6 vacation pay.”

7 (c) (1) ~~The Department of Personnel Administration~~ *Department*
8 *of Human Resources* shall establish annually the state employer
9 wage and benefit costs for workers covered pursuant to this section.

10 (2) Benefit costs shall be established using rates based on single
11 employee, employee plus one dependent, and employee plus two
12 or more dependents, or the costs may be based on a blended rate,
13 subject to the determination of the ~~Department of Personnel~~
14 ~~Administration~~ *Department of Human Resources*.

15 (d) In lieu of providing actual benefits, contractors may comply
16 with this section by a cash payment to employees equal to the
17 applicable determination under subdivision (c).

18 (e) Failure to provide benefits or cash-in-lieu to employees as
19 required under this section shall be deemed to be a material breach
20 for any contract for personal services covered by this section.

21 (f) The Department of General Services and the ~~Department of~~
22 ~~Personnel Administration~~ *Department of Human Resources* may
23 adopt guidelines and regulations to implement the requirements
24 of this section.

25 (g) This section applies to all contracts exceeding 90 days.

26 (h) Holiday pay shall be provided to employees of contractors
27 providing services specified in subdivision (a) on any state holiday
28 that the state facility in which the services are being provided is
29 closed.

30 (i) This section also applies to wages and benefits of employees
31 of subcontractors providing services specified in subdivision (a)
32 in state-leased facilities where the facility is at least 50,000 square
33 feet in area and the state leases all of the occupied floorspace of
34 the facility.

35 (j) With the exception of subdivision (h), this section does not
36 apply to personal services contracts for the services described in
37 subdivision (a) performed by employees of nonprofit organizations
38 that are employed in accordance with any of the following:

39 (1) A special license issued pursuant to Section 1191.5 of the
40 Labor Code.

1 (2) A special certificate issued pursuant to Section 214 of Title
2 29 of the United States Code.

3 (3) A community rehabilitation plan described in Sections 19152
4 and 19404 of the Welfare and Institutions Code.

5 (4) A habilitation services program as described in Sections
6 19352 and 19356.6 of the Welfare and Institutions Code.

7 SEC. 76. Section 19172 of the Government Code is amended
8 to read:

9 19172. During the probationary period the appointing power
10 or his or her officially delegated representative shall evaluate the
11 work and efficiency of a probationer in the manner and at such
12 periods as the ~~Department of Personnel Administration~~ *Department*
13 *of Human Resources* rules may require.

14 SEC. 78. Section 19253.5 of the Government Code is amended
15 to read:

16 19253.5. (a) In accordance with board rule, the appointing
17 power may require an employee to submit to a medical examination
18 by a physician or physicians designated by the appointing power
19 to evaluate the capacity of the employee to perform the work of
20 his or her position.

21 (b) Fees for the examination and for the services of medical
22 specialists or technicians, if necessary, shall be paid by the state
23 agency. The employee may submit medical or other evidence to
24 the examining physician or to the appointing power. The examining
25 physician shall make a written report of the examination to the
26 appointing power. The appointing power shall provide a copy to
27 the physician designated by the employee.

28 (c) When the appointing power, after considering the
29 conclusions of the medical examination and other pertinent
30 information, concludes that the employee is unable to perform the
31 work of his or her present position, but is able to perform the work
32 of another position including one of less than full time, the
33 appointing power may demote or transfer the employee to such a
34 position.

35 Except as authorized by the ~~Department of Personnel~~
36 ~~Administration~~ *Department of Human Resources* under Section
37 19837, the employee demoted or transferred pursuant to this section
38 shall receive the maximum of the salary range of the class to which
39 he or she is demoted or transferred, provided that the salary is not

1 greater than the salary he or she received at the time of his or her
2 demotion or transfer.

3 (d) When the appointing power after considering the conclusions
4 of the medical examination provided for by this section or medical
5 reports from the employee's physician, and other pertinent
6 information, concludes that the employee is unable to perform the
7 work of his or her present position, or any other position in the
8 agency, and the employee is not eligible or waives the right to
9 retire for disability and elects to withdraw his or her retirement
10 contributions or to permit his or her contributions to remain in the
11 retirement fund with rights to service retirement, the appointing
12 power may terminate the appointment of the employee.

13 (e) The appointing power may demote, transfer, or terminate
14 an employee under this section without requiring the employee to
15 submit to a medical examination when the appointing power relies
16 upon a written statement submitted to the appointing power by the
17 employee as to the employee's condition or upon medical reports
18 submitted to the appointing power by the employee.

19 (f) The employee shall be given written notice of any demotion,
20 transfer, or termination under this section at least 15 days prior to
21 the effective date thereof. No later than 15 days after service of
22 the notice, the employee may appeal the action of the appointing
23 power to the board. The board, in accordance with its rules, shall
24 hold a hearing. The board may sustain, disapprove, or modify the
25 demotion, transfer, or termination.

26 (g) Whenever the board revokes or modifies a demotion,
27 transfer, or termination, the board shall direct the payment of salary
28 to the employee calculated on the same basis and using the same
29 standards as provided in Section 19584.

30 (h) Upon the request of an appointing authority or the petition
31 of the employee who was terminated, demoted, or transferred in
32 accordance with this section, the employee shall be reinstated to
33 an appropriate vacant position in the same class, in a comparable
34 class or in a lower related class if it is determined by the board
35 that the employee is no longer incapacitated for duty. Such a
36 reinstatement to a position in a different agency may be made only
37 with the concurrence of that agency. In approving or ordering the
38 reinstatements, the board may require the satisfactory completion
39 of a new probationary period. When the board finds the employee
40 who was terminated, demoted, or transferred is no longer

1 incapacitated for duty but there is no vacant position to which the
2 employee appropriately can be appointed, the name of the
3 employee shall be placed upon those reemployment lists that are
4 determined to be appropriate by the board.

5 (i) (1) If the appointing power, after considering the conclusions
6 of the medical examination provided for by this section or medical
7 reports from the employee's physician and other pertinent
8 information, concludes that the employee is unable to perform the
9 work of his or her present position or any other position in the
10 agency and the employee is eligible and does not waive the right
11 to retire for disability, the appointing power shall file an application
12 for disability retirement on the employee's behalf. The appointing
13 power shall give the employee 15 days written notice of its
14 intention to file such an application and a reasonable opportunity
15 to respond to the appointing power prior to the appointing power's
16 filing of the application. However, the appointing power's decision
17 to file the application is final and is not appealable to the State
18 Personnel Board.

19 (2) Notwithstanding Section 21153, upon filing the application
20 for disability retirement, the appointing power may remove the
21 employee from the job and place the employee on involuntary
22 leave status. The employee may use any accrued leave eligible
23 during the period of the involuntary leave. If the employee's leave
24 credits and programs are exhausted or if they do not provide
25 benefits at least equal to the estimated retirement allowance, the
26 appointing power shall pay the employee an additional temporary
27 disability allowance so that the employee receives payment equal
28 to the retirement allowance. The appointing power shall continue
29 to make all employer contributions to the employee's health plans
30 during the period of the involuntary leave.

31 (3) If the application for disability retirement is subsequently
32 granted, the retirement system shall reimburse the appointing power
33 for the temporary disability allowance which shall be deducted
34 from any back disability retirement benefits otherwise payable to
35 the employee. If the application is denied, the appointing power
36 shall reinstate the employee to his or her position with back salary
37 and benefits pursuant to subdivision (g), less any temporary
38 disability allowance paid by the appointing power. The appointing
39 power shall also restore any leave credits the employee used during
40 the period of the involuntary leave.

1 SEC. 79. Section 19261 of the Government Code is amended
2 to read:

3 19261. (a) ~~The Department of Personnel Administration~~
4 *Department of Human Resources* may establish standards of health
5 and safety in state agencies and may develop a comprehensive
6 health and safety program designed to improve the efficiency and
7 raise the morale of state employees.

8 Nothing in this section or in the standards established thereunder
9 shall discriminate against treatment by prayer or spiritual means
10 nor require physical examination of any employee who files with
11 the board an affidavit setting forth that he or she depends
12 exclusively upon prayer for healing in accordance with the
13 teachings of a bona fide religious sect, denomination or
14 organization and that he or she is to the best of his or her
15 knowledge and belief in good health and that he or she claims
16 exemption on such grounds, except that when there is probable
17 cause to believe that such employee is not physically able to
18 perform the duties of his or her employment, the board may require
19 a physical examination of the employee sufficient to indicate
20 whether or not he or she is able to perform the duties of his or her
21 employment.

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

29 SEC. 80. Section 19573 is added to the Government Code, to
30 read:

31 19573. The Department of Human Resources may establish
32 disciplinary criteria applicable to adverse actions taken by
33 appointing bodies pursuant to the causes of discipline set forth in
34 Section 19572.

35 SEC. 81. Section 19576.1 of the Government Code is amended
36 to read:

37 19576.1. Effective January 1, 1996, notwithstanding Section
38 19576, this section shall apply only to state employees in State
39 Bargaining Unit 5.

1 Whenever an answer is filed by an employee who has been
2 suspended without pay for five days or less or who has received
3 a formal reprimand or up to a five percent reduction in pay for five
4 months or less, the ~~Department of Personnel Administration~~
5 *Department of Human Resources* or its authorized representative
6 shall make an investigation, with or without a hearing, as it deems
7 necessary. However, if he or she receives one of the cited actions
8 in more than three instances in any 12-month period, he or she,
9 upon each additional action within the same 12-month period, shall
10 be afforded a hearing before the State Personnel Board if he or she
11 files an answer to the action.

12 The ~~Department of Personnel Administration~~ *Department of*
13 *Human Resources* shall not have the above authority with regard
14 to formal reprimands. Formal reprimands shall not be appealable
15 by the receiving employee by any means, except that the State
16 Personnel Board, pursuant to its constitutional authority, shall
17 maintain its right to review all formal reprimands. Formal
18 reprimands shall remain available for use by the appointing
19 authorities for the purpose of progressive discipline.

20 Disciplinary action taken pursuant to this section is not subject
21 to Sections 19180, 19574.1, 19574.2, 19575, 19575.5, 19579,
22 19580, 19581, 19581.5, 19582, 19583, and 19587, or to State
23 Personnel Board Rules 51.1 to 51.9, inclusive, 52, and 52.1 to
24 52.5, inclusive.

25 Notwithstanding any other law or rule, if the provisions of this
26 section are in conflict with the provisions of the memorandum of
27 understanding reached pursuant to Section 3517.5, the
28 memorandum of understanding shall be controlling without further
29 legislative action, except that if the provisions of a memorandum
30 of understanding require the expenditure of funds, the provisions
31 shall not become effective unless approved by the Legislature in
32 the annual Budget Act.

33 SEC. 82. Section 19582 of the Government Code is amended
34 to read:

35 19582. (a) Hearings may be held by the board, or by any
36 authorized representative, but the board shall render the decision
37 that in its judgment is just and proper.

38 During a hearing, after the appointing authority has completed
39 the opening statement or the presentation of evidence, the
40 employee, without waiving his or her right to offer evidence in the

1 event the motion is not granted, may move for a dismissal of the
2 charges.

3 If it appears that the evidence presented supports the granting
4 of the motion as to some but not all of the issues involved in the
5 action, the board or the authorized representative shall grant the
6 motion as to those issues and the action shall proceed as to the
7 issues remaining. Despite the granting of the motion, no judgment
8 shall be entered prior to a final determination of the action on the
9 remaining issues, and shall be subject to final review and approval
10 by the board.

11 (b) If a contested case is heard by an authorized representative,
12 he or she shall prepare a proposed decision in a form that may be
13 adopted as the decision in the case. A copy of the proposed decision
14 shall be filed by the board as a public record and furnished to each
15 party within 10 days after the proposed decision is filed with the
16 board. The board itself may adopt the proposed decision in its
17 entirety, may remand the proposed decision, or may reduce the
18 adverse action set forth therein and adopt the balance of the
19 proposed decision.

20 (c) If the proposed decision is not remanded or adopted as
21 provided in subdivision (b), each party shall be notified of the
22 action, and the board itself may decide the case upon the record,
23 including the transcript, with or without taking any additional
24 evidence, or may refer the case to the same or another authorized
25 representative to take additional evidence. If the case is so assigned
26 to an authorized representative, he or she shall prepare a proposed
27 decision as provided in subdivision (b) upon the additional
28 evidence and the transcript and other papers that are part of the
29 record of the prior hearing. A copy of the proposed decision shall
30 be furnished to each party. The board itself shall decide no case
31 provided for in this subdivision without affording the parties the
32 opportunity to present oral and written argument before the board
33 itself. If additional oral evidence is introduced before the board
34 itself, no board member may vote unless he or she heard the
35 additional oral evidence.

36 (d) In arriving at a decision or a proposed decision, the board
37 or its authorized representative may consider any prior suspension
38 or suspensions of the appellant by authority of any appointing
39 power, or any prior proceedings under this article.

1 (e) *In arriving at a decision or a proposed decision, the board,*
2 *in exercising its discretion consistent with its authority under*
3 *Section 3 of Article VII of the California Constitution, shall give*
4 *consideration and respect to any applicable disciplinary criteria*
5 *established pursuant to Section 19573, and the extent to which the*
6 *employee's conduct resulted in, or if repeated is likely to result*
7 *in, harm to the public service, the circumstances surrounding the*
8 *offense or misconduct, and the likelihood of recurrence.*

9 (e)

10 (f) The decision shall be in writing and contain findings of fact
11 and the adverse action, if any. The findings may be stated in the
12 language of the pleadings or by reference thereto. Copies of the
13 decision shall be served on the parties personally or by mail.

14 SEC. 83. Section 19583 of the Government Code is amended
15 to read:

16 19583. The board shall render a decision within a reasonable
17 time after the hearing or investigation. The adverse action taken
18 by the appointing power shall stand unless modified or revoked
19 by the board. If the board finds that the cause or causes for which
20 the adverse action was imposed were insufficient or not sustained,
21 or that the employee was justified in the course of conduct upon
22 which the causes were based, it may modify or revoke the adverse
23 action and it may order the employee returned to his or her position
24 with appropriate restoration of backpay and lost benefits either as
25 of the date of the adverse action or as of such later date as it may
26 specify. The decision of the board shall be entered upon the minutes
27 of the board and the official roster. *In arriving at a decision, the*
28 *board, in exercising its discretion consistent with its authority*
29 *under Section 3 of Article VII of the California Constitution, shall*
30 *give consideration and respect to any applicable disciplinary*
31 *criteria established pursuant to Section 19573.*

32 SEC. 85. Section 19592 of the Government Code is amended
33 to read:

34 19592. When action is taken under this article, the provisions
35 of this article and related board ~~rule~~ *and Department of Human*
36 *Resources rules* shall constitute the entire disciplinary action and
37 review process, except that the provisions of Sections 19574.1,
38 19583.5, and 19584 shall also apply in a manner consistent with
39 the provisions of this article.

1 SEC. 86. Section 19608 of the Government Code, as added by
2 Section 24 of Chapter 88 of the Statutes of 1998, is amended to
3 read:

4 19608. Any demonstration project implemented under this
5 chapter shall not include the adoption or waiver of regulations or
6 statutes that are administered or enforced by the ~~Department of~~
7 ~~Personnel Administration~~ *Department of Human Resources* without
8 the express approval of the ~~Department of Personnel~~
9 ~~Administration~~ *Department of Human Resources*.

10 SEC. 87. Section 19608 of the Government Code, as added by
11 Section 24 of Chapter 91 of the Statutes of 1998, is amended to
12 read:

13 19608. Any demonstration project implemented under this
14 chapter shall not include the adoption or waiver of regulations or
15 statutes that are administered or enforced by the ~~Department of~~
16 ~~Personnel Administration~~ *Department of Human Resources* without
17 the express approval of the ~~Department of Personnel~~
18 ~~Administration~~ *Department of Human Resources*.

19 SEC. 88. Section 19702 of the Government Code is repealed.

20 ~~19702. (a) A person shall not be discriminated against under~~
21 ~~this part on any basis listed in subdivision (a) of Section 12940,~~
22 ~~as those bases are defined in Sections 12926 and 12926.1, except~~
23 ~~as otherwise provided in Section 12940. A person shall not be~~
24 ~~retaliated against because he or she has opposed any practice made~~
25 ~~an unlawful employment practice, or made a charge, testified,~~
26 ~~assisted, or participated in any manner in an investigation,~~
27 ~~proceeding, or hearing under this part. This subdivision is~~
28 ~~declaratory of existing law.~~

29 ~~(b) For purposes of this article, "discrimination" includes~~
30 ~~harassment.~~

31 ~~(c) If the board finds that a person has engaged in discrimination~~
32 ~~under this part, and it appears that this practice consisted of acts~~
33 ~~described in Section 243.4, 261, 262, 286, 288, 288a, or 289 of~~
34 ~~the Penal Code, the board, with the consent of the complainant,~~
35 ~~shall provide the local district attorney's office with a copy of the~~
36 ~~board's decision and order.~~

37 ~~(d) (1) Except as otherwise provided in paragraph (2), if the~~
38 ~~board finds that discrimination has occurred in violation of this~~
39 ~~part, the board shall issue and cause to be served on the appointing~~
40 ~~authority an order requiring the appointing authority to cause the~~

1 discrimination to cease and desist and to take any action, including,
2 but not limited to, hiring, reinstatement, or upgrading of employees,
3 with or without backpay, and compensatory damages, which, in
4 the judgment of the board, will effectuate the purposes of this part.
5 Consistent with this authority, the board may establish rules
6 governing the award of compensatory damages. The order shall
7 include a requirement of reporting the manner of compliance.

8 ~~(2) Notwithstanding paragraph (1), this paragraph applies to~~
9 ~~state employees in State Bargaining Unit 6 or 8. If the board finds~~
10 ~~that discrimination has occurred in violation of this part, the board~~
11 ~~shall issue and cause to be served on the appointing authority an~~
12 ~~order requiring the appointing authority to cause the discrimination~~
13 ~~to cease and desist and to take any action, including, but not limited~~
14 ~~to, hiring, reinstatement, or upgrading of employees, with or~~
15 ~~without backpay, adding additional seniority, and compensatory~~
16 ~~damages, which, in the judgment of the board, will effectuate the~~
17 ~~purposes of this part. Consistent with this authority, the board may~~
18 ~~establish rules governing the award of compensatory damages.~~
19 ~~The order shall include a requirement of reporting the manner of~~
20 ~~compliance.~~

21 ~~(e) Any person claiming discrimination within the state civil~~
22 ~~service may submit a written complaint that states the particulars~~
23 ~~of the alleged discrimination, the name of the appointing authority,~~
24 ~~the persons alleged to have committed the unlawful discrimination,~~
25 ~~and any other information that the board may require. The~~
26 ~~complaint shall be filed with the appointing authority or, in~~
27 ~~accordance with board rules, with the board itself.~~

28 ~~(f) (1) Complaints shall be filed within one year of the alleged~~
29 ~~unlawful discrimination or the refusal to act in accordance with~~
30 ~~this section, except that this period may be extended for not greater~~
31 ~~than 90 days following the expiration of that year, if a person~~
32 ~~allegedly aggrieved by unlawful discrimination first obtained~~
33 ~~knowledge of the facts of the alleged unlawful discrimination after~~
34 ~~the expiration of one year from the date of its occurrence.~~
35 ~~Complaints of discrimination in adverse actions or rejections on~~
36 ~~probation shall be filed in accordance with Sections 19175 and~~
37 ~~19575.~~

38 ~~(2) Notwithstanding paragraph (1), this paragraph shall apply~~
39 ~~only to state employees in State Bargaining Unit 8. Complaints~~
40 ~~shall be filed within one year of the alleged unlawful discrimination~~

1 or the refusal to act in accordance with this section, except that
2 this period may be extended for not greater than 90 days following
3 the expiration of that year, if a person allegedly aggrieved by
4 unlawful discrimination first obtained knowledge of the facts of
5 the alleged unlawful discrimination after the expiration of one year
6 from the date of its occurrence. Complaints of discrimination in
7 disciplinary actions defined in Section 19576.5 shall be filed in
8 accordance with that section. Complaints of discrimination in all
9 other disciplinary actions shall be filed in accordance with Section
10 19575. Complaints of discrimination in rejections on probation
11 shall be filed in accordance with Section 19175.3.

12 (g) ~~If an employee of the appointing authority refuses, or~~
13 ~~threatens to refuse, to cooperate in the investigation of a complaint~~
14 ~~of discrimination, the appointing authority may seek assistance~~
15 ~~from the board. The board may provide for direct investigation or~~
16 ~~hearing of the complaint, the use of subpoenas, or any other action~~
17 ~~that will effectuate the purposes of this section.~~

18 (h) ~~If a person demonstrates by a preponderance of evidence~~
19 ~~that the person's opposition to any practice made an unlawful~~
20 ~~employment practice under this part, or the person's charging,~~
21 ~~testifying, assisting, or participation in any manner in an~~
22 ~~investigation, proceeding, or hearing under this part, was a~~
23 ~~contributing factor in any adverse employment action taken against~~
24 ~~him or her, the burden of proof shall be on the supervisor, manager,~~
25 ~~employee, or appointing power to demonstrate by clear and~~
26 ~~convincing evidence that the alleged adverse employment action~~
27 ~~would have occurred for legitimate, independent reasons even if~~
28 ~~the person had not engaged in activities protected under this part.~~
29 ~~If the supervisor, manager, employee, or appointing power fails~~
30 ~~to meet this burden of proof in any administrative review,~~
31 ~~challenge, or adjudication in which retaliation has been~~
32 ~~demonstrated to be a contributing factor, the person shall have a~~
33 ~~complete affirmative defense to the adverse employment action.~~

34 (i) ~~As used in this part, "adverse employment action" includes~~
35 ~~promising to confer, or conferring, any benefit, effecting, or~~
36 ~~threatening to effect, any reprisal, or taking, or directing others to~~
37 ~~take, or recommending, processing, or approving, any personnel~~
38 ~~action, including, but not limited to, appointment, promotion,~~
39 ~~transfer, assignment, performance evaluation, suspension, or other~~
40 ~~disciplinary action.~~

1 SEC. 89. Section 19770 of the Government Code is amended
2 to read:

3 19770. (a) With the exception of Chapter 7.5 (commencing
4 with Section 400) of Part 1 of Division 2 of the Military and
5 Veterans Code, this part, rather than provisions of the Military and
6 Veterans Code, governs leave for military service, rights and
7 benefits accrued during that service, and reinstatement after that
8 service, for executive branch employees. Both the State Personnel
9 Board and the ~~Department of Personnel Administration~~ *Department*
10 *of Human Resources* have responsibilities for carrying out certain
11 provisions of this chapter as provided in subdivision (b).

12 (b) The State Personnel Board is responsible for the provisions
13 of this chapter pertaining to civil service examinations, list
14 eligibility, appointments, reinstatements, probationary periods,
15 and status. The ~~Department of Personnel Administration~~
16 *Department of Human Resources* is responsible for the provisions
17 of this chapter on eligibility for military leave and the effect of
18 these leaves on the employee's salary, vacation, sick leave, and
19 seniority.

20 (c) For the purposes of this chapter:

21 (1) "Employee" means that term as defined by subdivision (d)
22 of Section 19815.

23 (2) "Civil service employee" means an employee legally holding
24 a position in the state civil service.

25 (3) "Exempt employee" means an employee who is exempt
26 from the state civil service by Section 4 of Article VII of the
27 California Constitution.

28 SEC. 90. Section 19775 of the Government Code is amended
29 to read:

30 19775. An employee who is granted a long-term military leave
31 of absence and who for a period of not less than one year
32 immediately prior to the effective date active duty begins has had
33 continuous state service as defined by ~~Department of Personnel~~
34 *Administration Department of Human Resources* rule which is not
35 broken by a permanent separation shall be entitled to receive his
36 or her salary or compensation for the first 30 calendar days of
37 active duty served during the absence.

38 SEC. 91. Section 19775.1 of the Government Code is amended
39 to read:

1 19775.1. An employee who is granted a short-term military
2 leave of absence for active military duty, but not for inactive duty,
3 including, but not limited to, scheduled reserve drill periods, and
4 who for a period of not less than one year immediately prior to the
5 effective date of active duty has had continuous state service as
6 defined by ~~Department of Personnel Administration~~ *Department*
7 *of Human Resources* rule that is not broken by a permanent
8 separation, or who has had continuous state service immediately
9 prior to the effective date of active duty not broken by a permanent
10 separation and sufficient recognized military service that need not
11 be contiguous to equal one year shall be entitled to receive his or
12 her salary or compensation for the first 30 calendar days of active
13 duty served during the absence.

14 An employee who is granted emergency military leave under
15 Section 19773, shall receive his or her salary or compensation as
16 a state employee while going to, engaging in, and returning from
17 the duty. The employee shall not receive his or her salary or
18 compensation for more than 30 days each time he or she is granted
19 the emergency military leave.

20 SEC. 92. Section 19775.15 of the Government Code is amended
21 to read:

22 19775.15. (a) In addition to the benefits provided pursuant to
23 Sections 19775 and 19775.1, an employee who, as a member of
24 the California National Guard or a United States military reserve
25 organization, is called into active duty as a result of the Iraq-Kuwait
26 crisis on or after August 2, 1990, shall have the benefits provided
27 for in subdivision (b).

28 (b) Any employee to which subdivision (a) applies, while on
29 active duty, shall, with respect to active duty served on or after
30 August 2, 1990, receive from the state, for a period not to exceed
31 180 calendar days, as part of his or her compensation both of the
32 following:

33 (1) The difference between the amount of his or her military
34 pay and allowances and the amount the employee would have
35 received as a state employee as determined by the ~~Department of~~
36 ~~Personnel Administration~~ *Department of Human Resources*,
37 including any merit raises which would otherwise have been
38 granted during the time the individual was on active duty.

1 (2) All benefits which he or she would have received had he or
2 she not been called to active duty unless the benefits are prohibited
3 or limited by vendor contracts.

4 (c) Any individual receiving compensation pursuant to
5 subdivision (b) who does not return to state service within 60 days
6 of being released from active duty shall have that compensation
7 treated as a loan payable with interest at the rate earned on the
8 Pooled Money Investment Account. This subdivision shall not
9 apply to compensation received pursuant to Section 19775.

10 (d) This section shall not apply to any active duty served
11 voluntarily after the close of the Iraq-Kuwait crisis.

12 SEC. 93. Section 19775.16 of the Government Code is amended
13 to read:

14 19775.16. (a) In addition to the benefits provided pursuant to
15 Sections 19775 and 19775.1, an employee who, as a member of
16 the California National Guard or a United States military reserve
17 organization, is called into active duty as a result of the Bosnia
18 crisis on or after November 21, 1995, shall have the benefits
19 provided for in subdivision (b).

20 (b) Any employee to which subdivision (a) applies, while on
21 active duty, shall, with respect to active duty served on or after
22 November 21, 1995, as a result of the Bosnia crisis, receive from
23 the state, for a period not to exceed 180 calendar days, as part of
24 his or her compensation both of the following:

25 (1) The difference between the amount of his or her military
26 pay and allowances and the amount the employee would have
27 received as a state employee as determined by the ~~Department of~~
28 ~~Personnel Administration~~ *Department of Human Resources*,
29 including any merit raises that would otherwise have been granted
30 during the time the individual was on active duty.

31 (2) All benefits that he or she would have received had he or
32 she not been called to active duty unless the benefits are prohibited
33 or limited by vendor contracts.

34 (c) Any individual receiving compensation pursuant to
35 subdivision (b) who does not return to state service within 60 days
36 of being released from active duty shall have that compensation
37 treated as a loan payable with interest at the rate earned on the
38 Pooled Money Investment Account. This subdivision shall not
39 apply to compensation received pursuant to Section 19775.

1 (d) This section shall not apply to any active duty served
2 voluntarily after the close of the Bosnia crisis.

3 (e) Benefits provided under paragraph (1) of subdivision (b)
4 shall only be provided to an employee who was not eligible to
5 participate in the federal Ready Reserve Mobilization Income
6 Insurance Program (10 U.S.C. Sec. 12521 et seq.) or a successor
7 federal program that, in the determination of the Director of
8 ~~Personnel Administration~~ *the Department of Human Resources*,
9 is substantively similar to the federal Ready Reserve Mobilization
10 Income Insurance Program. For an employee eligible to participate
11 in the federal Ready Reserve Mobilization Income Insurance
12 Program or a successor program, and whose monthly salary as a
13 state employee was higher than the sum of his or her military pay
14 and allowances and the maximum allowable benefit under the
15 federal Ready Reserve Mobilization Income Insurance Program
16 or a successor program, the employee shall receive the amount
17 payable under paragraph (1) of subdivision (b), but that amount
18 shall be reduced by the maximum allowable benefit under the
19 federal Ready Reserve Mobilization Income Insurance Program
20 or a successor program. For individuals who elected the federal
21 Ready Reserve Mobilization Income Insurance Program, the state
22 shall reimburse for the cost of the insurance premium for the period
23 of time on active duty, not to exceed 180 calendar days.

24 SEC. 94. Section 19775.17 of the Government Code is amended
25 to read:

26 19775.17. (a) In addition to the benefits provided pursuant to
27 Sections 19775 and 19775.1, a state employee who, as a member
28 of the California National Guard or a United States military reserve
29 organization, is ordered to active duty by Presidential determination
30 that it is necessary to augment the active forces for any operational
31 mission, or when in time of national emergency declared by the
32 President or otherwise authorized by law, shall have the benefits
33 provided for in subdivision (b).

34 (b) Any state employee to which subdivision (a) applies, while
35 on active duty, shall receive from the state, for the duration of the
36 event as authorized pursuant to Sections 12302 and 12304 of Title
37 10 of the United States Code, but not for more than 180 calendar
38 days, as part of his or her compensation both of the following:

39 (1) The difference between the amount of his or her military
40 pay and allowances and the amount the employee would have

1 received as a state employee, including any merit raises that would
2 otherwise have been granted during the time the individual was
3 on active duty. The amount an employee, as defined in Section
4 18526, would have received as a state employee, including any
5 merit raises that would otherwise have been granted during the
6 time the individual was on active duty, shall be determined by the
7 ~~Department of Personnel Administration~~ *Department of Human*
8 *Resources*.

9 (2) All benefits that he or she would have received had he or
10 she not served on active duty unless the benefits are prohibited or
11 limited by vendor contracts.

12 (c) Any individual receiving compensation pursuant to
13 subdivision (b) who does not reinstate to state service following
14 active duty, shall have that compensation treated as a loan payable
15 with interest at the rate earned on the Pooled Money Investment
16 Account. This subdivision shall not apply to compensation received
17 pursuant to Section 19775.

18 (d) Benefits provided under paragraph (1) of subdivision (b)
19 shall only be provided to a state employee who was not eligible
20 to participate in a federally sponsored income protection program
21 for National Guard personnel or military reserve personnel, or
22 both, called into active duty, as determined by the ~~Department of~~
23 ~~Personnel Administration~~ *Department of Human Resources*. For
24 a state employee eligible to participate in a federally sponsored
25 income protection program, and whose monthly salary as a state
26 employee was higher than the sum of his or her military pay and
27 allowances and the maximum allowable benefit under the federally
28 sponsored income protection program, the state employee shall
29 receive the amount payable under paragraph (1) of subdivision
30 (b), but that amount shall be reduced by the maximum allowable
31 benefit under the federally sponsored income protection program.
32 For individuals who elected the federally sponsored income
33 protection program, the state shall reimburse for the cost of the
34 insurance premium for the period of time on active duty, not to
35 exceed 180 calendar days.

36 (e) For purposes of this section, “state employee” means an
37 employee as defined in Section 18526 or an officer or employee
38 of the legislative, executive, or judicial department of the state.

39 (f) This section shall not apply to any state employee entitled
40 to additional compensation or benefits pursuant to Section

1 19775.16 or 19775.18 of this code, or Section 395.08 of the
2 Military and Veterans Code.

3 SEC. 95. Section 19775.18 of the Government Code is amended
4 to read:

5 19775.18. (a) In addition to the benefits provided pursuant to
6 Sections 19775 and 19775.1, a state employee who, as a member
7 of the California National Guard or a United States military reserve
8 organization, is ordered to active duty on and after September 11,
9 2001, as a result of the War on Terrorism, shall have the benefits
10 provided for in subdivision (b).

11 (b) Any state employee to which subdivision (a) applies, while
12 on active duty, shall receive from the state, for the duration of the
13 event known as the War on Terrorism, as authorized pursuant to
14 Sections 12302 and 12304 of Title 10 of the United States Code,
15 but not for more than 365 calendar days, as part of his or her
16 compensation both of the following:

17 (1) The difference between the amount of his or her military
18 pay and allowances and the amount the employee would have
19 received as a state employee, including any merit raises that would
20 otherwise have been granted during the time the individual was
21 on active duty. The amount an employee, as defined in Section
22 18526, would have received as a state employee, including any
23 merit raises that would otherwise have been granted during the
24 time the individual was on active duty, shall be determined by the
25 ~~Department of Personnel Administration~~ *Department of Human*
26 *Resources*.

27 (2) All benefits that he or she would have received had he or
28 she not served on active duty unless the benefits are prohibited or
29 limited by vendor contracts.

30 (c) Any individual receiving compensation pursuant to
31 subdivision (b) who does not reinstate to state service following
32 active duty, shall have that compensation treated as a loan payable
33 with interest at the rate earned on the Pooled Money Investment
34 Account. This subdivision does not apply to compensation received
35 pursuant to Section 19775.

36 (d) Benefits provided under paragraph (1) of subdivision (b)
37 shall only be provided to a state employee who was not eligible
38 to participate in a federally sponsored income protection program
39 for National Guard personnel or military reserve personnel, or
40 both, called into active duty, as determined by the ~~Department of~~

1 ~~Personnel Administration~~ *Department of Human Resources*. For
2 a state employee eligible to participate in a federally sponsored
3 income protection program, and whose monthly salary as a state
4 employee was higher than the sum of his or her military pay and
5 allowances and the maximum allowable benefit under the federally
6 sponsored income protection program, the state employee shall
7 receive the amount payable under paragraph (1) of subdivision
8 (b), but that amount shall be reduced by the maximum allowable
9 benefit under the federally sponsored income protection program.
10 For individuals who elected the federally sponsored income
11 protection program, the state shall reimburse for the cost of the
12 insurance premium for the period of time on active duty, not to
13 exceed 365 calendar days.

14 (e) The Governor may, by executive order, extend the period
15 of time for the receipt of benefits provided pursuant to this section
16 by no more than an additional 1,460 calendar days.

17 (f) (1) “Military pay and allowances” for the purposes of this
18 section does not include hazardous duty pay, hostile fire pay, or
19 imminent danger pay. A state employee is entitled to retain these
20 and any other special and incentive pay provided by the federal
21 government.

22 (2) “State employee” for the purposes of this section means an
23 employee as defined in Section 18526 or an officer or employee
24 of the legislative, executive, or judicial department of the state.

25 (g) This section does not apply to any state employee entitled
26 to additional compensation or benefits pursuant to Section
27 19775.16 or 19775.17 of this code, or Section 395.08 of the
28 Military and Veterans Code.

29 (h) This section does not apply to any active duty served after
30 the close of the War on Terrorism.

31 SEC. 96. The heading of Chapter 1 (commencing with Section
32 19815) of Part 2.6 of Division 5 of Title 2 of the Government Code
33 is amended to read:

34
35 CHAPTER 1. ~~DEPARTMENT OF PERSONNEL ADMINISTRATION~~
36 *DEPARTMENT OF HUMAN RESOURCES*
37

38 SEC. 97. Section 19815 of the Government Code is amended
39 to read:

40 19815. As used in this part:

1 (a) “Department” means the ~~Department of Personnel~~
2 ~~Administration~~ *Department of Human Resources*.

3 (b) “Director” means the Director of the ~~Department of~~
4 ~~Personnel Administration~~ *Department of Human Resources*.

5 (c) “Division” means the Division of Labor Relations.

6 (d) “Employee” or “state employee,” except where otherwise
7 indicated, means employees subject to the Ralph C. Dills Act
8 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
9 1), supervisory employees as defined in subdivision (g) of Section
10 3513, managerial employees as defined in subdivision (e) of
11 Section 3513, confidential employees as defined in subdivision
12 (f) of Section 3513, employees of the Legislative Counsel Bureau,
13 employees of the Bureau of State Audits, employees of the office
14 of the Inspector General, employees of the Public Employment
15 Relations Board, conciliators employed by the State Conciliation
16 Service within the Department of Industrial Relations, employees
17 of the ~~Department of Personnel Administration~~ *Department of*
18 *Human Resources*, professional employees of the Department of
19 Finance engaged in technical or analytical state budget preparation
20 other than audit staff, intermittent athletic inspectors who are
21 employees of the State Athletic Commission, professional
22 employees in the Personnel/Payroll Services Division of the
23 Controller’s office and all employees of the executive branch of
24 government who are not elected to office.

25 SEC. 98. Section 19815.2 of the Government Code is repealed.

26 ~~19815.2. There is hereby created the Department of Personnel~~
27 ~~Administration, for the purposes of managing the nonmerit aspects~~
28 ~~of the state’s personnel system.~~

29 SEC. 99. Section 19815.2 is added to the Government Code,
30 to read:

31 19815.2. (a) The Department of Human Resources (CalHR)
32 is hereby created following reorganization of state department,
33 agencies, and boards in an effort to better serve the human
34 resources and personnel needs of the state.

35 (b) Subject to Article VII of the California Constitution, the
36 Department of Human Resources succeeds to and is vested with
37 the duties, purposes, responsibilities, and jurisdiction exercised by
38 the State Personnel Board as its designee with respect to the State
39 Personnel Board’s administrative and ministerial functions.

1 SEC. 100. Section 19815.8 of the Government Code is amended
2 to read:

3 19815.8. (a) No action or proceeding shall be brought by any
4 person having or claiming to have a cause of action or complaint
5 or ground for issuance of any complaint or legal remedy for wrongs
6 or grievances based on or related to any law administered by the
7 ~~Department of Personnel Administration~~ *Department of Human*
8 *Resources* unless the action or proceeding is commenced and
9 served within one year after the cause of action or complaint or
10 ground for issuance of any writ or legal remedy first arose. Such
11 a person shall not be compensated for the time subsequent to the
12 date when the cause or ground arose unless the action or proceeding
13 is filed and served within 90 days after the cause or ground arose.
14 Where an appeal is taken from a decision of the department, the
15 cause of action does not arise until the final decision of the
16 department.

17 (b) Process directed to any officer or employee, or the
18 ~~Department of Personnel Administration~~ *Department of Human*
19 *Resources*, in any action or proceeding arising under this part, may
20 be served upon the director or chief counsel.

21 SEC. 101. Section 19815.41 of the Government Code is
22 amended to read:

23 19815.41. (a) Notwithstanding subdivision (e) of Section
24 19815.4, this section shall apply to state employees in State
25 Bargaining Unit 5, 6, or 8.

26 (b) The director shall hold nonmerit statutory appeal hearings,
27 subpoena witnesses, administer oaths, and conduct investigations
28 in accordance with ~~Department of Personnel Administration~~
29 *Department of Human Resources* Rule 599.859 (b)(2).

30 (c) The director may, at his or her discretion, hold hearings,
31 subpoena witnesses, administer oaths, or conduct investigations
32 or appeals concerning other matters relating to the department's
33 jurisdiction.

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

1 SEC. 102. Section 19816.21 of the Government Code is
2 amended to read:

3 19816.21. (a) Notwithstanding Sections 18717 and 19816.20,
4 effective July 1, 2004, the following officers and employees, who
5 are in the following classifications or positions on or after July 1,
6 2004, shall be state safety members of the Public Employees'
7 Retirement System:

8 (1) State employees in State Bargaining Unit 7 (Protective
9 Services and Public Services) whose job classifications are subject
10 to state miscellaneous membership in the Public Employees'
11 Retirement System, unless otherwise excluded by a memorandum
12 of understanding.

13 (2) State employees in managerial, supervisory, or confidential
14 positions that are related to the job classifications described in
15 paragraph (1) and that are subject to state miscellaneous
16 membership in the Public Employees' Retirement System, provided
17 that the ~~Department of Personnel Administration~~ *Department of*
18 *Human Resources* has approved their inclusion.

19 (3) Officers and employees of the executive branch of state
20 government who are not members of the civil service and who are
21 in positions that are related to the job classifications described in
22 paragraph (1) and that are subject to state miscellaneous
23 membership in the Public Employees' Retirement System, provided
24 that the ~~Department of Personnel Administration~~ *Department of*
25 *Human Resources* has approved their inclusion.

26 (b) The department shall notify the Public Employees'
27 Retirement System of the classes or positions that become subject
28 to state safety membership under this section, as prescribed in
29 Section 20405.1.

30 SEC. 103. Section 19816.22 of the Government Code is
31 amended to read:

32 19816.22. (a) It is the intent of the Legislature in providing
33 funds for the Human Resources Modernization Project, within the
34 ~~Department of Personnel Administration's~~ *Department of Human*
35 *Resources's* budget, to provide every state agency with the tools
36 necessary to recruit and retain its personnel. The Human Resources
37 Modernization Project integrates the competencies, skills, and
38 abilities of each employee across all human resource programs.
39 State agencies will use the services developed by the Human
40 Resources Modernization Project to recruit, assess, select, and

1 develop their personnel, as well as to plan for the future, with
2 performance management and succession applications.

3 (b) Authority is hereby granted, to the extent otherwise permitted
4 by law, to the ~~Department of Personnel Administration~~ *Department*
5 *of Human Resources* to assess special funds, bond funds, and
6 nongovernmental cost funds in sufficient amounts to support the
7 cost of the Human Resources Modernization Project described in
8 subdivision (a). The Director of Finance shall determine the amount
9 of the total assessment for each fund periodically. Upon order of
10 the Director of the Department of Finance, the moneys authorized
11 pursuant to this act shall be transferred by the Controller, as needed,
12 from each fund for a total amount not to exceed the amounts
13 authorized in the annual Budget Act.

14 SEC. 104. Section 19819.5 of the Government Code is amended
15 to read:

16 19819.5. There is in the ~~Department of Personnel~~
17 ~~Administration~~ *Department of Human Resources*, the Division of
18 Labor Relations.

19 SEC. 105. Section 19822.6 of the Government Code is amended
20 to read:

21 19822.6. There is hereby established a Child Care Fund to
22 which funds shall be allocated from the amount appropriated in
23 the annual Budget Act for employee compensation. The Child
24 Care Fund shall be used to encourage development of child care
25 programs for dependent children of state employees. These
26 programs may include financial assistance to aid in the
27 development of child care centers administered by either nonprofit
28 corporations formed by state employees or other child care
29 providers.

30 The Child Care Fund shall be administered by the ~~Department~~
31 ~~of Personnel Administration~~ *Department of Human Resources*.

32 Upon the determination of the department, the funding shall
33 include, but not be limited to, cash grants.

34 The amount to be allocated and expended annually, from the
35 funds available for compensation increases, shall be determined
36 by the department. Notwithstanding Section 13340, the Child Care
37 Fund shall be available for expenditure without regard to fiscal
38 years through June 30, 1991, unless otherwise extended by statute
39 enacted prior to that date.

1 SEC. 106. Section 19822.7 of the Government Code is amended
2 to read:

3 19822.7. (a) There is hereby created in the State Treasury the
4 Work and Family Fund to which funds shall be allocated from the
5 amount negotiated in memoranda of understanding between the
6 state and the recognized employee organization, as defined in
7 Section 3513, and appropriated by the Legislature, for the 2000–01
8 fiscal year and subsequent fiscal years.

9 (b) The fund shall be used to establish and maintain work and
10 family programs for state employees. These programs may include,
11 but are not limited to, financial assistance to aid in the development
12 of child care centers administered by either nonprofit corporations
13 formed by state employees or child care providers, or to provide
14 grants, subsidies, or both grants and subsidies for child care and
15 elder care. Other programs may include enhancement or
16 supplementation of existing employee assistance program services
17 and other work and family programs.

18 (c) The fund shall be administered by the ~~Department of~~
19 ~~Personnel Administration~~ *Department of Human Resources*. The
20 amounts to be allocated and expended from funds available for
21 compensation shall be determined by the department.

22 (d) Notwithstanding Section 13340, funds in the fund shall be
23 available for expenditure without regard to fiscal years through
24 June 30, 2005. As of June 30, 2005, the fund shall cease to exist
25 and any balance in the fund shall revert to the General Fund, unless
26 the existence of the fund is extended by statute and that statute is
27 enacted and becomes effective prior to June 30, 2005.

28 SEC. 107. Section 19827.3 of the Government Code is amended
29 to read:

30 19827.3. In order for the state to recruit skilled firefighters for
31 the California Department of Forestry and Fire Protection, it is the
32 policy of the state to consider prevailing salaries and benefits prior
33 to making salary recommendations. In order to provide
34 comparability in pay, the ~~Department of Personnel Administration~~
35 *Department of Human Resources* shall take into consideration the
36 salary and benefits of other jurisdictions employing 75 or more
37 full-time firefighters who work in California.

38 SEC. 108. Section 19829.5 of the Government Code is amended
39 to read:

1 19829.5. (a) ~~The Department of Personnel Administration~~
2 *Department of Human Resources* shall provide a memorandum of
3 understanding pursuant to Section 3517.5 to the Legislative Analyst
4 who shall have 10 calendar days from the date the tentative
5 agreement is received to issue a fiscal analysis to the Legislature.
6 The Legislative Analyst may prioritize the preparation of a fiscal
7 analysis or report under this subdivision among other workload,
8 including the submission of multiple memoranda of understanding.
9 The memorandum of understanding shall not be subject to
10 legislative determination until either the Legislative Analyst has
11 presented a fiscal analysis of the memorandum of understanding
12 or until 10 calendar days has elapsed since the memorandum was
13 received by the Legislative Analyst.

14 (b) Each memorandum of understanding submitted by the
15 department to the Legislative Analyst shall include the
16 department's analysis of costs and savings.

17 SEC. 109. Section 19829.6 of the Government Code is amended
18 to read:

19 19829.6. ~~The Department of Personnel Administration~~
20 *Department of Human Resources* shall post, in a clear and
21 conspicuous manner on the department's Web site, each
22 memorandum of understanding that has been submitted to the
23 Legislature for determination pursuant to Section 3517.5 and that
24 has been ratified by the affected union membership. The
25 memorandum of understanding of the agreement reached between
26 the Governor and the recognized employee organization shall be
27 posted on the department's Web site in its entirety, with a
28 declaration that the memorandum has been submitted to the office
29 of the Legislative Analyst and the Legislature, including the date
30 of that submission. The department shall include on its Web site
31 posting a summary of the memorandum of understanding that is
32 the same summary provided to the Legislature by the department.

33 SEC. 110. Section 19844.7 of the Government Code is amended
34 to read:

35 19844.7. (a) Pursuant to regulations adopted by the ~~Department~~
36 ~~of Personnel Administration~~ *Department of Human Resources*,
37 and subject to the collective bargaining agreement between the
38 state and the employee's exclusive representative, a state employee
39 who has been appointed as a member of a precinct board and takes
40 time off from state employment to serve as a member of that

1 precinct board on election day shall receive payment of his or her
2 regular wages or salary for that election day, without forfeiting
3 any compensation received for his or her service as a precinct
4 board member. As used in this section, “state employee” does not
5 include any officer or employee appointed or employed by the
6 Legislature, or any officer, deputy, or employee selected or
7 appointed by an elected state officer.

8 (b) The eligibility of a state employee to receive time off for
9 the purposes of subdivision (a) shall be subject to approval of the
10 employee’s manager or supervisor and pursuant to the terms of
11 the collective bargaining agreement, when applicable.

12 (c) ~~The Department of Personnel Administration~~ *Department*
13 *of Human Resources* shall adopt regulations to implement this
14 section. The regulations shall include, among other things,
15 consideration of such items as the impact of the employee’s
16 absence on state services and operations and the documentation
17 necessary for a state employee to establish that he or she has taken
18 time off from state employment to serve as a member of a precinct
19 board and is therefore eligible to receive his or her regular wages
20 or salary as provided in subdivision (a). The regulations required
21 by this section shall be drafted and adopted as soon as practicable.

22 SEC. 111. Section 19849.11 of the Government Code is
23 amended to read:

24 19849.11. ~~The Department of Personnel Administration~~
25 *Department of Human Resources*, subject to such conditions as it
26 may establish, subject to existing statutes governing health benefits
27 and group term life insurance offered through the Public
28 Employees’ Retirement System, and subject to all other applicable
29 provisions of state law, may enter into contracts for the purchase
30 of employee benefits with respect to managerial and confidential
31 employees as defined by subdivisions (e) and (f) of Section 3513,
32 and employees excluded from the definition of state employee in
33 subdivision (c) of Section 3513, and officers or employees of the
34 executive branch of government who are not members of the civil
35 service, and supervisory employees as defined in subdivision (g)
36 of Section 3513. Benefits shall include, but not be limited to, group
37 life insurance, group disability insurance, long-term disability
38 insurance, group automobile liability and physical damage
39 insurance, and homeowners’ and renters’ insurance.

1 The department may self-insure the long-term disability
2 insurance program if it is cost-effective to do so.

3 If it is determined that a self-insured long-term disability
4 insurance program will be established, the department shall provide
5 its cost analysis to the Joint Legislative Budget Committee at least
6 30 days prior to initiating the establishment of the program.

7 SEC. 112. Section 19849.13 of the Government Code is
8 amended to read:

9 19849.13. Notwithstanding Sections 19839, 19858.1, 19858.3,
10 19858.4, 19859, and 19859.3, the ~~Department of Personnel~~
11 ~~Administration~~ *Department of Human Resources* may provide for
12 vacation, sick leave, annual leave, and bereavement leave benefits,
13 including the lump-sum payment of any amount of accumulated
14 leave, with respect to each state officer and employee who either
15 is excluded from the definition of state employee in subdivision
16 (c) of Section 3513, or is a nonelected officer or employee of the
17 executive branch of government who is not a member of the civil
18 service.

19 SEC. 113. Section 19849.14 of the Government Code is
20 amended to read:

21 19849.14. Effective July 1, 1987, there is hereby established
22 in the State Treasury the Nonrepresented State Employee
23 Long-Term Disability Insurance Fund for the purpose of funding
24 nonrepresented state employee long-term disability insurance
25 benefits. Premiums derived from contributions by the employer
26 or employee shall be credited to the fund. Income of whatever
27 nature, earned on the Nonrepresented State Employee Long-Term
28 Disability Insurance Fund during any fiscal year, shall be credited
29 to the fund. Moneys in this fund are continuously appropriated
30 without regard to fiscal year, notwithstanding Section 13340 of
31 the Government Code. The fund shall be used by the ~~Department~~
32 ~~of Personnel Administration~~ *Department of Human Resources* to
33 pay long-term disability claims and administrative costs.

34 SEC. 114. Section 19849.16 of the Government Code is
35 amended to read:

36 19849.16. Notwithstanding Section 18000, the ~~Department of~~
37 ~~Personnel Administration~~ *Department of Human Resources* may
38 provide by rule for the accumulation and use of paid leave,
39 including a lump-sum payment for accumulated leave, with respect
40 to nonelected members of state boards and commissions whose

1 annual salaries are fixed by law. Any rules adopted pursuant to
2 this section shall provide for the reduction of the salary fixed by
3 law of those nonelected members of state boards and commissions
4 when their absences exceed their paid leave. The ~~Department of~~
5 ~~Personnel Administration~~ *Department of Human Resources* shall
6 not provide paid leave benefits greater than the maximum benefits
7 provided the employees designated as managerial by the
8 ~~Department of Personnel Administration~~ *Department of Human*
9 *Resources*. Rules adopted pursuant to this section shall take effect
10 after July 1, 1991.

11 SEC. 115. Section 19853 of the Government Code is amended
12 to read:

13 19853. (a) All state employees shall be entitled to the following
14 holidays: January 1, the third Monday in January, the third Monday
15 in February, March 31, the last Monday in May, July 4, the first
16 Monday in September, November 11, Thanksgiving Day, the day
17 after Thanksgiving, December 25, the day chosen by an employee
18 pursuant to Section 19854, and every day appointed by the
19 Governor of this state for a public fast, thanksgiving, or holiday.

20 (b) If a day listed in this subdivision falls on a Sunday, the
21 following Monday shall be deemed to be the holiday in lieu of the
22 day observed. If November 11 falls upon a Saturday, the preceding
23 Friday shall be deemed to be the holiday in lieu of the day
24 observed.

25 (c) Any state employee who may be required to work on any
26 of the holidays included in this section, and who does work on any
27 of these holidays, shall be entitled to receive straight-time pay and
28 eight hours of holiday credit.

29 (d) For the purpose of computing the number of hours worked,
30 time when an employee is excused from work because of holidays,
31 sick leave, vacation, annual leave, compensating time off, or any
32 other leave shall not be considered as time worked by the employee
33 for the purpose of computing cash compensation for overtime or
34 compensating time off for overtime.

35 (e) Any state employee, as defined in subdivision (c) of Section
36 3513, may elect to receive eight hours of holiday credit for the
37 fourth Friday in September, known as "Native American Day," in
38 lieu of receiving eight hours of personal holiday credit in
39 accordance with Section 19854.

1 (f) Persons employed on less than a full-time basis shall receive
2 holidays in accordance with the ~~Department of Personnel~~
3 ~~Administration~~ *Department of Human Resources* rules.

4 (g) If subdivision (a), (c), or (d) is in conflict with the provisions
5 of a memorandum of understanding executed or amended pursuant
6 to Section 3517.5 on or after February 1, 2009, or the date that the
7 act adding this section takes effect, whichever is later, the
8 memorandum of understanding shall be controlling without further
9 legislative action, except that if those provisions of the
10 memorandum of understanding require the expenditure of funds,
11 the provisions shall not become effective unless approved by the
12 Legislature in the annual Budget Act.

13 (h) This section shall become operative on February 1, 2009,
14 or the date that the act adding this section takes effect, whichever
15 is later.

16 SEC. 116. Section 19853.1 of the Government Code is amended
17 to read:

18 19853.1. (a) Notwithstanding Section 19853, this section shall
19 apply to state employees in State Bargaining Unit 5.

20 (b) Except as provided in subdivision (c), all employees shall
21 be entitled to the following holidays: January 1, the third Monday
22 in January, the third Monday in February, March 31, the last
23 Monday in May, July 4, the first Monday in September, November
24 11, the day after Thanksgiving, December 25, and every day
25 appointed by the Governor of this state for a public fast,
26 thanksgiving, or holiday.

27 If a day listed in this subdivision falls on a Sunday, the following
28 Monday shall be deemed to be the holiday in lieu of the day
29 observed. If November 11 falls upon a Saturday, the preceding
30 Friday shall be deemed to be the holiday in lieu of the day
31 observed. Any employee who may be required to work on any of
32 the holidays included in this section and who does work on any
33 of these holidays shall be entitled to be paid compensation or given
34 compensating time off for that work in accordance with his or her
35 classification's assigned workweek group.

36 (c) If the provisions of subdivision (b) are in conflict with the
37 provisions of a memorandum of understanding reached pursuant
38 to Section 3517.5, the memorandum of understanding shall be
39 controlling without further legislative action, except that if the
40 provisions of a memorandum of understanding require the

1 expenditure of funds, the provisions shall not become effective
2 unless approved by the Legislature in the annual Budget Act.

3 (d) Any employee who either is excluded from the definition
4 of state employee in subdivision (c) of Section 3513, or is a
5 nonelected officer or employee of the executive branch of
6 government who is not a member of the civil service, is entitled
7 to the following holidays, with pay, in addition to any official state
8 holiday appointed by the Governor:

9 (1) January 1, the third Monday in January, the third Monday
10 in February, March 31, the last Monday in May, July 4, the first
11 Monday in September, November 11, Thanksgiving Day, the day
12 after Thanksgiving, and December 25.

13 (2) When November 11 falls on a Saturday, employees shall be
14 entitled to the preceding Friday as a holiday with pay.

15 (3) When a holiday, other than a personal holiday, falls on a
16 Saturday, an employee shall, regardless of whether he or she works
17 on the holiday, accrue only an additional eight hours of personal
18 holiday credit per fiscal year for the holiday. The holiday credit
19 shall be accrued on the actual date of the holiday and shall be used
20 within the same fiscal year.

21 (4) When a holiday other than a personal holiday falls on
22 Sunday, employees shall be entitled to the following Monday as
23 a holiday with pay.

24 (5) Employees who are required to work on a holiday shall be
25 entitled to pay or compensating time off for this work in accordance
26 with their classification's assigned workweek group.

27 (6) Persons employed on less than a full-time basis shall receive
28 holidays in accordance with the ~~Department of Personnel~~
29 ~~Administration~~ *Department of Human Resources* rules.

30 (e) Any employee, as defined in subdivision (c) of Section 3513,
31 may elect to use eight hours of vacation, annual leave, or
32 compensating time off consistent with departmental operational
33 needs and collective bargaining agreements for the fourth Friday
34 in September, known as "Native American Day."

35 (f) This section shall become effective with regard to the March
36 31 holiday only when the ~~Department of Personnel Administration~~
37 ~~Department of Personnel Administration~~ *Department of Human Resources* notifies the Legislature that the
38 language contained in this section has been agreed to by all
39 exclusive representatives, and the ~~Department of Personnel~~
40 ~~Administration~~ *Department of Human Resources* authorizes this

1 holiday to be applied to employees designated as excluded from
2 the Ralph C. Dills Act (Chapter 10.3 (commencing with Section
3 3512), Division 4, Title 1), and the necessary statutes are amended
4 to reflect this change.

5 SEC. 117. Section 19867 of the Government Code is amended
6 to read:

7 19867. (a) The Legislature finds and declares that the interests
8 of the state would be served by the ~~Department of Personnel~~
9 ~~Administration~~ *Department of Human Resources* meeting and
10 conferring with the exclusive representatives of the various
11 bargaining units to discuss the establishment of long-term care
12 benefits for state employees.

13 (b) If long-term care insurance plans are not available to state
14 employees within one year following the date on which any
15 long-term care plan is first offered for enrollment by the Board of
16 Administration of the Public Employees' Retirement System, state
17 employees may enroll in the long-term care insurance plans offered
18 by the Board of Administration of the Public Employees'
19 Retirement System.

20 (c) If subdivision (b) is in conflict with a memorandum of
21 understanding entered into pursuant to Section 3517.5, the
22 memorandum of understanding shall prevail and control without
23 further legislative action, except that if the prevailing provisions
24 of a memorandum of understanding require the expenditure of
25 funds, these provisions may not become effective unless approved
26 by the Legislature in the annual Budget Act.

27 (d) The ~~Department of Personnel Administration~~ *Department*
28 *of Human Resources* may enter into contracts with the Board of
29 Administration of the Public Employees' Retirement System to
30 allow active eligible state employees, and their spouses and parents,
31 to enroll in any long-term care insurance plans offered by the Board
32 of Administration.

33 SEC. 118. Section 19995.5 of the Government Code, as added
34 by Section 71 of Chapter 446 of the Statutes of 1999, is amended
35 to read:

36 19995.5. (a) There is hereby created in the State Treasury, the
37 State Employee Scholarship Fund to which funds shall be allocated
38 from the amount negotiated in memoranda of understanding
39 between the state and recognized employee organizations, as

1 defined in Section 3513, and appropriated by the Legislature for
2 the 2000–01 fiscal year.

3 (b) The fund shall be used to establish a program for career
4 advancement to assist eligible state employees to participate in
5 educational programs that will enhance the personal growth and
6 career development of employees in state government.

7 (c) The fund shall be administered by the ~~Department of~~
8 ~~Personnel Administration~~ *Department of Human Resources*. The
9 amounts to be allocated and expended from funds available for
10 compensation shall be determined by the department.

11 (d) Notwithstanding Section 13340, moneys in the fund shall
12 be available for expenditure without regard to fiscal years through
13 June 30, 2001. As of June 30, 2001, the fund shall cease to exist
14 unless the existence of the fund is extended by statute and that
15 statute is enacted prior to June 30, 2001.

16 SEC. 119. Section 19995.5 of the Government Code, as added
17 by Section 5 of Chapter 630 of the Statutes of 1999, is amended
18 to read:

19 19995.5. (a) There is hereby created in the State Treasury, the
20 State Employee Scholarship Fund to which funds shall be allocated
21 from the amount negotiated in memoranda of understanding
22 between the state and recognized employee organizations, as
23 defined in Section 3513, and appropriated by the Legislature for
24 the 2000-01 fiscal year.

25 (b) The fund shall be used to establish a program for career
26 advancement to assist eligible state employees to participate in
27 educational programs that will enhance the personal growth and
28 career development of employees in state government.

29 (c) The fund shall be administered by the ~~Department of~~
30 ~~Personnel Administration~~ *Department of Human Resources*. The
31 amounts to be allocated and expended from funds available for
32 compensation shall be determined by the department.

33 (d) Notwithstanding Section 13340, moneys in the fund shall
34 be available for expenditure without regard to fiscal years through
35 June 30, 2001. As of June 30, 2001, the fund shall cease to exist
36 unless the existence of the fund is extended by statute and that
37 statute is enacted prior to June 30, 2001.

38 SEC. 120. Section 19997.15 of the Government Code is
39 amended to read:

1 19997.15. (a) In order to provide state civil service employees
2 of the California Maritime Academy with an opportunity to remain
3 in the state civil service system, there shall be a transition period
4 from January 1, 1994, to June 30, 1995, inclusive. Any civil service
5 employee of the California Maritime Academy who does not
6 transfer with the California Maritime Academy to the California
7 State University system shall be eligible for all job placement
8 provisions available pursuant to Sections 19998 and 19998.1. Any
9 civil service employee who does not intend to transfer with the
10 academy to the California State University system prior to July 1,
11 1995, must file a statement, on or before December 30, 1994, in
12 the form as the Director of the ~~Department of Personnel~~
13 ~~Administration~~ *Department of Human Resources* shall prescribe
14 rejecting employment in the California State University. Those
15 employees shall be subject to state civil service layoff and
16 reemployment in accordance with Part 2 (commencing with Section
17 18500), regulations adopted pursuant to those provisions,
18 provisions of applicable memoranda of understanding, or any other
19 provision governing layoff and reemployment within the state civil
20 service. Any employee who does not file the statement rejecting
21 California State University employment shall be considered an
22 employee of the California State University, effective July 1, 1995.

23 (b) In order to provide for the orderly transition of California
24 Maritime Academy employees from the state civil service to the
25 California State University, the following shall apply:

26 (1) The terms of any memorandum of understanding shall
27 remain in effect until the memorandum of understanding expires
28 or is amended or replaced.

29 (2) After January 1, 1994, employees of the California Maritime
30 Academy, with the agreement of the exclusive representative and
31 the Trustees of the California State University, may petition the
32 Public Employment Relations Board to effect a bargaining unit
33 modification; however, any modification ordered by the board
34 shall not be effective until July 1, 1995, at the earliest.

35 (3) If no modification is effected, the state classifications used
36 by the California Maritime Academy on June 30, 1995, shall, on
37 July 1, 1995, be placed in new bargaining units under the Higher
38 Education Employer-Employee Relations Act (Chapter 12
39 (commencing with Section 3560) of Division 4 of Title 1) for the
40 California Maritime Academy parallel to the bargaining units as

1 they exist on June 30, 1995, and shall continue unless and until a
2 unit modification is ordered by the Public Employment Relations
3 Board.

4 (4) The exclusive representatives for each state bargaining unit
5 representing California Maritime Academy employees, as those
6 representatives and units exist on June 30, 1995, shall continue as
7 the exclusive representatives for their respective bargaining units
8 unless an election is called, but in no case may any such change
9 in exclusive representative occur prior to July 1, 1995. An election
10 is not required to be held, and if no election occurs, the exclusive
11 representatives shall continue as the exclusive representatives with
12 responsibility to meet and confer with the Trustees of the California
13 State University or their designees on collective bargaining issues.
14 Notwithstanding any provision of the act that added this section
15 to the Government Code, and to the extent authorized by law, the
16 scope of representation shall at least include any subject matter
17 contained in the current memoranda of understanding.

18 SEC. 121. Section 19999.1 of the Government Code is amended
19 to read:

20 19999.1. ~~The Department of Personnel Administration~~
21 *Department of Human Resources*, in conjunction with the Board
22 of Administration of the Public Employees' Retirement System,
23 shall develop legislation which will implement a two-tiered
24 retirement system.

25 SEC. 122. Section 19999.3 of the Government Code is amended
26 to read:

27 19999.3. (a) The Legislature finds and declares that this chapter
28 is intended to provide an alternate retirement program for new
29 state employees who are members of the Public Employees'
30 Retirement System pursuant to Section 20281.5 and who, during
31 the 24 months of employment following the date they qualify for
32 membership in the system pursuant to that section, do not make
33 contributions into the defined benefit retirement program.

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

38 (c) The state employees described in subdivision (a) who are
39 employed in positions that are subject to the federal system, as
40 defined in Section 20033, shall contribute to the retirement program

1 5 percent of compensation, as set forth in Part 3 (commencing with
2 Section 20000), in excess of five hundred thirteen dollars (\$513)
3 per month paid to that member for service rendered. The state
4 employer shall pick up the contribution, as authorized by Section
5 414(h) of the Internal Revenue Code, and shall deduct the
6 contribution from the employee's compensation. The contributions
7 required by this subdivision shall cease when the state employee
8 begins making contributions to the defined benefit retirement
9 program.

10 (d) State employees hired on or after July 1, 2006, who are
11 represented by State Bargaining Unit 2 and are employed in
12 positions that are subject to the federal system, as defined in
13 Section 20033, shall contribute to the retirement program 6 percent
14 of compensation, as set forth in Part 3 (commencing with Section
15 20000), in excess of five hundred thirteen dollars (\$513) per month
16 paid to that member for service rendered. The state employer shall
17 pick up the contribution, as authorized by Section 414 (h) of the
18 Internal Revenue Code, and shall deduct the contribution from the
19 employee's compensation. The contributions required by this
20 subdivision shall cease when the state employee begins making
21 contributions to the defined benefit retirement program.

22 (e) Beginning with the first pay period following the effective
23 date of this subdivision, all state employees who are subject to this
24 section shall make contributions required by this section in the
25 same amount as contributions made by employees in the same
26 employment classifications and state bargaining units who are
27 members subject to Part 3 (commencing with Section 20000) of
28 Division 5 of Title 2. Consistent with the normal rate of
29 contribution for all members identified in this subdivision, the
30 Director of the ~~Department of Personnel Administration~~
31 *Department of Human Resources* may exercise his or her discretion
32 to establish the normal rate of contribution for a related state
33 employee who is excepted from the definition of "state employee"
34 in subdivision (c) of Section 3513, and an officer or employee of
35 the executive branch of state government who is not a member of
36 the civil service.

37 (f) (1) "State employees," as used in this section, include
38 employees, as defined in Section 19815.

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

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

7 SEC. 123. Section 19999.21 of the Government Code is
8 amended to read:

9 ~~19999.21. The Department of Personnel Administration~~
10 *Department of Human Resources* shall administer the retirement
11 program established by this chapter. The department shall provide
12 by rule for the regulation of the retirement program and the method
13 by which the benefit payments would be made to eligible
14 recipients. The department shall by rule establish the level of
15 employee deferrals to the plan, cessation of, or transfer of
16 membership to the Public Employees' Retirement System upon
17 qualification, continued participation in the plan, and other
18 provisions necessary for the implementation of this retirement
19 program. The department may assess each state agency a fee for
20 the costs associated with administration of this program.

21 The regulations shall not be subject to the review and approval
22 of the Office of Administrative Law, pursuant to Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2. The regulations shall become effective immediately upon filing
25 with the Secretary of State.

26 SEC. 124. Section 19999.31 of the Government Code is
27 amended to read:

28 ~~19999.31. The Department of Personnel Administration~~
29 *Department of Human Resources* shall administer the retirement
30 program established by this chapter. The department shall provide
31 the method by which benefit payments shall be made to eligible
32 recipients. The department shall establish the program, the transfer
33 of contributions to the Public Employees' Retirement System upon
34 qualification and election by the member, continued participation
35 in the program, and other provisions necessary for the
36 implementation of the retirement program. The department may
37 assess each state agency a fee for the costs associated with
38 administration of this program.

39 SEC. 125. Section 20068 of the Government Code is amended
40 to read:

1 20068. (a) “State safety service” means service rendered as a
2 state safety member only while receiving compensation for that
3 service, except as provided in Article 4 (commencing with Section
4 20990) of Chapter 11. It also includes service rendered in an
5 employment in which persons have since become state safety
6 members and service rendered prior to April 1, 1973, and falling
7 within the definition of warden, forestry, and law enforcement
8 service under this chapter prior to April 1, 1973. “State safety
9 service” pursuant to this subdivision does not include service as
10 an investigator prior to April 1, 1973, within the Department of
11 Justice of persons who prior to April 1, 1973, were classed as
12 miscellaneous members.

13 (b) “State safety service” with respect to a member who becomes
14 a state safety member pursuant to Section 20405 shall also include
15 service prior to the date on which he or she becomes a state safety
16 member as an officer or employee of the Board of Prison Terms,
17 Department of Corrections, Prison Industry Authority, or the
18 Department of the Youth Authority.

19 (c) “State safety service” with respect to a member who becomes
20 a state safety member pursuant to Sections 20409 and 20410 shall
21 also include service in a class specified in these sections or service
22 pursuant to subdivision (a), prior to September 27, 1982.

23 (d) “State safety service,” with respect to a member who
24 becomes a state safety member pursuant to Sections 20414 and
25 20415, shall also include service prior to September 22, 1982, as
26 an officer or employee of the Department of Parks and Recreation
27 or the Military Department.

28 (e) “State safety service” does not include service in classes
29 specified in Section 20407 prior to January 1, 1989.

30 (f) “State safety service” does not include service in classes
31 specified in Section 20408 prior to January 1, 1990.

32 (g) “State safety service,” with respect to a member who
33 becomes a state safety member pursuant to subdivision (b) of
34 Section 20405.1, shall also include service rendered in an
35 employment in which persons have since become state safety
36 members, as determined by the ~~Department of Personnel~~
37 ~~Administration~~ *Department of Human Resources* pursuant to that
38 section.

39 SEC. 126. Section 20090 of the Government Code is amended
40 to read:

- 1 20090. The Board of Administration of the Public Employees’
2 Retirement System is continued in existence. It consists of:
3 (a) One member of the State Personnel Board, selected by and
4 serving at the pleasure of the State Personnel Board.
5 (b) The Director of the ~~Department of Personnel Administration~~
6 *Department of Human Resources*.
7 (c) The Controller.
8 (d) The ~~State~~ Treasurer.
9 (e) An official of a life insurer and an elected official of a
10 contracting agency, appointed by the Governor.
11 (f) One person representing the public, appointed jointly by the
12 Speaker of the Assembly and the Senate Committee on Rules.
13 (g) Six members elected under the supervision of the board as
14 follows:
15 (1) Two members elected by the members of this system from
16 the membership thereof.
17 (2) A member elected by the active state members of this system
18 from the state membership thereof.
19 (3) A member elected by and from the active local members of
20 this system who are employees of a school district or a county
21 superintendent of schools.
22 (4) A member elected by and from the active local members of
23 this system other than those who are employees of a school district
24 or a county superintendent of schools.
25 (5) A member elected by and from the retired members of this
26 system.
27 SEC. 127. Section 20090.1 of the Government Code is amended
28 to read:
29 20090.1. (a) Notwithstanding any other provision of law to
30 the contrary, the member of the board who is an elected official
31 of a contracting agency appointed by the Governor, pursuant to
32 subdivision (e) of Section 20090, may designate a deputy, who is
33 employed under the official’s authority, to act in his or her place
34 and stead on the board or any of its committees. The deputy, while
35 sitting on the board or any of its committees, may exercise the
36 same powers that the elected official could exercise if he or she
37 were personally present. The elected official shall be responsible
38 for the acts of the deputy acting under this designation.
39 (b) Notwithstanding any other provision of law to the contrary,
40 the Director of the ~~Department of Personnel Administration~~

1 *Department of Human Resources* may designate a deputy, who is
2 employed under the director’s authority, to act in his or her place
3 and stead on the board or any of its committees. The deputy, while
4 sitting on the board or any of its committees, may exercise the
5 same powers that the director could exercise if he or she were
6 personally present. The director shall be responsible for the acts
7 of the deputy acting under this designation.

8 SEC. 128. Section 20398 of the Government Code is amended
9 to read:

10 20398. “State peace officer/firefighter member” also includes:

11 (a) (1) State officers and employees designated as peace officers
12 as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and
13 830.5 of the Penal Code, or a firefighter whose principal duties
14 consist of active firefighting/fire suppression, who is either
15 excluded from the definition of state employee in subdivision (c)
16 of Section 3513 or is a nonelected officer or employee of the
17 executive branch of government who is not a member of the civil
18 service, if the majority of his or her duties consists of one of the
19 following:

20 (A) Responsibility for the direct supervision of state peace
21 officer/firefighter personnel specified in Sections 20391, 20392,
22 20393, and 20395.

23 (B) Conducting investigations or audits of investigatory practices
24 and other audits of, or in, the Department of Corrections and
25 Rehabilitation.

26 (C) Administration of programs of an agency, department, or
27 other organizational unit that is primarily responsible for active
28 law enforcement or active firefighting/fire suppression.

29 (2) For purposes of this subdivision, “administration” means
30 the actions of the employee designated as a peace officer/firefighter
31 member in a position that is in the direct chain of command over
32 an agency, department, or organizational unit in which the majority
33 of employees are state peace officer/firefighter members as
34 described in Section 20391, 20392, 20393, or 20395.

35 (b) “State peace officer/firefighter member” shall not include
36 persons whose primary responsibilities are limited to personnel
37 administration, budgeting, public affairs, data processing or
38 information technology, governmental relations, or legal support,
39 or administration or oversight of these responsibilities.

1 (c) “State peace officer/firefighter member” shall include
2 individuals hired prior to January 1, 2009, who do not meet the
3 criteria in subdivision (a) if those individuals have been
4 continuously employed in positions that were deemed to come
5 within the “state peace officer/firefighter member” classification
6 pursuant to this section prior to January 1, 2009.

7 (d) “State peace officer/firefighter member” shall include
8 individuals hired prior to April 1, 2011, or the first day of the first
9 pay period following the enactment of the act that added this
10 subdivision if that act is enacted after April 1, 2011, who do not
11 meet the criteria in subdivision (a) if those individuals have been
12 continuously employed in positions in the Office of the Inspector
13 General that were deemed to come within the “state peace
14 officer/firefighter member” classification pursuant to this section
15 prior to April 1, 2011, or prior to the first day of the first pay period
16 following the enactment of the act that added this subdivision if
17 that act is enacted after April 1, 2011.

18 (e) ~~The Department of Personnel Administration~~ *Department*
19 *of Human Resources* shall annually determine which classes meet
20 the conditions described in this section and are not classes specified
21 in Sections 20391, 20392, 20393, and 20395, and report its findings
22 to the Legislature and to this system, to be effective July 1 of each
23 year. An agency or department shall not designate a classification
24 as a “state peace officer/firefighter member” classification pursuant
25 to this section without prior approval from the ~~Department of~~
26 ~~Personnel Administration~~ *Department of Human Resources*.

27 (f) Members who are reclassified pursuant to this section may
28 file an irrevocable election to remain subject to their prior
29 retirement formula and the corresponding rate of contributions.
30 The Secretary of the Department of Corrections and Rehabilitation
31 may, upon appointment to that office on or after January 1, 1999,
32 file an irrevocable election to be subject to the industrial formula
33 and the corresponding rate of contributions. The elections shall be
34 filed within 90 days of notification by the board. Members who
35 so elect shall be subject to the reduced benefit factors specified in
36 Section 21353 or 21354.1, as applicable, only for the service
37 included in the federal system.

38 SEC. 129. Section 20405 of the Government Code is amended
39 to read:

1 20405. (a) “State safety member” shall also include officers
2 and employees of the Board of Prison Terms, the Department of
3 Corrections, the Department of the Youth Authority, or the Prison
4 Industry Authority in the following classifications:

5	6	Classification
7	Code	Classification
8	0683	Assistant Dairy Operator
9	2156	Assistant Food Manager (Correctional Facility)
10	4302	Assistant General Manager, Operations
11	2080	Assistant Seamer (Correctional Facility)
12	5447	Assistant Warden, Psychiatric Services,
13		Correctional Facility
14	6868	Automobile Mechanic (Correctional Facility)
15	6394	Automotive Equipment Operator I (Correctional
16		Facility)
17	6392	Automotive Equipment Operator II (Correctional
18		Facility)
19	6893	Automotive Pool Manager I (Correctional Facility)
20	2224	Baker I (Correctional Facility)
21	2221	Baker II (Correctional Facility)
22	2086	Barber (Correctional Facility)
23	2084	Barbershop Manager (Correctional Facility)
24	6216	Building Maintenance Worker (Correctional
25		Facility)
26	2245	Butcher–Meat Cutter II (Correctional Facility)
27	6483	Carpenter I (Correctional Facility)
28	6474	Carpenter II (Correctional Facility)
29	6471	Carpenter III (Correctional Facility)
30	2015	Chief Assistant General Manager, Prison Industries
31	4110	Chief, Day Labor Programs (Correctional Facility)
32	9344	Chief Dentist, Correctional Facility
33	2578	Chief Deputy, Clinical Services, Correctional
34		Facility
35	6699	Chief Engineer I (Correctional Facility)
36	7547	Chief Medical Officer, Correctional Facility
37	6754	Chief of Plant Operation I (Correctional Facility)
38	6751	Chief of Plant Operation II (Correctional Facility)
39	6748	Chief of Plant Operation III (Correctional
40		Facility)

1	Classification	
2	Code	Classification
3	9267	Chief Physician and Surgeon, Correctional Facility
4	7612	Chief Psychiatrist, Correctional Facility
5	9859	Chief Psychologist, Correctional Facility
6	7146	Chief, Quality Assurance, Prison Industries
7	9279	Clinical Dietician, Correctional Facility
8	9293	Clinical Laboratory Technologist, Correctional
9		Facility
10	4132	Construction Supervisor (Correctional Facility)
11	4107	Construction Supervisor I (Correctional Facility)
12	4108	Construction Supervisor II (Correctional Facility)
13	4109	Construction Supervisor III (Correctional Facility)
14	2187	Cook I (Correctional Facility)
15	2186	Cook II (Correctional Facility)
16	7208	Correctional Business Manager I, Department of
17		Corrections
18	4744	Correctional Business Manager II, Department of
19		Corrections
20	4910	Correctional Health Services Administrator I,
21		Correctional Facility
22	4912	Correctional Health Services Administrator II,
23		Correctional Facility
24	6304	Correctional Plant Manager I, Department of
25		Corrections
26	6305	Correctional Plant Manager II, Department of
27		Corrections
28	6303	Correctional Plant Supervisor, Department of
29		Corrections
30	9296	Dental Assistant, Correctional Facility
31	9298	Dental Hygienist, Correctional Facility
32	9299	Dental Laboratory Technician, Correctional
33		Facility
34	9268	Dentist, Correctional Facility
35	7200	Dry Cleaning Plant Supervisor
36	6544	Electrician I (Correctional Facility)
37	6538	Electrician II (Correctional Facility)
38	6534	Electrician III (Correctional Facility)
39	6916	Electronics Technician (Correctional Facility)

1	Classification	
2	Code	Classification
3	6865	Equipment Maintenance Supervisor (Correctional Facility)
4		
5	2153	Food Administrator I (Correctional Facility)
6	2147	Food Administrator II (Correctional Facility)
7	2150	Food Manager (Correctional Facility)
8	2196	Food Service Worker I (Correctional Facility)
9	2195	Food Service Worker II (Correctional Facility)
10	6955	Fusion Welder (Correctional Facility)
11	6628	Glazier (Correctional Facility)
12	0743	Groundskeeper (Correctional Facility)
13	6826	Heavy Equipment Mechanic (Correctional Facility)
14		
15	6379	Heavy Truck Driver (Correctional Facility)
16	9307	Hospital Aid, Correctional Facility
17	7218	Industrial Supervisor, Prison Industries (Bindery)
18	0648	Industrial Supervisor, Prison Industries (Crop Farm)
19		
20	0682	Industrial Supervisor, Prison Industries (Dairy)
21	7204	Industrial Supervisor, Prison Industries (Dental Laboratory)
22		
23	7198	Industrial Supervisor, Prison Industries (Fabric Products)
24		
25	7211	Industrial Supervisor, Prison Industries (Knit Goods Finishing)
26		
27	7210	Industrial Supervisor, Prison Industries (Knitting Mill)
28		
29	2109	Industrial Supervisor, Prison Industries (Laundry)
30	7215	Industrial Supervisor, Prison Industries (Maintenance and Repair)
31		
32	7197	Industrial Supervisor, Prison Industries (Mattress and Bedding)
33		
34	7191	Industrial Supervisor, Prison Industries (Metal Fabrication)
35		
36	7216	Industrial Supervisor, Prison Industries (Printing)
37	7207	Industrial Supervisor, Prison Industries (Shoe Manufacturing)
38		
39	7206	Industrial Supervisor, Prison Industries (Shoes and Boots, Lasting to Packing)
40		

1	Classification	
2	Code	Classification
3	7321	Industrial Supervisor, Prison Industries
4		(Silkscreen)
5	7192	Industrial Supervisor, Prison Industries (Tool
6		and Die)
7	7179	Industrial Supervisor, Prison Industries
8		(Upholstery)
9	7178	Industrial Supervisor, Prison Industries (Wood
10		Products)
11	2006	Janitor (Correctional Facility)
12	2005	Janitor Supervisor I (Correctional Facility)
13	2004	Janitor Supervisor II (Correctional Facility)
14	2000	Janitor Supervisor III (Correctional Facility)
15	9265	Laboratory Assistant, Correctional Facility
16	2727	Language, Speech and Hearing Specialist
17	2114	Laundry Supervisor I (Correctional Facility)
18	2111	Laundry Supervisor II (Correctional Facility)
19	2117	Laundry Worker (Correctional Facility)
20	6867	Lead Automobile Mechanic (Correctional Facility)
21	0720	Lead Groundskeeper (Correctional Facility)
22	0718	Lead Groundskeeper I (Correctional Facility)
23	2952	Librarian (Correctional Facility)
24	6643	Locksmith I (Correctional Facility)
25	6801	Machinist (Correctional Facility)
26	6941	Maintenance Mechanic (Correctional Facility)
27	6617	Mason (Correctional Facility)
28	1508	Materials and Stores Supervisor I (Correctional
29		Facility)
30	1505	Materials and Stores Supervisor II (Correctional
31		Facility)
32	8217	Medical Technical Assistant, Correctional
33		Facility
34	9273	Nurse Anesthetist, Correctional
35		Facility
36	9353	Nurse Instructor, Correctional Facility
37	9278	Nurse Practitioner, Correctional Facility
38	9280	Occupational Therapist, Correctional Facility
39	7971	Optometrist, Correctional Facility
40	6528	Painter I (Correctional Facility)

1	Classification	
2	Code	Classification
3	6524	Painter II (Correctional Facility)
4	6521	Painter III (Correctional Facility)
5	7199	Pest Control Technician (Correctional
6		Facility)
7	9281	Physical Therapist I, Correctional Facility
8	9342	Physical Therapist II, Correctional Facility
9	9269	Physician and Surgeon, Correctional Facility
10	6550	Plumber I (Correctional Facility)
11	6594	Plumber II (Correctional Facility)
12	6545	Plumber III (Correctional Facility)
13	7972	Podiatrist (Correctional Facility)
14	1575	Prison Canteen Manager I
15	1576	Prison Canteen Manager II
16	7158	Prison Industries Administrator
17	7157	Prison Industries Manager (General)
18	7164	Prison Industries Manager (Metal Products)
19	7165	Prison Industries Manager (Textile Products)
20	7163	Prison Industries Manager (Wood Products)
21	0679	Prison Industries Superintendent I (Agriculture)
22	0617	Prison Industries Superintendent II (Agriculture)
23	7217	Prison Industries Superintendent II (Bindery)
24	7109	Prison Industries Superintendent I (Coffee
25		Roasting and Grinding)
26	7203	Prison Industries Superintendent I (Dental
27		Laboratory)
28	7202	Prison Industries Superintendent II (Dental
29		Laboratory)
30	7170	Prison Industries Superintendent II (Detergent)
31	7350	Prison Industries Superintendent I (Egg
32		Production)
33	7194	Prison Industries Superintendent I (Fabric
34		Products)
35	7195	Prison Industries Superintendent II (Fabric
36		Products)
37	7351	Prison Industries Superintendent I (Fiberglass
38		Products)
39	7352	Prison Industries Superintendent I (Furniture
40		Refurbishing)

1	Classification	
2	Code	Classification
3	7209	Prison Industries Superintendent II (Knitting Mill)
4	2108	Prison Industries Superintendent II (Laundry)
5	7154	Prison Industries Superintendent II (Maintenance and Repair)
6		
7	7196	Prison Industries Superintendent II (Mattress and Bedding)
8		
9	7189	Prison Industries Superintendent I (Metal Products)
10		
11	7190	Prison Industries Superintendent II (Metal Products)
12		
13	7214	Prison Industries Superintendent II (Printing)
14	7205	Prison Industries Superintendent II (Shoe Manufacturing)
15		
16	7320	Prison Industries Superintendent I (Silkscreen)
17	7319	Prison Industries Superintendent II (Silkscreen)
18	7175	Prison Industries Superintendent I (Wood Products)
19		
20	7172	Prison Industries Superintendent II (Wood Products)
21		
22	4760	Procurement and Services Officer I (Correctional Facility)
23		
24	4761	Procurement and Services Officer II (Correctional Facility)
25		
26	7162	Product Engineering Technician, Prison Industries
27	7156	Production Manager I, Prison Industries
28	1793	Property Controller I (Correctional Facility)
29	1794	Property Controller II (Correctional Facility)
30	9282	Psychiatric Social Worker, Correctional Facility
31	9283	Psychologist–Clinical, Correctional Facility
32		
33	9284	Psychology Associate, Correctional Facility
34	9354	Psychology Internship Director, Correctional Facility
35		
36	9285	Psychometrist, Correctional Facility
37	9274	Public Health Nurse I, Correctional Facility
38	9345	Public Health Nurse II, Correctional Facility
39	7145	Quality Assurance Manager, Prison Industries

1	Classification	
2	Code	Classification
3	3080	Quality Control Technician, Prison Industries
4		(Cleaning Products)
5	9315	Radiologic Technologist, Correctional Facility
6	9286	Recreation Therapist, Correctional Facility
7	6715	Refrigeration Engineer (Correctional Facility)
8	9275	Registered Nurse, Correctional Facility
9	2734	Resource Specialist, Special Education
10	9316	Respiratory Care Practitioner, Correctional
11		Facility
12	9854	School Psychologist
13	2077	Seamer (Correctional Facility)
14	9348	Senior Clinical Laboratory Technologist,
15		Correctional Facility
16	9266	Senior Laboratory Assistant, Correctional Facility
17	2945	Senior Librarian (Correctional Facility)
18	8215	Senior Medical Technical Assistant
19	9346	Senior Occupational Therapist, Correctional
20		Facility
21	9270	Senior Psychiatrist, Correctional Facility
22		(Specialist)
23	9271	Senior Psychiatrist, Correctional Facility
24		(Supervisor)
25	9289	Senior Psychologist, Correctional Facility
26	9287	Senior Psychologist, Correctional Facility
27		(Specialist)
28	9288	Senior Psychologist, Correctional Facility
29		(Supervisor)
30	9350	Senior Radiologic Technologist, Correctional
31		Facility (Specialist)
32	9351	Senior Radiologic Technologist, Correctional
33		Facility (Supervisor)
34	7562	Sheet Metal Worker (Correctional Facility)
35	6211	Skilled Laborer (Correctional Facility)
36	9911	Social Worker, Youth Authority
37	9272	Staff Psychiatrist, Correctional Facility
38	9290	Staff Psychologist-Clinical, Correctional Facility
39	6713	Stationary Engineer (Correctional Facility)

1	Classification	
2	Code	Classification
3	6718	Stationary Engineer Apprentice (Four-Year Program) (Correctional Facility)
4		
5	6557	Steamfitter Supervisor (Correctional Facility)
6	3082	Substitute Academic Teacher (Correctional Facility)
7		
8	9349	Supervising Clinical Laboratory Technologist, Correctional Facility
9		
10	2183	Supervising Cook I (Correctional Facility)
11	2182	Supervising Cook II (Correctional Facility)
12	0716	Supervising Groundskeeper II (Correctional Facility)
13		
14	2044	Supervising Housekeeper I (Correctional Facility)
15	2940	Supervising Librarian (Correctional Facility)
16	9276	Supervising Psychiatric Nurse, Correctional Facility
17		
18	9291	Supervising Psychiatric Social Worker I, Correctional Facility
19		
20	9292	Supervising Psychiatric Social Worker II, Correctional Facility
21		
22	9317	Supervising Registered Nurse I, Correctional Facility
23		
24	9318	Supervising Registered Nurse II, Correctional Facility
25		
26	9319	Supervising Registered Nurse III, Correctional Facility
27		
28	9910	Supervising Social Worker I, Youth Authority
29	9908	Supervising Social Worker II, Youth Authority
30	2305	Supervisor of Academic Instruction (Correctional Facility)
31		
32	6763	Supervisor of Building Trades (Correctional Facility)
33		
34	2384	Supervisor of Commercial Diver Training
35	2303	Supervisor of Correctional Education Programs
36	2370	Supervisor of Vocational Instruction
37	9277	Surgical Nurse I, Correctional Facility
38	9329	Surgical Nurse II, Correctional Facility
39	3073	Teacher (Adaptive Physical Education) (Correctional Facility)
40		

1	Classification	
2	Code	Classification
3	2286	Teacher (Cerebral Palsied Children)
4		(Correctional Facility)
5	2287	Teacher (Elementary-Multiple Subjects)
6		(Correctional Facility)
7	2288	Teacher (Emotionally/Learning Handicapped)
8		(Correctional Facility)
9	3075	Teacher (English Language Development)
10		(Correctional Facility)
11	2297	Teacher (Ethnic Studies) (Correctional Facility)
12	2289	Teacher (Family Life Education) (Correctional
13		Facility)
14	2373	Teacher (Hearing Impaired) (Correctional
15		Facility)
16	2284	Teacher (High School-Arts and Crafts)
17		(Correctional Facility)
18	2285	Teacher (High School-Business Education)
19		(Correctional Facility)
20	3074	Teacher (High School-English/Language Arts)
21		(Correctional Facility)
22	3076	Teacher (High School-Foreign Language)
23		(Correctional Facility)
24	2290	Teacher (High School-General Education)
25		(Correctional Facility)
26	2291	Teacher (High School-Home Economics)
27		(Correctional Facility)
28	3077	Teacher (High School-Mathematics) (Correctional
29		Facility)
30	2294	Teacher (High School-Music) (Correctional
31		Facility)
32	2295	Teacher (High School-Physical Education)
33		(Correctional Facility)
34	3078	Teacher (High School-Science) (Correctional
35		Facility)
36	3079	Teacher (High School-Social Science)
37		(Correctional Facility)
38	2298	Teacher (Librarian) (Correctional Facility)
39	2292	Teacher (Mentally Retarded Children)
40		(Correctional Facility)

1	Classification	
2	Code	Classification
3	2371	Teacher (Speech Development and Correction)
4		(Correctional Facility)
5	6400	Teaching Assistant (Correctional Facility)
6	7201	Tobacco Factory Superintendent
7	7560	Tractor Operator-Laborer (Correctional Facility)
8	6382	Truck Driver (Correctional Facility)
9	6772	Utility Shops Supervisor (Correctional Facility)
10	2387	Vocational Instructor (Airframe Mechanics)
11		(Correctional Facility)
12	2853	Vocational Instructor (Animal Husbandry)
13		(Correctional Facility)
14	2396	Vocational Instructor (Auto Body and Fender
15		Repair) (Correctional Facility)
16	2398	Vocational Instructor (Auto Mechanics)
17		(Correctional Facility)
18	2399	Vocational Instructor (Baking) (Correctional
19		Facility)
20	2400	Vocational Instructor (Bookbinding) (Correctional
21		Facility)
22	2854	Vocational Instructor (Building Maintenance)
23		(Correctional Facility)
24	2417	Vocational Instructor (Carpentry)
25		(Correctional Facility)
26	2419	Vocational Instructor (Commercial Diver
27		Training) (Correctional Facility)
28	2855	Vocational Instructor (Computer and Related
29		Technologies) (Correctional Facility)
30	2420	Vocational Instructor (Cosmetology) (Correctional
31		Facility)
32	2422	Vocational Instructor (Culinary Arts)
33		(Correctional Facility)
34	2869	Vocational Instructor (Dental Technology)
35		(Correctional Facility)
36	2856	Vocational Instructor (Diesel Mechanics)
37		(Correctional Facility)
38	2423	Vocational Instructor (Dog Grooming and
39		Handling) (Correctional Facility)

1	Classification	
2	Code	Classification
3	2425	Vocational Instructor (Drycleaning Works)
4		(Correctional Facility)
5	2857	Vocational Instructor (Drywall Installer/Taper)
6		(Correctional Facility)
7	2426	Vocational Instructor (Electrical Work)
8		(Correctional Facility)
9	2428	Vocational Instructor (Electronics) (Correctional
10		Facility)
11	2688	Vocational Instructor (Eyewear Manufacturing)
12		(Correctional Facility)
13	2429	Vocational Instructor (Fire Science) (Correctional
14		Facility)
15	2858	Vocational Instructor (Floor Cover Layer)
16		(Correctional Facility)
17	2431	Vocational Instructor (Furniture Refinishing and
18		Repair) (Correctional Facility)
19	2432	Vocational Instructor (Garment Making)
20		(Correctional Facility)
21	2433	Vocational Instructor (Heavy Equipment Repair)
22		(Correctional Facility)
23	2597	Vocational Instructor (Household Appliance
24		Repair) (Correctional Facility)
25	2598	Vocational Instructor (Industrial Arts)
26		(Correctional Facility)
27	2599	Vocational Instructor (Instrument Repair)
28		(Correctional Facility)
29	2600	Vocational Instructor (Janitorial Service)
30		(Correctional Facility)
31	2601	Vocational Instructor (Landscape Gardening)
32		(Correctional Facility)
33	2611	Vocational Instructor (Laundry Work)
34		(Correctional Facility)
35	2614	Vocational Instructor (Machine Shop
36		Practice) (Correctional Facility)
37	2615	Vocational Instructor (Masonry) (Correctional
38		Facility)
39	2619	Vocational Instructor (Meat Cutting)
40		(Correctional Facility)

1	Classification	
2	Code	Classification
3	2627	Vocational Instructor (Mechanical Drawing)
4		(Correctional Facility)
5	2628	Vocational Instructor (Merchandising)
6		(Correctional Facility)
7	2630	Vocational Instructor (Mill and Cabinet Work)
8		(Correctional Facility)
9	2674	Vocational Instructor (Office Machine Repair)
10		(Correctional Facility)
11	2849	Vocational Instructor (Office Services and Related
12		Technologies) (Correctional Facility)
13	2640	Vocational Instructor (Offset Printing)
14		(Correctional Facility)
15	2644	Vocational Instructor (Painting) (Correctional
16		Facility)
17	2645	Vocational Instructor (Plastering) (Correctional
18		Facility)
19	2661	Vocational Instructor (Plumbing) (Correctional
20		Facility)
21	2665	Vocational Instructor (Powerplant Mechanics)
22		(Correctional Facility)
23	2666	Vocational Instructor (Printing) (Correctional
24		Facility)
25	2667	Vocational Instructor (Radiologic Technology)
26		(Correctional Facility)
27	2668	Vocational Instructor (Refrigeration and
28		Air-conditioning Repair) (Correctional Facility)
29	2850	Vocational Instructor (Roofer) (Correctional
30		Facility)
31	2669	Vocational Instructor (Sewing Machine Repair)
32		(Correctional Facility)
33	2670	Vocational Instructor (Sheet Metal Work)
34		(Correctional Facility)
35	2671	Vocational Instructor (Shoemaking) (Correctional
36		Facility)
37	2672	Vocational Instructor (Silk Screening Process)
38		(Correctional Facility)
39	2851	Vocational Instructor (Small Engine Repair)
40		(Correctional Facility)

1	Classification
2	Code Classification
3	2673 Vocational Instructor (Storekeeping and
4	Warehousing) (Correctional Facility)
5	5415 Vocational Instructor (Telemarketing/Customer
6	Service) (Correctional Facility)
7	2675 Vocational Instructor (Upholstering) (Correctional
8	Facility)
9	2676 Vocational Instructor (Vocational Nursing)
10	(Correctional Facility)
11	2677 Vocational Instructor (Welding)
12	(Correctional Facility)
13	1504 Warehouse Manager I (Correctional Facility)
14	1502 Warehouse Manager II (Correctional Facility)
15	6221 Warehouse Worker (Correctional Facility)
16	6724 Water and Sewage Plant Supervisor
17	(Correctional Facility)
18	2311 Youth Authority Teacher
19	

20 (b) In addition, “state safety member” shall also include officers
21 and employees of the Department of Corrections, the Department
22 of the Youth Authority, or the Prison Industry Authority in any
23 classification of Vocational Instructor, Industrial Supervisor,
24 Industrial Superintendent, Assistant Industrial Superintendent, or
25 Production Manager II (Prison Industries) that is established on
26 or after January 1, 1984, if the ~~Department of Personnel~~
27 ~~Administration~~ *Department of Human Resources* and the State
28 Personnel Board approve the inclusion of the classification.

29 (c) “State safety member” shall also include officers and
30 employees in parenthetical specialty classes when the core class
31 has already been expressly included in the state safety membership
32 category if the ~~Department of Personnel Administration~~
33 *Department of Human Resources* and the State Personnel Board
34 approve the inclusion of the classifications. The inclusion shall
35 not be effective until notice of the inclusion has been received by
36 the board.

37 (d) Any of these officers or employees in employment on the
38 operative date of an amendment to this section and who becomes
39 a state safety member as a result of that amendment, may elect by
40 a writing filed with the board prior to 90 days after notification by

1 the board, to be restored to his or her previous status as a state
2 industrial member. Upon the filing of the election the member
3 shall cease to be a state safety member, and his or her rights and
4 obligations shall be restored prospectively and retroactively to the
5 operative date of that amendment.

6 SEC. 130. Section 20405.1 of the Government Code is amended
7 to read:

8 20405.1. Notwithstanding Section 20405, this section shall
9 apply to state employees in state bargaining units that have agreed
10 to these provisions in a memorandum of understanding between
11 the state employer and the recognized employee organization, as
12 defined in Section 3513, state employees who are excluded from
13 the definition of “state employee” by subdivision (c) of Section
14 3513, and officers or employees of the executive branch of state
15 government who are not members of the civil service.

16 (a) On and after the effective date of this section, state safety
17 members shall also include officers and employees whose
18 classifications or positions are found to meet the state safety criteria
19 prescribed in Section 19816.20, provided the ~~Department of~~
20 ~~Personnel Administration~~ *Department of Human Resources* agrees
21 to their inclusion, and officers and employees whose classifications
22 or positions have been designated as subject to state safety
23 membership pursuant to Section 19816.21. For employees covered
24 by a collective bargaining agreement, the effective date of safety
25 membership shall be the date on which the department and the
26 employees’ exclusive representative reach agreement by
27 memorandum of understanding pursuant to Section 3517.5 or any
28 later date specified in the memorandum of understanding. For
29 employees not covered by a collective bargaining agreement, the
30 ~~Department of Personnel Administration~~ *Department of Human*
31 *Resources* shall determine the effective date of safety membership.

32 (b) The department shall notify the board as new classes or
33 positions become eligible for state safety membership, as specified
34 in subdivision (a), and specify how service prior to the effective
35 date shall be credited.

36 (c) The department shall prepare and submit to the Legislature
37 an annual report that contains the classes or positions that are
38 eligible for state safety membership under this section.

39 (d) Any person designated as a state safety member pursuant
40 to this section may elect, within 90 days of notification by the

1 board, to remain subject to the miscellaneous or industrial service
2 retirement benefit and contribution rate by filing an irrevocable
3 election with the board. A member who so elects shall be subject
4 to the reduced benefit factors specified in Section 21076, 21353,
5 or 21354.1, as applicable, only for service also included in the
6 federal system.

7 SEC. 131. Section 20405.2 of the Government Code is amended
8 to read:

9 20405.2. A member who made the election to remain under
10 the miscellaneous or industrial retirement benefit, as provided in
11 Section 20405.1, may elect to be subject to the state safety formula
12 within 90 days of notification by the board. The election, which
13 shall be provided by the board on and after January 1, 2000, shall
14 be filed with the board. Past service that would have been credited
15 as a safety member, but for the member's election to remain under
16 the miscellaneous or industrial formula, shall be credited under
17 the safety formula. This section shall apply to state employees in
18 state bargaining units that have agreed to this provision in a
19 memorandum of understanding, or authorized by the Director of
20 the ~~Department of Personnel Administration~~ *Department of Human*
21 *Resources* for classifications of state employees that are excluded
22 from the definition of state employee by paragraph (c) of Section
23 3513 of the Government Code.

24 SEC. 132. Section 20405.3 of the Government Code is amended
25 to read:

26 20405.3. (a) A member who is an employee of the Department
27 of Corrections, who made the election to remain under the state
28 industrial membership classification, as provided in subdivision
29 (d) of Section 20405, may elect to be subject to state safety
30 membership within 90 days of notification by the board, if the
31 employee is in any of the following classifications:

- 32 (1) Dentist, Correctional Facility.
- 33 (2) Physician and Surgeon, Correctional Facility.
- 34 (3) Staff Psychiatrist, Correctional Facility.
- 35 (4) Podiatrist, Correctional Facility.

36 (b) The election, which shall be provided by the board on and
37 after January 1, 2002, shall be filed with the board. Past service
38 that would have been credited as a state safety member, but for
39 the member's election to remain under the state industrial formula,
40 shall be credited as safety service.

1 (c) This section shall apply to state employees in State
 2 Bargaining Unit 16 and, if authorized by the Director of the
 3 ~~Department of Personnel Administration~~ *Department of Human*
 4 *Resources*, state employees that are excluded from the definition
 5 of “state employee” by paragraph (c) of Section 3513.

6 SEC. 133. Section 20407 of the Government Code is amended
 7 to read:

8 20407. “State safety member” also includes officers and
 9 employees with the State Department of Mental Health and the
 10 Department of Corrections *and Rehabilitation* in the following
 11 classifications:

13 Classification	
14 Code	Classification Title
15 8254	Prelicensed Psychiatric Technician (forensic facility)
17 8253	Psychiatric Technician (forensic facility)
19 8252	Senior Psychiatric Technician (forensic facility)
21 8212	Nurse Practitioner (forensic facility)
23 8160	Health Services Specialist (forensic facility)
25 7601	Program Director-Medical (forensic facility)

27
 28 “State safety member” also includes an officer or employee of
 29 the State Department of Mental Health at Patton State Hospital or
 30 Atascadero State Hospital, the State Department of Mental Health
 31 Psychiatric Program of California Medical Facility at Vacaville,
 32 or any other state hospital that is deemed a forensic facility, who
 33 either is excluded from the definition of state employee in
 34 subdivision (c) of Section 3513 or is a nonelected officer or
 35 employee of the executive branch of government who is not a
 36 member of the civil service. An officer or employee may be a state
 37 safety member under this paragraph only if the person has
 38 responsibility for the direct supervision of state safety personnel
 39 specified in the classifications listed in this section and if the State
 40 Personnel Board determines that these officers and employees

1 meet the state safety membership criteria established pursuant to
 2 Section 18717. The ~~Department of Personnel Administration~~
 3 *Department of Human Resources* shall determine which classes
 4 meet the above conditions and report its findings to the Public
 5 Employees' Retirement System, whereupon the change in
 6 membership categories shall take effect.

7 Any person so designated pursuant to this section may elect,
 8 within 90 days of notification by the board, to remain subject to
 9 the miscellaneous service retirement benefit and contribution rate
 10 by filing an irrevocable notice of election with the board. A
 11 member who so elects shall be subject to the reduced benefit factors
 12 specified in Section 21353 or 21354.1, as applicable, only for
 13 service also included in the federal system.

14 SEC. 134. Section 20408 of the Government Code is amended
 15 to read:

16 20408. "State safety member" also includes officers and
 17 employees with the *State* Department of Mental Health or the
 18 Department of Forestry and Fire Protection in the following
 19 classifications:

21 Classification		Classification Title
22 Code		
23 2860	Audio Visual Assistant (Correctional	
	Facility)	
25 2861	Audio Visual Specialist (Correctional	
26	Facility)	
27 8094	Registered Nurse (Forensic Facility)	

28
 29 "State safety member" also includes an officer or employee of
 30 the Department of Mental Health at Patton State Hospital or
 31 Atascadero State Hospital, who either is excluded from the
 32 definition of state employee in subdivision (c) of Section 3513, or
 33 is a nonelected officer or employee of the executive branch of
 34 government who is not a member of the civil service. An officer
 35 or employee may be a state safety member under this paragraph
 36 only if the person has responsibility for the supervision of state
 37 safety personnel specified in the classifications listed in this section
 38 and if the State Personnel Board determines that these officers and
 39 employees meet the state safety membership criteria established
 40 pursuant to Section 18717. The ~~Department of Personnel~~

1 ~~Administration~~ *Department of Human Resources* shall determine
2 which classes meet the above conditions and report its findings to
3 this system, whereupon the change in membership categories shall
4 take effect.

5 SEC. 135. Section 20632 of the Government Code is amended
6 to read:

7 20632. For state employees in classifications designated by
8 the Director of the ~~Department of Personnel Administration~~
9 *Department of Human Resources* who are also excluded from, or
10 otherwise not subject to, collective bargaining, and for employees
11 in bargaining units for which a memorandum of understanding
12 has been agreed to by the state employer and the recognized
13 employee organization to become subject to this section,
14 compensation for uniforms shall not constitute “compensation”
15 for the purposes of the computation of retirement contributions by
16 employees and the state or for the purposes of the calculation of
17 retirement benefits.

18 SEC. 136. Section 20636 of the Government Code is amended
19 to read:

20 20636. (a) “Compensation earnable” by a member means the
21 payrate and special compensation of the member, as defined by
22 subdivisions (b), (c), and (g), and as limited by Section 21752.5.

23 (b) (1) “Payrate” means the normal monthly rate of pay or base
24 pay of the member paid in cash to similarly situated members of
25 the same group or class of employment for services rendered on
26 a full-time basis during normal working hours, pursuant to publicly
27 available pay schedules. “Payrate,” for a member who is not in a
28 group or class, means the monthly rate of pay or base pay of the
29 member, paid in cash and pursuant to publicly available pay
30 schedules, for services rendered on a full-time basis during normal
31 working hours, subject to the limitations of paragraph (2) of
32 subdivision (e).

33 (2) “Payrate” shall include an amount deducted from a member’s
34 salary for any of the following:

35 (A) Participation in a deferred compensation plan.

36 (B) Payment for participation in a retirement plan that meets
37 the requirements of Section 401(k) of Title 26 of the United States
38 Code.

1 (C) Payment into a money purchase pension plan and trust that
2 meets the requirements of Section 401(a) of Title 26 of the United
3 States Code.

4 (D) Participation in a flexible benefits program.

5 (3) The computation for a leave without pay of a member shall
6 be based on the compensation earnable by him or her at the
7 beginning of the absence.

8 (4) The computation for time prior to entering state service shall
9 be based on the compensation earnable by him or her in the position
10 first held by him or her in state service.

11 (c) (1) Special compensation of a member includes a payment
12 received for special skills, knowledge, abilities, work assignment,
13 workdays or hours, or other work conditions.

14 (2) Special compensation shall be limited to that which is
15 received by a member pursuant to a labor policy or agreement or
16 as otherwise required by state or federal law, to similarly situated
17 members of a group or class of employment that is in addition to
18 payrate. If an individual is not part of a group or class, special
19 compensation shall be limited to that which the board determines
20 is received by similarly situated members in the closest related
21 group or class that is in addition to payrate, subject to the
22 limitations of paragraph (2) of subdivision (e).

23 (3) Special compensation shall be for services rendered during
24 normal working hours and, when reported to the board, the
25 employer shall identify the pay period in which the special
26 compensation was earned.

27 (4) Special compensation may include the full monetary value
28 of normal contributions paid to the board by the employer, on
29 behalf of the member and pursuant to Section 20691, if the
30 employer's labor policy or agreement specifically provides for the
31 inclusion of the normal contribution payment in compensation
32 earnable.

33 (5) The monetary value of a service or noncash advantage
34 furnished by the employer to the member, except as expressly and
35 specifically provided in this part, is not special compensation unless
36 regulations promulgated by the board specifically determine that
37 value to be "special compensation."

38 (6) The board shall promulgate regulations that delineate more
39 specifically and exclusively what constitutes "special
40 compensation" as used in this section. A uniform allowance, the

1 monetary value of employer-provided uniforms, holiday pay, and
2 premium pay for hours worked within the normally scheduled or
3 regular working hours that are in excess of the statutory maximum
4 workweek or work period applicable to the employee under Section
5 201 et seq. of Title 29 of the United States Code shall be included
6 as special compensation and appropriately defined in those
7 regulations.

8 (7) Special compensation does not include any of the following:

9 (A) Final settlement pay.

10 (B) Payments made for additional services rendered outside of
11 normal working hours, whether paid in lump sum or otherwise.

12 (C) Other payments the board has not affirmatively determined
13 to be special compensation.

14 (d) Notwithstanding any other provision of law, payrate and
15 special compensation schedules, ordinances, or similar documents
16 shall be public records available for public scrutiny.

17 (e) (1) As used in this part, “group or class of employment”
18 means a number of employees considered together because they
19 share similarities in job duties, work location, collective bargaining
20 unit, or other logical work-related grouping. One employee may
21 not be considered a group or class.

22 (2) Increases in compensation earnable granted to an employee
23 who is not in a group or class shall be limited during the final
24 compensation period applicable to the employees, as well as the
25 two years immediately preceding the final compensation period,
26 to the average increase in compensation earnable during the same
27 period reported by the employer for all employees who are in the
28 same membership classification, except as may otherwise be
29 determined pursuant to regulations adopted by the board that
30 establish reasonable standards for granting exceptions.

31 (f) As used in this part, “final settlement pay” means pay or
32 cash conversions of employee benefits that are in excess of
33 compensation earnable, that are granted or awarded to a member
34 in connection with, or in anticipation of, a separation from
35 employment. The board shall promulgate regulations that delineate
36 more specifically what constitutes final settlement pay.

37 (g) (1) Notwithstanding subdivision (a), “compensation
38 earnable” for state members means the average monthly
39 compensation, as determined by the board, upon the basis of the
40 average time put in by members in the same group or class of

1 employment and at the same rate of pay, and is composed of the
2 payrate and special compensation of the member. The computation
3 for an absence of a member shall be based on the compensation
4 earnable by him or her at the beginning of the absence and for time
5 prior to entering state service shall be based on the compensation
6 earnable by him or her in the position first held by him or her in
7 that state service.

8 (2) Notwithstanding subdivision (b), “payrate” for state members
9 means the average monthly remuneration paid in cash out of funds
10 paid by the employer to similarly situated members of the same
11 group or class of employment, in payment for the member’s
12 services or for time during which the member is excused from
13 work because of holidays, sick leave, vacation, compensating time
14 off, or leave of absence. “Payrate” for state members shall include:

15 (A) An amount deducted from a member’s salary for any of the
16 following:

17 (i) Participation in a deferred compensation plan established
18 pursuant to Chapter 4 (commencing with Section 19993) of Part
19 2.6.

20 (ii) Payment for participation in a retirement plan that meets
21 the requirements of Section 401(k) of Title 26 of the United States
22 Code.

23 (iii) Payment into a money purchase pension plan and trust that
24 meets the requirements of Section 401(a) of Title 26 of the United
25 States Code.

26 (iv) Participation in a flexible benefits program.

27 (B) A payment in cash by the member’s employer to one other
28 than an employee for the purpose of purchasing an annuity contract
29 for a member under an annuity plan that meets the requirements
30 of Section 403(b) of Title 26 of the United States Code.

31 (C) Employer “pick up” of member contributions that meets
32 the requirements of Section 414(h)(2) of Title 26 of the United
33 States Code.

34 (D) Disability or workers’ compensation payments to safety
35 members in accordance with Section 4800 of the Labor Code.

36 (E) Temporary industrial disability payments pursuant to Article
37 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

38 (F) Other payments the board may determine to be within
39 “payrate.”

1 (3) Notwithstanding subdivision (c), “special compensation”
2 for state members shall mean all of the following:

3 (A) The monetary value, as determined by the board, of living
4 quarters, board, lodging, fuel, laundry, and other advantages of
5 any nature furnished to a member by his or her employer in
6 payment for the member’s services.

7 (B) Compensation for performing normally required duties,
8 such as holiday pay, bonuses (for duties performed on regular work
9 shift), educational incentive pay, maintenance and noncash
10 payments, out-of-class pay, marksmanship pay, hazard pay,
11 motorcycle pay, paramedic pay, emergency medical technician
12 pay, Peace Officer Standards and Training (POST) certificate pay,
13 and split shift differential.

14 (C) Compensation for uniforms, except as provided in Section
15 20632.

16 (D) Other payments the board may determine to be within
17 “special compensation.”

18 (4) “Payrate” and “special compensation” for state members do
19 not include any of the following:

20 (A) The provision by the state employer of a medical or hospital
21 service or care plan or insurance plan for its employees (other than
22 the purchase of annuity contracts as described below in this
23 subdivision), a contribution by the employer to meet the premium
24 or charge for that plan, or a payment into a private fund to provide
25 health and welfare benefits for employees.

26 (B) A payment by the state employer of the employee portion
27 of taxes imposed by the Federal Insurance Contribution Act.

28 (C) Amounts not available for payment of salaries and that are
29 applied by the employer for the purchase of annuity contracts
30 including those that meet the requirements of Section 403(b) of
31 Title 26 of the United States Code.

32 (D) Benefits paid pursuant to Article 5 (commencing with
33 Section 19878) of Chapter 2.5 of Part 2.6.

34 (E) Employer payments that are to be credited as employee
35 contributions for benefits provided by this system, or employer
36 payments that are to be credited to employee accounts in deferred
37 compensation plans. The amounts deducted from a member’s
38 wages for participation in a deferred compensation plan may not
39 be considered to be “employer payments.”

1 (F) Payments for unused vacation, annual leave, personal leave,
2 sick leave, or compensating time off, whether paid in lump sum
3 or otherwise.

4 (G) Final settlement pay.

5 (H) Payments for overtime, including pay in lieu of vacation or
6 holiday.

7 (I) Compensation for additional services outside regular duties,
8 such as standby pay, callback pay, court duty, allowance for
9 automobiles, and bonuses for duties performed after the member's
10 regular work shift.

11 (J) Amounts not available for payment of salaries and that are
12 applied by the employer for any of the following:

13 (i) The purchase of a retirement plan that meets the requirements
14 of Section 401(k) of Title 26 of the United States Code.

15 (ii) Payment into a money purchase pension plan and trust that
16 meets the requirements of Section 401(a) of Title 26 of the United
17 States Code.

18 (K) Payments made by the employer to or on behalf of its
19 employees who have elected to be covered by a flexible benefits
20 program, where those payments reflect amounts that exceed the
21 employee's salary.

22 (L) Other payments the board may determine are not "payrate"
23 or "special compensation."

24 (5) If the provisions of this subdivision, including the board's
25 determinations pursuant to subparagraph (F) of paragraph (2) and
26 subparagraph (D) of paragraph (3), are in conflict with the
27 provisions of a memorandum of understanding reached pursuant
28 to Section 3517.5 or 3560, the memorandum of understanding
29 shall be controlling without further legislative action, except that
30 if the provisions of a memorandum of understanding require the
31 expenditure of funds, those provisions may not become effective
32 unless approved by the Legislature in the annual Budget Act. No
33 memorandum of understanding reached pursuant to Section 3517.5
34 or 3560 may exclude from the definition of either "payrate" or
35 "special compensation" a member's base salary payments or
36 payments for time during which the member is excused from work
37 because of holidays, sick leave, vacation, compensating time off,
38 or leave of absence. If items of compensation earnable are included
39 by memorandum of understanding as "payrate" or "special
40 compensation" for retirement purposes for represented and higher

1 education employees pursuant to this paragraph, the ~~Department~~
2 ~~of Personnel Administration~~ *Department of Human Resources* or
3 the Trustees of the California State University shall obtain approval
4 from the board for that inclusion.

5 (6) (A) Subparagraph (B) of paragraph (3) prescribes that
6 compensation earnable includes compensation for performing
7 normally required duties, such as holiday pay, bonuses (for duties
8 performed on regular work shift), educational incentive pay,
9 maintenance and noncash payments, out-of-class pay,
10 marksmanship pay, hazard pay, motorcycle pay, paramedic pay,
11 emergency medical technician pay, POST certificate pay, and split
12 shift differential; and includes compensation for uniforms, except
13 as provided in Section 20632; and subparagraph (I) of paragraph
14 (4) excludes from compensation earnable compensation for
15 additional services outside regular duties, such as standby pay,
16 callback pay, court duty, allowance for automobile, and bonuses
17 for duties performed after regular work shift.

18 (B) Notwithstanding subparagraph (A), the ~~Department of~~
19 ~~Personnel Administration~~ *Department of Human Resources* shall
20 determine which payments and allowances that are paid by the
21 state employer shall be considered compensation for retirement
22 purposes for an employee who either is excluded from the
23 definition of state employee in Section 3513, or is a nonelected
24 officer or employee of the executive branch of government who
25 is not a member of the civil service.

26 (C) Notwithstanding subparagraph (A), the Trustees of the
27 California State University shall determine which payments and
28 allowances that are paid by the trustees shall be considered
29 compensation for retirement purposes for a managerial employee,
30 as defined in Section 3562, or supervisory employee as defined in
31 Section 3580.3.

32 SEC. 137. Section 20672.5 of the Government Code is amended
33 to read:

34 20672.5. Whenever a member's contribution rate is temporarily
35 reduced by statute, a memorandum of understanding, or the
36 Director of the ~~Department of Personnel Administration~~
37 *Department of Human Resources*, those reductions shall be limited
38 to the payment of member contributions during the reduction period
39 and do not apply to the purchase of service credit or the redeposit
40 of member contributions. The purchase of service credit and the

1 redeposit of member contributions shall be subject to the normal
2 rate of contribution for the member in effect immediately prior to
3 the temporary rate reduction.

4 SEC. 138. Section 20677.4 of the Government Code is amended
5 to read:

6 20677.4. (a) (1) The normal rate of contribution for a state
7 miscellaneous or state industrial member whose service is not
8 included in the federal system shall be 6 percent of the
9 compensation in excess of three hundred seventeen dollars (\$317)
10 per month paid to that member for service rendered on or after
11 July 1, 1976.

12 (2) The normal rate of contribution for a state miscellaneous or
13 state industrial member, who has elected to be subject to Section
14 21353.5 and whose service is not included in the federal system,
15 shall be 6 percent of the member's compensation.

16 (3) The normal rate of contribution as established under this
17 subdivision for a member whose service is included in the federal
18 system, and whose service retirement allowance is reduced under
19 Section 21354.1, because of that inclusion, shall be reduced by
20 one-third as applied to compensation not exceeding four hundred
21 dollars (\$400) per month for service after the date of execution of
22 the agreement including service in the federal system and prior to
23 termination of the agreement with respect to the coverage group
24 to which he or she belongs.

25 (b) The normal rate of contribution for a state miscellaneous or
26 state industrial member whose service has been included in the
27 federal system shall be 5 percent of compensation in excess of five
28 hundred thirteen dollars (\$513) per month paid that member for
29 service rendered on or after July 1, 1976.

30 (c) The normal rate of contribution for a state miscellaneous or
31 state industrial member who is subject to Section 21076 or 21077
32 shall be 0 percent.

33 (d) A member who elected to become subject to Section 21353
34 solely for service rendered on or after the effective date of the
35 election, as authorized by subdivision (c) of Section 21070 during
36 the period between November 1, 1988, and October 31, 1989, is
37 not required to make the contributions specified in Section 21073.

38 (e) A member who elects to become subject to Section 21354.1,
39 as applicable, shall contribute at the rate specified in paragraph
40 (1) of subdivision (a) or paragraph (1) of subdivision (b), as

1 determined by the member's status with the federal system, and
2 the rate shall be applied from the first of the month following the
3 date of the election. A member who makes the election shall also
4 contribute for service prior to the date the contribution rate was
5 applied, in the manner specified in Section 21073 or 21073.1, as
6 applicable.

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

15 (g) The Director of the ~~Department of Personnel Administration~~
16 *Department of Human Resources* may establish the normal rate
17 of contribution for a state employee who is excepted from the
18 definition of "state employee" in subdivision (c) of Section 3513,
19 and an officer or employee of the executive branch of state
20 government who is not a member of the civil service. The normal
21 rate of contribution shall be the same for all members identified
22 in this subdivision. The contribution rate shall be effective the
23 beginning of the pay period indicated by the Director of the
24 ~~Department of Personnel Administration~~ *Department of Human*
25 *Resources* but shall be no earlier than the beginning of the pay
26 period following the date the board receives notification.

27 SEC. 139. Section 20683 of the Government Code is amended
28 to read:

29 20683. (a) For each state member subject to Section 21369 or
30 21369.1, the normal rate of contribution shall be 6 percent of
31 compensation in excess of three hundred seventeen dollars (\$317)
32 per month paid to a member whose service is not included in the
33 federal system or in excess of five hundred thirteen dollars (\$513)
34 for one whose service is included in the federal system. If the
35 provisions of this section are in conflict with the provisions of a
36 memorandum of understanding reached pursuant to Section 3517.5,
37 the memorandum of understanding shall be controlling without
38 further legislative action, except that if those provisions of the
39 memorandum of understanding require the expenditure of funds,

1 those provisions shall not become effective unless approved by
2 the Legislature in the annual Budget Act.

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

15 (c) For each local safety member subject to Section 21369, the
16 normal rate of contribution shall be 7 percent of compensation.

17 (d) The normal rate of contribution as established under this
18 section for a local member whose service is included in the federal
19 system and whose retirement allowance is reduced because of that
20 inclusion shall be reduced by one-third as applied to compensation
21 not exceeding four hundred dollars (\$400) per month for service
22 rendered after the date of execution of the modification of the
23 federal-state agreement including those services in the federal
24 system and prior to termination of his or her coverage under the
25 federal system.

26 (e) The operative date of this section with respect to a local
27 safety member shall be the date upon which he or she becomes
28 subject to Section 21369.

29 SEC. 140. Section 20683.1 of the Government Code is amended
30 to read:

31 20683.1. (a) For each state safety member subject to Section
32 21369 or 21369.1 who is represented by State Bargaining Unit 2,
33 the normal rate of contribution shall be 10 percent of compensation
34 in excess of three hundred seventeen dollars (\$317) per month
35 paid to a member whose service is not included in the federal
36 system beginning with the pay period following the operative date
37 of the amendments to this section made by Senate Bill 151 of the
38 2011–12 Regular Session. If the provisions of this section are in
39 conflict with the provisions of a memorandum of understanding
40 reached pursuant to Section 3517.5, the memorandum of

1 understanding shall be controlling without further legislative action,
2 except that if those provisions of the memorandum of
3 understanding require the expenditure of funds, those provisions
4 shall not become effective unless approved by the Legislature in
5 the annual Budget Act.

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

18 SEC. 141. Section 20687 of the Government Code is amended
19 to read:

20 20687. (a) The normal rate of contribution for state peace
21 officer/firefighter members subject to Section 21363, 21363.1,
22 21363.3, 21363.4, or 21363.8 shall be 8 percent of the
23 compensation in excess of two hundred thirty-eight dollars (\$238)
24 per month paid to those members.

25 (b) If the provisions of this section are in conflict with the
26 provisions of a memorandum of understanding reached pursuant
27 to Section 3517.5 or pursuant to Chapter 12 (commencing with
28 Section 3560) of Division 4 of Title 1, the memorandum of
29 understanding shall be controlling without further legislative action,
30 except that if those provisions of a memorandum of understanding
31 require the expenditure of funds, those provisions shall not become
32 effective unless approved by the Legislature in the annual Budget
33 Act.

34 (c) The Director of the ~~Department of Personnel Administration~~
35 *Department of Human Resources* may establish the normal rate
36 of contribution for a state employee who is excepted from the
37 definition of “state employee” in subdivision (c) of Section 3513,
38 and an officer or employee of the executive branch of state
39 government who is not a member of the civil service. The normal
40 rate of contribution shall be the same for all members identified

1 in this subdivision. The contribution rate shall be effective the
2 beginning of the pay period indicated by the Director of the
3 ~~Department of Personnel Administration~~ *Department of Human*
4 *Resources* but shall be no earlier than the beginning of the pay
5 period following the date the board receives notification.

6 SEC. 142. Section 20963.1 of the Government Code is amended
7 to read:

8 20963.1. (a) A state member whose effective date of retirement
9 is within four months of separation from employment of the state,
10 shall be credited at his or her retirement with 0.004 year of service
11 for each unused day of educational leave credit, as certified to the
12 board by the employer. The provisions of this section shall be
13 effective for eligible state members who retire directly from state
14 employment on and after January 1, 2000.

15 (b) This section shall apply to eligible state members in state
16 bargaining units that have agreed to this section in a memorandum
17 of understanding, or as authorized by the Director of the
18 ~~Department of Personnel Administration~~ *Department of Human*
19 *Resources* for classifications of state employees that are excluded
20 from the definition of “state employee” by paragraph (c) of Section
21 3513 of the Government Code.

22 SEC. 143. Section 21070 of the Government Code, as added
23 by Section 2 of Chapter 379 of the Statutes of 1995, is amended
24 to read:

25 21070. (a) Effective January 1, 1985, there shall be an
26 alternative level of benefits available to the following state
27 miscellaneous members: (1) members who are excluded from the
28 definition of state employee in subdivision (c) of Section 3513;
29 (2) members employed by the executive branch of government
30 who are not members of the civil service; and (3) members in state
31 bargaining units for which a memorandum of understanding has
32 been agreed to by the state employer and the recognized employee
33 organization to become subject to this section. Effective September
34 1, 1986, this section shall apply to members employed by the state
35 as provided for in Article VI of the California Constitution. The
36 board shall provide the affected members a one-month election
37 period commencing on August 1, 1986. This section does not apply
38 to state miscellaneous members employed by the California State
39 University or the University of California. This section shall not
40 apply to any employee described by Section 20324 unless and

1 until the employer, as defined in Section 20902, adopts a resolution
2 approving that application.

3 (b) Effective September 1, 1986, there shall be an alternate level
4 of benefits available to the following state industrial members: (1)
5 members in state bargaining units for which a memorandum of
6 understanding has been agreed to by the state employer and the
7 recognized employee organization to become subject to this
8 section; (2) members who are excluded from the definition of state
9 employees in subdivision (c) of Section 3513; and (3) members
10 employed by the executive branch of government who are not
11 members of the civil service. The board shall provide the affected
12 members a one-month election period commencing on August 1,
13 1986.

14 (c) Members eligible to participate in the alternative level of
15 benefits, referred to in this part as the Second Tier, may make an
16 irrevocable election during the period from November 1, 1988,
17 through October 31, 1989, to: (1) become subject to the Second
18 Tier benefits provided for in Section 21076 for all past state
19 miscellaneous and state industrial service and all future state
20 miscellaneous and state industrial service not excluded by this
21 section; (2) become subject to the Second Tier benefits provided
22 for in Section 21077 for state miscellaneous and state industrial
23 service not excluded by this section rendered on and after the
24 effective date of the election to be subject to the Second Tier. Any
25 election by a member to be subject to Section 21076 or 21077 shall
26 also be signed by the spouse of the member and both signatures
27 shall be notarized; (3) become subject to the First Tier retirement
28 formula prescribed by Section 21353 for state miscellaneous and
29 state industrial service rendered on or after the effective date of
30 the election, provided that the member had previously elected
31 coverage pursuant to Section 21076 or 21077 and makes the
32 contributions specified in Section 20677; or (4) become subject
33 to the First Tier retirement formula prescribed by Section 21353
34 for all past and future state miscellaneous and state industrial
35 service, provided that the member had previously elected coverage
36 pursuant to Section 21076 or 21077 and the member makes the
37 contributions specified in Sections 20677 and 21073. The right of
38 eligible members to elect coverage under the retirement formula
39 of their choice shall apply solely during the above-prescribed

1 one-year period, subject to conditions to be established and
2 communicated by the board.

3 Thereafter, the board shall provide a 30-day period every five
4 years for eligible members to make an irrevocable election to be
5 subject to the Second Tier benefits provided for in Section 21076
6 or 21077. Eligible members who previously elected Section 21077
7 may make an irrevocable election to become subject to Section
8 21076 for all past state miscellaneous and state industrial service
9 during this election period. The first election period shall be held
10 five years from the ending date of the one-year election period
11 specified in this subdivision.

12 The effective date of any election filed with the board shall be
13 the first of the month following the date the election is received
14 in the system, provided the election meets the conditions set by
15 the board. Any election filed with the board under this subdivision
16 shall also be signed by the spouse of the member and both
17 signatures shall be notarized.

18 (d) Persons who become state miscellaneous or state industrial
19 members described in this section or who become such members
20 under Article 3 (commencing with Section 20320) of Chapter 3
21 of this part on or after the Second Tier effective date applicable to
22 the member, shall be subject to Section 21077 unless an election
23 is filed with the board to be subject to Section 21353 and the
24 member makes the contributions specified in Section 20677. The
25 appointing authority shall provide the member with the election
26 form and the member shall exercise the election within one year
27 of becoming a member. The effective date of the election shall be
28 the date on which the member became a state miscellaneous or
29 state industrial member.

30 (e) A state miscellaneous or state industrial member who, on
31 or after the effective date of an election to be subject to Section
32 21076 or 21077, ceases to be a member pursuant to Section 20340
33 or 21075 shall, upon again becoming a state miscellaneous or state
34 industrial member, be subject to Section 21076 or 21077 in
35 accordance with his or her previous irrevocable election. This
36 subdivision does not apply to persons who return to membership
37 as employees of the California State University.

38 Except as otherwise provided in this part, a state miscellaneous
39 or state industrial member subject to Section 21076 or 21077 is
40 subject to all other provisions applicable to state miscellaneous

1 members except those provisions that provide for the payment of
2 an annuity based on contributions. Notwithstanding any other
3 provision of this part, member contributions are not required for
4 any service credit that is subject to Section 21076.

5 (f) The board shall report to the Governor, the Legislature, and
6 ~~the Department of Personnel Administration~~ *Department of Human*
7 *Resources* on the savings that are the result of the implementation
8 of the Second Tier retirement plan for state miscellaneous and
9 state industrial members. The report shall first be submitted in
10 April 1986, and annually in April of every year thereafter until
11 April 1994.

12 SEC. 144. Section 21070 of the Government Code, as amended
13 by Section 16 of Chapter 555 of the Statutes of 1999, is amended
14 to read:

15 21070. (a) Effective January 1, 1985, there shall be an
16 alternative level of benefits available to the following state
17 miscellaneous members: (1) members who are excluded from the
18 definition of state employee in subdivision (c) of Section 3513;
19 (2) members employed by the executive branch of government
20 who are not members of the civil service; and (3) members in state
21 bargaining units for which a memorandum of understanding has
22 been agreed to by the state employer and the recognized employee
23 organization to become subject to this section. Effective September
24 1, 1986, this section shall apply to members employed by the state
25 as provided for in Article VI of the California Constitution. The
26 board shall provide the affected members a one-month election
27 period commencing on August 1, 1986. This section does not apply
28 to state miscellaneous members employed by the California State
29 University or the University of California. This section shall not
30 apply to any employee described by Section 20324 unless and
31 until the employer, as defined in Section 20902, adopts a resolution
32 approving that application.

33 (b) Effective September 1, 1986, there shall be an alternate level
34 of benefits available to the following state industrial members: (1)
35 members in state bargaining units for which a memorandum of
36 understanding has been agreed to by the state employer and the
37 recognized employee organization to become subject to this
38 section; (2) members who are excluded from the definition of state
39 employees in subdivision (c) of Section 3513; and (3) members
40 employed by the executive branch of government who are not

1 members of the civil service. The board shall provide the affected
2 members a one-month election period commencing on August 1,
3 1986.

4 (c) Members eligible to participate in the alternative level of
5 benefits, referred to in this part as the Second Tier, may make an
6 irrevocable election during the period from November 1, 1988,
7 through October 31, 1989, to: (1) become subject to the Second
8 Tier benefits provided for in Section 21076 for all past state
9 miscellaneous and state industrial service and all future state
10 miscellaneous and state industrial service not excluded by this
11 section; (2) become subject to the Second Tier benefits provided
12 for in Section 21077 for state miscellaneous and state industrial
13 service not excluded by this section rendered on and after the
14 effective date of the election to be subject to the Second Tier. Any
15 election by a member to be subject to Section 21076 or 21077 shall
16 also be signed by the spouse of the member and both signatures
17 shall be notarized; (3) become subject to the First Tier retirement
18 formula prescribed by Section 21353 for state miscellaneous and
19 state industrial service rendered on or after the effective date of
20 the election, provided that the member had previously elected
21 coverage pursuant to Section 21076 or 21077 and makes the
22 contributions specified in Section 20677; or (4) become subject
23 to the First Tier retirement formula prescribed by Section 21353
24 for all past and future state miscellaneous and state industrial
25 service, provided that the member had previously elected coverage
26 pursuant to Section 21076 or 21077 and the member makes the
27 contributions specified in Sections 20677 and 21073. The right of
28 eligible members to elect coverage under the retirement formula
29 of their choice shall apply solely during the above-prescribed
30 one-year period, subject to conditions to be established and
31 communicated by the board.

32 Thereafter, and until January 1, 2000, the board shall provide a
33 30-day period every five years for eligible members to make an
34 irrevocable election to be subject to the Second Tier benefits
35 provided for in Section 21076 or 21077. Eligible members who
36 previously elected Section 21077 may make an irrevocable election
37 to become subject to Section 21076 for all past state miscellaneous
38 and state industrial service during this election period. The first
39 election period shall be held five years from the ending date of the
40 one-year election period specified in this subdivision.

1 The effective date of any election filed with the board shall be
2 the first of the month following the date the election is received
3 in the system, provided the election meets the conditions set by
4 the board. Any election filed with the board under this subdivision
5 shall also be signed by the spouse of the member and both
6 signatures shall be notarized.

7 (d) Persons who become state miscellaneous or state industrial
8 members described in this section or who become such members
9 under Article 3 (commencing with Section 20320) of Chapter 3
10 of this part on or after the Second Tier effective date applicable to
11 the member, shall be subject to Section 21077 unless an election
12 is filed with the board to be subject to Section 21353 and the
13 member makes the contributions specified in Section 20677. The
14 appointing authority shall provide the member with the election
15 form and the member shall exercise the election within one year
16 of becoming a member. The effective date of the election shall be
17 the date on which the member became a state miscellaneous or
18 state industrial member.

19 (e) A state miscellaneous or state industrial member who, on
20 or after the effective date of an election to be subject to Section
21 21076 or 21077, ceases to be a member pursuant to Section 20340
22 or 21075 shall, upon again becoming a state miscellaneous or state
23 industrial member, be subject to Section 21076 or 21077 in
24 accordance with his or her previous irrevocable election. This
25 subdivision does not apply to persons who return to membership
26 as employees of the California State University.

27 Except as otherwise provided in this part, a state miscellaneous
28 or state industrial member subject to Section 21076 or 21077 is
29 subject to all other provisions applicable to state miscellaneous
30 members except those provisions that provide for the payment of
31 an annuity based on contributions. Notwithstanding any other
32 provision of this part, member contributions are not required for
33 any service credit that is subject to Section 21076.

34 (f) Notwithstanding any other provision in subdivisions (a) to
35 (e), inclusive, this section does not apply to a state miscellaneous
36 or state industrial member who, on or after January 1, 2000, (1)
37 was first employed by the state, (2) returned to employment with
38 the state from a break in service of more than 90 days, or (3)
39 returned to employment with the state after ceasing to be a member
40 pursuant to Section 20340 or 21075.

1 (g) The amendments to this section enacted during the first year
2 of the 1999–2000 Regular Session are subject to the limitations
3 set forth in Section 21251.13.

4 SEC. 145. Section 21159 of the Government Code is amended
5 to read:

6 21159. (a) Notwithstanding any other provision of law, a state
7 member shall not be retired for industrial disability for an illness
8 or injury that occurs on or after January 1, 1993, unless the member
9 is incapacitated for the performance of duty in any employment
10 with the state employer and the disability is of permanent or
11 extended and uncertain duration, as determined by the ~~Department~~
12 ~~of Personnel Administration~~ *Department of Human Resources*.
13 This section shall only apply to state safety, state industrial, and
14 state miscellaneous members employed in any state bargaining
15 units for which a memorandum of understanding has been agreed
16 to by the state employer and the recognized employee organization
17 to become subject to this section. The Director of the ~~Department~~
18 ~~of Personnel Administration~~ *Department of Human Resources*
19 may adopt rules regarding job placement and other related activities
20 necessary for the administration of this section and Section 21195.

21 (b) A state member who, because of the enactment of this section
22 is no longer eligible to retire for industrial disability and accepts
23 alternate employment with the state in which the compensation is
24 less than that received in the position held at the time of the illness
25 or injury, shall, upon certification of the ~~Department of Personnel~~
26 ~~Administration~~ *Department of Human Resources* to the board,
27 become entitled to benefits under the partial disability retirement
28 program set forth in Section 21160.

29 (c) The employee shall have the right of appeal to the
30 ~~Department of Personnel Administration~~ *Department of Human*
31 *Resources* regarding: (1) the requirement to participate or (2) the
32 exclusion from participating in the program described in this
33 section and Section 21160.

34 (d) For all other disputes relative to this section and Section
35 21160, the employee shall seek administrative remedy from his
36 or her appointing power through the departmental complaint
37 process.

38 (e) The appointing power of the affected employee shall
39 reimburse the ~~Department of Personnel Administration~~ *Department*

1 of *Human Resources* for any costs associated with the
2 administration of this provision.

3 (f) This section shall not apply to any job-related or job-incurred
4 illness or injury that occurs on or after January 1, 2000.

5 SEC. 146. Section 21160 of the Government Code is amended
6 to read:

7 21160. (a) Any state member who is subject to Section 21159
8 and does not qualify for industrial disability retirement under this
9 part, or is reinstated from industrial disability retirement pursuant
10 to Section 21195, and accepts another job in state service, shall be
11 paid a partial disability retirement program benefit payment from
12 this system in an amount, to be calculated by the ~~Department of~~
13 ~~Personnel Administration~~ *Department of Human Resources* and
14 certified to the board, that, when added to the salary earned by the
15 employee in the current state position, would be equal to the state
16 salary earned by the member at the time of becoming unable to
17 perform the duties of his or her previous position. This
18 supplemental payment shall not result in the member being deemed
19 to be retired.

20 (b) The partial disability retirement program benefit payments
21 made under this section shall be paid for by the state employer in
22 the same manner as all other state retirement benefits are funded.

23 (c) This section shall not apply to any job-related or job-incurred
24 illness or injury that occurs on or after January 1, 2000.

25 SEC. 147. Section 21195 of the Government Code is amended
26 to read:

27 21195. (a) Notwithstanding any other section in Article 6
28 (commencing with Section 21150) or in this article, the ~~Department~~
29 ~~of Personnel Administration~~ *Department of Human Resources*
30 may reinstate a person who has retired for industrial disability
31 pursuant to Section 21410, within 12 months after the effective
32 date of retirement, if it has identified an available position with
33 duties that the employee is able to perform. Upon reinstatement,
34 the person shall become entitled to benefits under the partial
35 disability retirement program pursuant to Section 21160.

36 (b) This section shall not apply to any job-related or job-incurred
37 illness or injury that occurs on or after January 1, 2000.

38 SEC. 148. Section 21223 of the Government Code is amended
39 to read:

1 21223. A retired person may serve without reinstatement from
2 retirement or loss or interruption of benefits provided under this
3 system upon approval of the Director of the ~~Department of~~
4 ~~Personnel Administration~~ *Department of Human Resources* or the
5 governing body of a contracting agency, as the case may be, under
6 employment by any state or contracting agency in which he or she
7 previously served while a member of this system, where by reason
8 of actual litigation, or a proceeding before the California Victim
9 Compensation and Government Claims Board or the governing
10 body of a contracting agency, as the case may be, or where the
11 state or contracting agency desires to perpetuate testimony in
12 connection with any anticipated litigation involving the state or
13 contracting agency, and adverse interests, the services of the person
14 are or may be necessary in preparing for trial or in testifying as to
15 matters within or based upon his or her knowledge acquired while
16 employed. He or she may be paid a per diem and actual and
17 necessary traveling expenses, but he or she shall not be paid at a
18 greater rate of compensation per diem than the rate ordinarily paid
19 other persons by state agencies or the contracting agency for similar
20 services. However, there shall be deducted from the per diem
21 compensation sums equal to the retirement annuity allocable to
22 the days of actual employment under this section.

23 SEC. 149. Section 21251.13 of the Government Code is
24 amended to read:

25 21251.13. (a) Notwithstanding any other provision of law,
26 Sections 21070.5, 21070.6, 21073.1, 21073.7, 21354.1, 21362.2,
27 21363.1, and 21369.1 and the amendments to Sections 21070,
28 21071, 21072, 21073, 21073.5, and 21353.5, enacted during the
29 first year of the 1999–2000 Regular Session:

30 (1) Shall not become operative unless the board adopts a
31 resolution that does both of the following: (A) employs, for the
32 June 30, 1998, valuation, 95 percent of the market value of assets
33 of the state employer as the actuarial value of the assets; and (B)
34 amortizes the June 30, 1998, excess assets over a period of 20
35 years, beginning July 1, 1999.

36 (2) Shall not apply to a state employee, as defined in subdivision
37 (c) of Section 3513, in a bargaining unit unless and until
38 incorporated in a memorandum of understanding, pursuant to
39 Section 3517.5, applicable to that bargaining unit.

1 (3) Shall not apply to excluded employees, as defined in Section
2 3527, unless the ~~Department of Personnel Administration~~
3 *Department of Human Resources* has approved the application of
4 those provisions to those employees. Notwithstanding any
5 provision of law to the contrary, any approval by the ~~Department~~
6 ~~of Personnel Administration~~ *Department of Human Resources* for
7 the application of these provisions to those excluded employees
8 is irrevocable.

9 (b) Notwithstanding anything in a memorandum of
10 understanding to the contrary, (1) the benefits provided under the
11 provisions of those sections described in subdivision (a), as added
12 or amended during the first year of the 1999–2000 Regular Session,
13 shall not terminate upon the expiration or termination of the
14 memorandum of understanding, and (2) the only conditions to the
15 operation of the provisions of those sections described in
16 subdivision (a), as added or amended during the first year of the
17 1999–2000 Regular Session, are contained in this section.

18 (c) Notwithstanding Section 3517.8 or any provision of a
19 memorandum of understanding that has been continued in effect
20 on and after January 15, 2011, pursuant to Section 3517.8 to the
21 contrary, the retirement formulas in Sections 21354.1, 21363.3,
22 21363.4, 21363.8, and 21369.1 shall only apply to state employees
23 who were first employed and subject to those sections before
24 January 15, 2011. Those sections shall not apply to any state
25 employee member first employed on and after January 15, 2011.

26 (d) Upon request by the state employer or other entity, or on its
27 own volition, the board may change the amortization period, or
28 take any other action the board deems necessary or appropriate,
29 to mitigate the impact of unforeseen factors that may cause an
30 increase in the employer contribution by the state. Nothing in this
31 section shall be construed to limit the board's authority under
32 Section 17 of Article 16 of the California Constitution.

33 SEC. 150. Section 21353 of the Government Code is amended
34 to read:

35 21353. (a) The combined current and prior service pensions
36 for a local miscellaneous member, a school member, a state
37 miscellaneous or state industrial member, or a university member
38 is a pension derived from the contributions of the employer
39 sufficient, when added to the service retirement annuity that is
40 derived from the accumulated normal contributions of the member

1 at the date of retirement, to equal the fraction of one-fiftieth of the
2 member's final compensation set forth opposite the member's age
3 at retirement, taken to the preceding completed quarter year, in
4 the following table, multiplied by the number of years of current
5 and prior service except service in a category of membership other
6 than that of state or state industrial member, local miscellaneous
7 member, school member, or a university member, or service
8 covered under this First Tier retirement formula, with which the
9 member is entitled to be credited at retirement:

10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	
	Age of	Retirement																													
		50																												
		50¼																												
		50½																												
		50¾																												
		51																												
		51¼																												
		51½																												
		51¾																												
		52																												
		52¼																												
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		55																												
		55¼																												
		55½																												
		55¾																												
		56																												
		56¼																												
		56½																												
		56¾																												

1	57825
2	57¼839
3	57½852
4	57¾865
5	58879
6	58¼893
7	58½	.....	.908
8	58¾	.....	.923
9	59	.....	.937
10	59¼	.....	.953
11	59½	.....	.969
12	59¾	.....	.985
13	60	.....	1.000
14	60¼	.....	1.017
15	60½	.....	1.034
16	60¾	.....	1.050
17	61	.....	1.067
18	61¼	.....	1.084
19	61½	.....	1.101
20	61¾	.....	1.119
21	62	.....	1.136
22	62¼	.....	1.154
23	62½	.....	1.173
24	62¾	.....	1.191
25	63 and over	.....	1.209

26
27 (b) The fractions specified in the above table shall be reduced
28 by one-third as applied to that part of final compensation that does
29 not exceed four hundred dollars (\$400) per month for all service
30 of a member any of whose service has been included in the federal
31 system. This reduction shall not apply to a member employed by
32 a contracting agency that enters into a contract after July 1, 1971,
33 and elects not to be subject to this paragraph or with respect to
34 service rendered after the termination of coverage under the federal
35 system with respect to the coverage group to which the member
36 belongs.

37 (c) The improved retirement allowance provided by this section
38 is granted subject to future reduction prior to a member's
39 retirement, by offset of federal system benefits or otherwise, as

1 the Legislature may from time to time deem appropriate because
2 of changes in the federal system benefits.

3 (d) With the exception of state miscellaneous members for
4 service rendered for the California State University or the
5 legislative or judicial branch of government, this section shall
6 apply to state miscellaneous and state industrial members who are
7 not employed by the state on or after January 1, 2000.

8 (e) (1) This section shall apply to a state miscellaneous or
9 industrial member who is employed by the state for the first time
10 and becomes a state miscellaneous or industrial member of the
11 system on or after the first day of the pay period following the
12 effective date of the act adding this subdivision, and is represented
13 by State Bargaining Unit 12, 16, 18, or 19. With respect to related
14 state miscellaneous or industrial members in managerial,
15 supervisory, or confidential positions and officers or employees
16 of the executive branch of state government who are not members
17 of the civil service, the Director of the ~~Department of Personnel~~
18 ~~Administration~~ *Department of Human Resources* may exercise his
19 or her discretion whether to approve their status in writing to the
20 board.

21 (2) This subdivision does not apply to:

22 (A) Former state employees previously employed before the
23 first day of the pay period following the effective date of this
24 subdivision, who return to state employment on or after the first
25 day of the pay period following the effective date of this
26 subdivision.

27 (B) State employees hired prior to the first day of the pay period
28 following the effective date of this subdivision, who were subject
29 to Section 20281.5 during the first 24 months of state employment.

30 (C) State employees hired prior to the first day of the pay period
31 following the effective date of this subdivision, who become
32 subject to representation by State Bargaining Unit 12, 16, 18, or
33 19 on or after the first day of the pay period following the effective
34 date of the act adding this subdivision.

35 (D) State employees on an approved leave of absence employed
36 before the first day of the pay period following the effective date
37 of this subdivision, who return to active employment on or after
38 the first day of the pay period following the effective date of the
39 act adding this subdivision.

1 (f) (1) This section shall apply to a state miscellaneous or
2 industrial member who is employed by the state for the first time
3 and becomes a state miscellaneous or industrial member of the
4 system on or after October 31, 2010, and is represented by State
5 Bargaining Unit 5 or 8. With respect to related state miscellaneous
6 or industrial members in managerial, supervisory, or confidential
7 positions and officers or employees of the executive branch of
8 state government who are not members of the civil service, the
9 Director of the ~~Department of Personnel Administration~~
10 *Department of Human Resources* may exercise his or her discretion
11 whether to approve their status in writing to the board.

12 (2) This subdivision does not apply to:

13 (A) Former state employees previously employed before October
14 31, 2010, who return to state employment on or after October 31,
15 2010.

16 (B) State employees hired prior to October 31, 2010, who were
17 subject to Section 20281.5 during the first 24 months of state
18 employment.

19 (C) State employees hired prior to October 31, 2010, who
20 become subject to representation by State Bargaining Unit 5 or 8
21 on or after October 31, 2010.

22 (D) State employees on an approved leave of absence employed
23 before October 1, 2010, who return to active employment on or
24 after October 31, 2010.

25 (g) (1) Notwithstanding Section 3517.8 or any provision of an
26 expired memorandum of understanding, this section shall also
27 apply to a state miscellaneous or industrial member who is
28 employed by the state, the Legislature, the judicial branch, or the
29 California State University for the first time and becomes a member
30 of the system on or after January 15, 2011.

31 (2) If this subdivision is in conflict with a memorandum of
32 understanding that is current and in effect on January 15, 2011,
33 the memorandum of understanding shall be controlling while it
34 remains in effect. Upon expiration of the memorandum of
35 understanding that is in effect and current on January 15, 2011,
36 this section shall be controlling and may not be superseded by a
37 subsequent memorandum of understanding.

38 (3) This subdivision does not apply to:

39 (A) Former state, legislative, judicial branch, or university
40 employees previously employed before January 15, 2011, who

1 return to employment on or after January 15, 2011, and who were
2 not previously subject to this section.

3 (B) State employees hired prior to January 15, 2011, who were
4 subject to Section 20281.5 during the first 24 months of state
5 employment, and who were not previously subject to this section.

6 (C) State, legislative, judicial branch, or university employees
7 on an approved leave of absence employed before January 15,
8 2011, who return to active employment on or after January 15,
9 2011, and who were not previously subject to this section.

10 SEC. 151. Section 21354.1 of the Government Code is amended
11 to read:

12 21354.1. (a) The combined current and prior service pensions
13 for school members, state miscellaneous or state industrial
14 members, or university members who are subject to the provisions
15 of this section is a pension derived from the contributions of the
16 employer sufficient, when added to the service retirement annuity
17 that is derived from the accumulated normal contributions of the
18 member at the date of retirement, to equal the fraction of
19 one-fiftieth of the member’s final compensation set forth opposite
20 the member’s age at retirement, taken to the preceding completed
21 quarter year, in the following table, multiplied by the number of
22 years of current and prior service, except service in a category of
23 membership other than that of a school member, state
24 miscellaneous or state industrial member, or university member
25 or service covered under this retirement formula with which the
26 member is entitled to be credited at retirement:

27

28 Age at	29 Fraction
retirement	
30 50	0.550
31 50¼	0.573
32 50½	0.595
33 50¾	0.618
34 51	0.640
35 51¼	0.663
36 51½	0.685
37 51¾	0.708
38 52	0.730
39 52¼	0.753
40 52½	0.775

1	52 ³ / ₄	0.798
2	53	0.820
3	53 ¹ / ₄	0.843
4	53 ¹ / ₂	0.865
5	53 ³ / ₄	0.888
6	54	0.910
7	54 ¹ / ₄	0.933
8	54 ¹ / ₂	0.955
9	54 ³ / ₄	0.978
10	55	1.000
11	55 ¹ / ₄	1.008
12	55 ¹ / ₂	1.016
13	55 ³ / ₄	1.024
14	56	1.032
15	56 ¹ / ₄	1.040
16	56 ¹ / ₂	1.048
17	56 ³ / ₄	1.055
18	57	1.063
19	57 ¹ / ₄	1.071
20	57 ¹ / ₂	1.079
21	57 ³ / ₄	1.086
22	58	1.094
23	58 ¹ / ₄	1.102
24	58 ¹ / ₂	1.110
25	58 ³ / ₄	1.118
26	59	1.125
27	59 ¹ / ₄	1.134
28	59 ¹ / ₂	1.141
29	59 ³ / ₄	1.149
30	60	1.157
31	60 ¹ / ₄	1.165
32	60 ¹ / ₂	1.173
33	60 ³ / ₄	1.180
34	61	1.188
35	61 ¹ / ₄	1.196
36	61 ¹ / ₂	1.203
37	61 ³ / ₄	1.211
38	62	1.219
39	62 ¹ / ₄	1.227
40	62 ¹ / ₂	1.235

1	62¾	1.243
2	63 and over	1.250

3

4 (b) The fraction specified in the above table shall be reduced
5 by one-third as applied to that part of final compensation that does
6 not exceed four hundred dollars (\$400) per month for all service
7 of a member any of whose service has been included in the federal
8 system. This subdivision shall not apply to school members whose
9 service is included in the federal system with respect to service
10 performed on or after January 1, 2001.

11 (c) This section shall supersede Section 21353 for all school
12 members, all university members, and all state miscellaneous
13 members, with respect to service rendered for the California State
14 University or the legislative or judicial branch of government, who
15 retire on or after January 1, 2000.

16 (d) This section shall also supersede Section 21353 for state
17 miscellaneous or state industrial members, for service not subject
18 to subdivision (c), who are employed by the state on or after
19 January 1, 2000, and who do not elect under Section 21070.5 to
20 be subject to Second Tier benefits.

21 (e) Operation and application of this section are subject to the
22 limitations set forth in Section 21251.13.

23 (f) Notwithstanding any other provision of this section, this
24 section shall not apply to a state miscellaneous or industrial
25 member who is employed by the state for the first time and
26 becomes a state miscellaneous or industrial member of the system
27 on or after the first day of the pay period following the effective
28 date of the act adding this subdivision, and is represented by State
29 Bargaining Unit 12, 16, 18, or 19. With respect to related state
30 miscellaneous or industrial members in managerial, supervisory,
31 or confidential positions and officers or employees of the executive
32 branch of state government who are not members of the civil
33 service, the Director of the ~~Department of Personnel Administration~~
34 *Department of Human Resources* may exercise his or her discretion
35 whether to approve their status in writing to the board.

36 (g) Notwithstanding any other provision of this section, this
37 section shall not apply to a state miscellaneous or industrial
38 member who is employed by the state for the first time and
39 becomes a state miscellaneous or industrial member of the system
40 on or after October 31, 2010, and is represented by State

1 Bargaining Unit 5 or 8. With respect to related state miscellaneous
2 or industrial members in managerial, supervisory, or confidential
3 positions and officers or employees of the executive branch of
4 state government who are not members of the civil service, the
5 Director of the ~~Department of Personnel Administration~~
6 *Department of Human Resources* may exercise his or her discretion
7 whether to approve their status in writing to the board.

8 (h) (1) Notwithstanding Section 3517.8 or any provision of an
9 expired memorandum of understanding, or any other provision of
10 this section, this section shall not apply to a state miscellaneous
11 or industrial member who is employed by the state, the Legislature,
12 the judicial branch, or the California State University for the first
13 time and becomes a member of the system on or after January 15,
14 2011.

15 (2) If this subdivision is in conflict with a memorandum of
16 understanding that is current and in effect on January 15, 2011,
17 the memorandum of understanding shall be controlling while it
18 remains in effect. Upon expiration of the memorandum of
19 understanding that is in effect and current on January 15, 2011,
20 this section shall be controlling and may not be superseded by a
21 subsequent memorandum of understanding.

22 SEC. 152. Section 21362.2 of the Government Code is amended
23 to read:

24 21362.2. (a) Upon attaining the age of 50 years or more, the
25 combined current and prior service pension for state patrol
26 members and for local safety members with respect to local safety
27 service rendered to a contracting agency that is subject to the
28 provisions of this section is a pension derived from the
29 contributions of the employer sufficient when added to the service
30 retirement annuity that is derived from the accumulated normal
31 contributions of the member at the date of his or her retirement to
32 equal 3 percent of his or her final compensation at retirement,
33 multiplied by the number of years of patrol service or local safety
34 service subject to this section with which he or she is credited at
35 retirement.

36 (b) In no event shall the current service pension and the
37 combined current and prior service pensions under this section for
38 all service to all employers exceed an amount that, when added to
39 the service retirement annuity related to that service, equals 85
40 percent of final compensation. For state patrol members with

1 respect to service for all state employers under this section, the
2 benefit shall not exceed 90 percent of final compensation. If the
3 pension relates to service to more than one employer and would
4 otherwise exceed that maximum, the pension payable with respect
5 to each employer shall be reduced in the same proportion as the
6 allowance based on service to that employer bears to the total
7 allowance computed as though there were no limit, so that the total
8 of the pensions shall equal the maximum. Where a state or local
9 member has service under this section with both state and local
10 agency employers, the higher maximum shall apply and the
11 additional benefit shall be funded by increasing the member's
12 pension payable with respect to the employer for whom the member
13 performed the service subject to the higher maximum.

14 (c) For patrol members employed by the state on or after January
15 1, 2000, this section shall supersede Section 21362.

16 (d) This section shall not apply to state safety or state peace
17 officer/firefighter members.

18 (e) This section shall not apply to any contracting agency nor
19 its employees unless and until the agency elects to be subject to
20 the provisions of this section by amendment to its contract made
21 in the manner prescribed for approval of contracts or, in the case
22 of contracts made after the date this section becomes operative,
23 by express provision in the contract making the contracting agency
24 subject to this section. The operative date of this section for a local
25 safety member shall be the effective date of the amendment to his
26 or her employer's contract electing to be subject to this section.

27 (f) This section shall supersede Section 21362, 21363, 21363.1,
28 21366, 21368, 21369, or 21370, whichever is then applicable, with
29 respect to local safety members who retire after the date this section
30 becomes applicable to their respective employers.

31 (g) The Legislature reserves, with respect to any member subject
32 to this section, the right to provide for the adjustment of industrial
33 disability retirement allowances because of earnings of a retired
34 person and modification of the conditions and qualifications
35 required for retirement for disability as it may find appropriate
36 because of the earlier ages of service retirement made possible by
37 the benefits under this section.

38 (h) Operation and application of this section is subject to the
39 limitations set forth in Section 21251.13.

1 (i) Notwithstanding any other provision of this section, this
 2 section shall not apply to a state patrol member who is employed
 3 by the state for the first time and becomes a state patrol member
 4 of the system on or after October 31, 2010, and is represented by
 5 State Bargaining Unit 5. With respect to related state patrol
 6 members in managerial, supervisory, or confidential positions and
 7 officers or employees of the executive branch of state government
 8 who are not members of the civil service, the Director of the
 9 ~~Department of Personnel Administration~~ *Department of Human*
 10 *Resources* may exercise his or her discretion whether to approve
 11 their status in writing to the board.

12 SEC. 153. Section 21363 of the Government Code is amended
 13 to read:

14 21363. (a) The combined current and prior service pensions
 15 for state peace officer/firefighter members subject to this section
 16 with respect to state peace officer/firefighter service and the
 17 combined current and prior service pensions for local safety
 18 members with respect to local safety service rendered to a
 19 contracting agency that is subject to this section is a pension
 20 derived from the contributions of the employer sufficient when
 21 added to the service retirement annuity that is derived from the
 22 accumulated normal contributions of the state peace
 23 officer/firefighter or local safety member at the date of his or her
 24 retirement to equal the fraction of one-fiftieth of his or her final
 25 compensation set forth opposite his or her age at retirement taken
 26 to the preceding completed quarter year, in the following table,
 27 multiplied by the number of years of state peace officer/firefighter
 28 service or local safety service subject to this section with which
 29 he or she is credited at retirement:

31 Age at		
32 Retirement		Fraction
33 50		1.0000
34 50 ¹ / ₄		1.0125
35 50 ¹ / ₂		1.0250
36 50 ³ / ₄		1.0375
37 51		1.0500
38 51 ¹ / ₄		1.0625
39 51 ¹ / ₂		1.0750
40 51 ³ / ₄		1.0875

1	Age at	
2	Retirement	Fraction
3	52	1.1000
4	52 ¹ / ₄	1.1125
5	52 ¹ / ₂	1.1250
6	52 ³ / ₄	1.1375
7	53	1.1500
8	53 ¹ / ₄	1.1625
9	53 ¹ / ₂	1.1750
10	53 ³ / ₄	1.1875
11	54	1.2000
12	54 ¹ / ₄	1.2125
13	54 ¹ / ₂	1.2250
14	54 ³ / ₄	1.2375
15	55 and over.....	1.2500

16

17 (b) (1) In no event shall the current service pension and the
18 combined current and prior service pensions under this section for
19 all service to all employers exceed an amount that, when added to
20 the service retirement annuity related to that service, equals 75
21 percent of final compensation.

22 (2) For state members, with respect to service for all state
23 employers under this section, the benefit shall not exceed:

24 (A) Eighty percent of final compensation for state members
25 who retire on or after January 1, 1995.

26 (B) Eighty-five percent of final compensation for state peace
27 officer/firefighter members in State Bargaining Units 6 and 8 who
28 retire on or after January 1, 1999, and prior to January 1, 2000.

29 (C) Ninety percent of final compensation for state peace
30 officer/firefighter members who retire on or after January 1, 2000.

31 (3) For local safety members who retire on or after January 1,
32 2000, the benefit shall not exceed 85 percent of final compensation.
33 If the pension relates to service to more than one employer, or this
34 section and Section 21369, and would otherwise exceed that
35 maximum, the pension payable with respect to each section or
36 employer shall be reduced in the same proportion as the allowance
37 bears to the total allowance computed as though there were no
38 limit, so that the total of the pensions shall equal the maximum.
39 Where a state or local member retiring on or after January 1, 1995,
40 has service under this section with both state and local agency

1 employers, the higher maximum shall apply and the additional
2 benefit, if any, shall be funded by increasing the member's pension
3 payable with respect to the employer for whom the member
4 performed the service subject to the higher maximum.

5 (c) The Legislature reserves, with respect to any member subject
6 to this section, the right to provide for the adjustment of industrial
7 disability retirement allowances because of earnings of a retired
8 person and modification of the conditions and qualifications
9 required for retirement for disability as it may find appropriate
10 because of the earlier age of service retirement made possible by
11 the benefits under this section.

12 (d) This section may be applied to related supervisory classes
13 or confidential positions for the respective bargaining units
14 specified in this section.

15 (e) (1) This section shall be operative with respect to state peace
16 officer/firefighter members in Corrections Bargaining Unit No. 6,
17 Protective Services and Public Safety Bargaining Unit No. 7, or
18 Firefighters Bargaining Unit No. 8, in accordance with a
19 memorandum of understanding reached between the state and the
20 exclusive bargaining agent in the respective unit pursuant to
21 Chapter 10.3 (commencing with Section 3512) of Division 4 of
22 Title 1.

23 (2) This section also shall be operative with respect to the state
24 peace officer/firefighter members employed by a California State
25 University police department who are in Public Safety Unit No. 8
26 in accordance with a memorandum of understanding reached
27 between the Trustees of the California State University and the
28 recognized employee organization pursuant to Chapter 12
29 (commencing with Section 3560) of Division 4 of Title 1.

30 (3) This section shall also be operative with respect to a "state
31 peace officer/firefighter member" defined in subdivision (a) of
32 Section 20396 if authorized by, and in accordance with, a
33 memorandum of understanding reached between the Trustees of
34 the California State University and the recognized employee
35 organization pursuant to Chapter 12 (commencing with Section
36 3560) of Division 4 of Title 1.

37 (4) Nothing in this section or in any other provision of law
38 affected by Chapter 1320 of the Statutes of 1984 or Chapter 234
39 of the Statutes of 1986 shall be construed as authorizing any future
40 negotiation with respect to whether or not any bargaining unit

1 specified in this section whose memorandum of understanding
2 was previously approved by the Legislature pursuant to law and
3 this section, shall continue to remain within the state peace
4 officer/firefighter membership category.

5 (5) The operative date of this section with respect to members
6 in each of the bargaining units specified in this section shall be as
7 provided for in the memorandum of understanding.

8 (6) With the exception of state peace officer/firefighter members
9 for service rendered for the California State University or the
10 legislative or judicial branch of government, this section shall
11 apply to state peace officer/firefighter members who are not
12 employed by the state on or after January 1, 2000.

13 (f) This section shall be known as, and may be cited as, the State
14 Peace Officers' and Fire Fighters' Retirement Act.

15 (g) The Legislature reserves the right to subsequently modify
16 or amend this part in order to completely effectuate the intent and
17 purposes of this section and the right to not provide any new
18 comparable advantages if disadvantages to employees result from
19 any modification or amendment.

20 (h) This section shall not apply to a contracting agency nor its
21 employees until, first, it is agreed to in a written memorandum of
22 understanding entered into by an employer and representatives of
23 employees and, second, the contracting agency elects to be subject
24 to it by amendment to its contract made in the manner prescribed
25 for approval of contracts or in the case of a new contract, by
26 express provision of the contract. The operative date of this section
27 with respect to a local safety member shall be the effective date
28 of the amendment to his or her employer's contract electing to be
29 subject to this section. However, this section shall not apply to any
30 local safety member in the employ of an employer not subject to
31 this section on January 1, 2000.

32 (i) Notwithstanding Section 3517.8 or any provision of an
33 expired memorandum of understanding, this section shall apply
34 to a state peace officer/firefighter member who is employed by
35 the state for the first time and becomes a state peace
36 officer/firefighter member of the system on or after January 15,
37 2011, and is represented by State Bargaining Unit 6 or 7. With
38 respect to related state peace officer/firefighter members in
39 managerial, supervisory, or confidential positions and officers or
40 employees of the executive branch of state government who are

1 not members of the civil service, the Director of the ~~Department~~
2 ~~of Personnel Administration~~ *Department of Human Resources*
3 may exercise his or her discretion whether to approve their status
4 in writing to the board.

5 (j) (1) This section shall also apply to a state peace
6 officer/firefighter member who is employed by the California State
7 University or judicial branch of government or the Legislature for
8 the first time and becomes a state peace officer/firefighter member
9 on or after January 15, 2011.

10 (2) If this subdivision is in conflict with a memorandum of
11 understanding that is current and in effect on January 15, 2011,
12 the memorandum of understanding shall be controlling while it
13 remains in effect. Upon expiration of the memorandum of
14 understanding that is in effect and current on January 15, 2011,
15 this section shall be controlling and may not be superseded by a
16 subsequent memorandum of understanding.

17 (k) Subdivisions (i) and (j) do not apply to:

18 (1) Former state, legislative, judicial branch, or California State
19 University employees employed before January 15, 2011, who
20 return to state or university employment on or after January 15,
21 2011, and who were not previously subject to this section.

22 (2) State employees hired prior to January 15, 2011, who were
23 subject to Section 20281.5 during the first 24 months of state
24 employment and who were not previously subject to this section.

25 (3) State employees hired prior to January 15, 2011, who become
26 subject to representation by State Bargaining Unit 6 or 7 on or
27 after January 15, 2011, and who were not previously subject to
28 this section.

29 (4) State, legislative, judicial branch, or California State
30 University employees on an approved leave of absence before
31 January 15, 2011, who return to active employment on or after
32 January 15, 2011, and who were not previously subject to this
33 section.

34 SEC. 154. Section 21363.1 of the Government Code is amended
35 to read:

36 21363.1. (a) The combined current and prior service pensions
37 for state peace officer/firefighter members subject to this section
38 with respect to state peace officer/firefighter service, and for local
39 safety members with respect to local safety service rendered to a
40 contracting agency that is subject to this section, is a pension

1 derived from the contributions of the employer sufficient when
 2 added to the service retirement annuity that is derived from the
 3 accumulated normal contributions of the state peace
 4 officer/firefighter member or local safety member at the date of
 5 his or her retirement to equal the fraction of 3 percent of his or her
 6 final compensation set forth opposite his or her age at retirement
 7 taken to the preceding completed quarter year, in the following
 8 table, multiplied by the number of years of state peace
 9 officer/firefighter service or local safety service subject to this
 10 section with which he or she is credited at retirement:

11	12	13	14
	Age at		Fraction
	Retirement		
14	50 .....		.800
15	50 ¹ / ₄ .....		.810
16	50 ¹ / ₂ .....		.820
17	50 ³ / ₄ .....		.830
18	51 .....		.840
19	51 ¹ / ₄ .....		.850
20	51 ¹ / ₂ .....		.860
21	51 ³ / ₄ .....		.870
22	52 .....		.880
23	52 ¹ / ₄ .....		.890
24	52 ¹ / ₂ .....		.900
25	52 ³ / ₄ .....		.910
26	53 .....		.920
27	53 ¹ / ₄ .....		.930
28	53 ¹ / ₂ .....		.940
29	53 ³ / ₄ .....		.950
30	54 .....		.960
31	54 ¹ / ₄ .....		.970
32	54 ¹ / ₂ .....		.980
33	54 ³ / ₄ .....		.990
34	55 and over		1.000

35
 36 (b) In no event shall the current service pension and the
 37 combined current and prior service pensions under this section for
 38 all service to all employers exceed an amount that, when added to
 39 the service retirement annuity related to that service, equals 85
 40 percent of final compensation. For state peace officer/firefighter

1 members with respect to service for all state employers under this
2 section, the benefit shall not exceed 90 percent of final
3 compensation. If the pension relates to service to more than one
4 employer and would otherwise exceed that maximum, the pension
5 payable with respect to each employer shall be reduced in the same
6 proportion as the allowance based on service to that employer
7 bears to the total allowance computed as though there were no
8 limit, so that the total of the pensions shall equal the maximum.
9 Where a state or local member has service under this section with
10 both state and local agency employers, the higher maximum shall
11 apply and the additional benefit shall be funded by increasing the
12 member's pension payable with respect to the employer for whom
13 the member performed the service subject to the higher maximum.

14 (c) This section shall supersede Section 21363 for state peace
15 officer/firefighter members with respect to service rendered for
16 the California State University or the legislative or judicial branch
17 of government.

18 (d) This section shall also supersede Section 21363 for state
19 peace officer/firefighter members, for service not subject to
20 subdivision (c), who are employed by the state on or after January
21 1, 2000.

22 (e) This section shall not apply to any contracting agency nor
23 its employees unless and until the agency elects to be subject to
24 the provisions of this section by amendment to its contract made
25 in the manner prescribed for approval of contracts or, in the case
26 of contracts made after the date this section becomes operative,
27 by express provision in the contract making the contracting agency
28 subject to this section. The operative date of this section for a local
29 safety member shall be the effective date of the amendment to his
30 or her employer's contract electing to be subject to this section.

31 (f) This section shall supersede Section 21363, 21366, 21368,
32 21369, or 21370, whichever is then applicable, with respect to
33 local safety members who retire after the date this section becomes
34 applicable to their respective employers.

35 (g) The Legislature reserves, with respect to any member subject
36 to this section, the right to provide for the adjustment of industrial
37 disability retirement allowances because of earnings of a retired
38 person and modification of the conditions and qualifications
39 required for retirement for disability as it may find appropriate

1 because of the earlier age of service retirement made possible by
2 the benefits under this section.

3 (h) The Legislature reserves the right to subsequently modify
4 or amend this part in order to completely effectuate the intent and
5 purposes of this section and the right to not provide any new
6 comparable advantages if disadvantages to employees result from
7 any modification or amendment.

8 (i) Operation and application of this section are subject to the
9 limitations set forth in Section 21251.13.

10 (j) This section shall apply to a state patrol member who is
11 employed by the state for the first time and becomes a state patrol
12 member of the system on or after October 31, 2010, and is
13 represented by State Bargaining Unit 5. With respect to related
14 state patrol members in managerial, supervisory, or confidential
15 positions and officers or employees of the executive branch of
16 state government who are not members of the civil service, the
17 Director of the ~~Department of Personnel Administration~~
18 *Department of Human Resources* may exercise his or her discretion
19 whether to approve their status in writing to the board.

20 (k) This section shall apply to a state peace officer/firefighter
21 member who is employed by the state for the first time and
22 becomes a state peace officer/firefighter member of the system on
23 or after October 31, 2010, and is represented by State Bargaining
24 Unit 8. With respect to related state peace officer/firefighter
25 members in managerial, supervisory, or confidential positions and
26 officers or employees of the executive branch of state government
27 who are not members of the civil service, the Director of the
28 ~~Department of Personnel Administration~~ *Department of Human*
29 *Resources* may exercise his or her discretion whether to approve
30 their status in writing to the board.

31 (l) Subdivisions (j) and (k) do not apply to:

32 (1) Former state employees previously employed before October
33 31, 2010, who return to state employment on or after October 31,
34 2010.

35 (2) State employees hired prior to October 31, 2010, who were
36 subject to Section 20281.5 during the first 24 months of state
37 employment.

38 (3) State employees hired prior to October 31, 2010, who
39 become subject to representation by State Bargaining Unit 5 or 8
40 on or after October 31, 2010.

1 (4) State employees on an approved leave of absence employed
2 before October 31, 2010, who return to active employment on or
3 after October 31, 2010.

4 (m) (1) Notwithstanding any other provision of this section,
5 this section shall not apply to a peace officer/firefighter member
6 who is employed for the first time by the California State
7 University or the legislative or judicial branch and becomes a state
8 peace officer/firefighter member of the system on or after January
9 15, 2011.

10 (2) If this subdivision is in conflict with a memorandum of
11 understanding that is current and in effect on January 15, 2011,
12 the memorandum of understanding shall be controlling while it
13 remains in effect. Upon expiration of the memorandum of
14 understanding that is in effect and current on January 15, 2011,
15 this section shall be controlling and may not be superseded by a
16 subsequent memorandum of understanding.

17 (n) Notwithstanding Section 3517.8, or any provision of an
18 expired memorandum of understanding, or any other provision of
19 this section, this section shall not apply to those peace
20 officer/firefighter members in state Bargaining Units 6 and 7 first
21 employed by the state on or after January 15, 2011.

22 SEC. 155. Section 21363.4 of the Government Code is amended
23 to read:

24 21363.4. (a) Upon attaining the age of 50 years or more, the
25 combined current and prior service pension for a state peace
26 officer/firefighter member described in subdivision (c) who retires
27 or dies on or after January 1, 2006, is a pension derived from the
28 contributions of the employer sufficient when added to the service
29 retirement annuity that is derived from the accumulated normal
30 contributions of the member at the date of his or her retirement to
31 equal 3 percent of his or her final compensation at retirement,
32 multiplied by the number of years of state peace officer/firefighter
33 service, as defined in subdivision (d), subject to this section with
34 which he or she is credited at retirement.

35 (b) For state peace officer/firefighter members, with respect to
36 service for all state employers under this section, the current service
37 pension and the combined current and prior service pension under
38 this section shall not exceed an amount that, when added to the
39 service retirement annuity related to that service, equals 90 percent
40 of final compensation. If the pension relates to service to more

1 than one employer and would otherwise exceed that maximum,
2 the pension payable with respect to each employer shall be reduced
3 in the same proportion as the allowance based on service to that
4 employer bears to the total allowance computed as though there
5 were no limit, so that the total of the pensions shall equal the
6 maximum.

7 (c) For purposes of this section, “state peace officer/firefighter
8 member” means state peace officer/firefighter members under this
9 part who, on or after January 1, 2006, are employed by the state
10 and are members of State Bargaining Unit 6 or State Bargaining
11 Unit 8, and may include state peace officer/firefighter members
12 in related managerial, supervisory, or confidential positions and
13 officers or employees of the executive branch of state government
14 who are not members of the civil service, provided the ~~Department~~
15 ~~of Personnel Administration~~ *Department of Human Resources* has
16 approved their inclusion in writing to the board.

17 (d) For purposes of this section, “state peace officer/firefighter
18 service” means service performed by a state peace
19 officer/firefighter member while a member of State Bargaining
20 Unit 6 or State Bargaining Unit 8, and may include state peace
21 officer/firefighter service in related managerial, supervisory, or
22 confidential positions or as officers or employees of the executive
23 branch of state government who are not members of the civil
24 service, provided the ~~Department of Personnel Administration~~
25 *Department of Human Resources* has approved their inclusion in
26 writing to the board.

27 (e) This section shall supersede Section 21363 or 21363.1,
28 whichever is applicable, with respect to state peace
29 officer/firefighter members and service as defined herein.

30 (f) The Legislature reserves, with respect to any member subject
31 to this section, the right to provide for the adjustment of industrial
32 disability retirement allowances because of earnings of a retired
33 person and modification of the conditions and qualifications
34 required for retirement for disability as it may find appropriate
35 because of the earlier ages of service retirement made possible by
36 the benefits under this section.

37 (g) Notwithstanding any other provision of this section, this
38 section shall not apply to a state peace officer/firefighter member
39 who is employed by the state for the first time and becomes a state
40 peace officer/firefighter member of the system on or after October

1 31, 2010, and is represented by State Bargaining Unit 8. With
2 respect to related state peace officer/firefighter members in
3 managerial, supervisory, or confidential positions and officers or
4 employees of the executive branch of state government who are
5 not members of the civil service, the Director of the ~~Department~~
6 ~~of Personnel Administration~~ *Department of Human Resources*
7 may exercise his or her discretion whether to approve their status
8 in writing to the board.

9 (h) Notwithstanding Section 3517.8, or any provision of an
10 expired memorandum of understanding, or any other provision of
11 this section, this section shall not apply to a state peace
12 officer/firefighter member who is employed by the state for the
13 first time and becomes a state peace officer/firefighter member of
14 the system on or after January 15, 2011, and is represented by State
15 Bargaining Unit 6. With respect to related state peace
16 officer/firefighter members in managerial, supervisory, or
17 confidential positions and officers or employees of the executive
18 branch of state government who are not members of the civil
19 service, the Director of the ~~Department of Personnel Administration~~
20 *Department of Human Resources* may exercise his or her discretion
21 whether to approve their status in writing to the board.

22 SEC. 156. Section 21363.8 of the Government Code is amended
23 to read:

24 21363.8. (a) Upon attaining the age of 50 years or more, the
25 combined current and prior service pension for a state peace
26 officer/firefighter member described in subdivision (c) who retires
27 or dies on or after January 1, 2004, is a pension derived from the
28 contributions of the employer sufficient when added to the service
29 retirement annuity that is derived from the accumulated normal
30 contributions of the member at the date of his or her retirement to
31 equal 3 percent of his or her final compensation at retirement,
32 multiplied by the number of years of state peace officer/firefighter
33 service, as defined in subdivision (d), subject to this section with
34 which he or she is credited at retirement.

35 (b) For state peace officer/firefighter members, with respect to
36 service for all state employers under this section, the current service
37 pension and the combined current and prior service pension under
38 this section may not exceed an amount that, when added to the
39 service retirement annuity related to that service, equals 90 percent
40 of final compensation. If the pension relates to service to more

1 than one employer and would otherwise exceed that maximum,
2 the pension payable with respect to each employer shall be reduced
3 in the same proportion as the allowance based on service to that
4 employer bears to the total allowance computed as though there
5 were no limit, so that the total of the pensions shall equal the
6 maximum.

7 (c) (1) This section shall apply to state peace officer/firefighter
8 members under this part who, on or after January 1, 2004, are
9 employed by the state and are members of State Bargaining Unit
10 7.

11 (2) This section may also apply to state peace officer/firefighter
12 members in managerial, supervisory, or confidential positions that
13 are related to the members described in paragraph (1) and to
14 officers or employees of the executive branch of state government
15 who are not members of the civil service and who are in positions
16 that are related to the members described in paragraph (1), if the
17 ~~Department of Personnel Administration~~ *Department of Human*
18 *Resources* has approved their inclusion in writing to the board.

19 (d) (1) For purposes of this section, “state peace
20 officer/firefighter service” means service performed by a state
21 peace officer/firefighter member while a member of State
22 Bargaining Unit 7.

23 (2) That service may include state peace officer/firefighter
24 service in managerial, supervisory, or confidential positions that
25 are related to the members described in paragraph (1) or as officers
26 or employees of the executive branch of state government who are
27 not members of the civil service and who are in positions that are
28 related to the members described in paragraph (1), provided the
29 ~~Department of Personnel Administration~~ *Department of Human*
30 *Resources* has approved their inclusion in writing to the board.

31 (e) This section shall supersede Section 21363 or 21363.1,
32 whichever is applicable, with respect to state peace
33 officer/firefighter members subject to this section and state peace
34 officer/firefighter service as defined herein.

35 (f) The Legislature reserves, with respect to any member subject
36 to this section, the right to provide for the adjustment of industrial
37 disability retirement allowances because of earnings of a retired
38 person and modification of the conditions and qualifications
39 required for retirement for disability as it may find appropriate

1 because of the earlier ages of service retirement made possible by
2 the benefits under this section.

3 (g) Notwithstanding Section 3517.8, or any provision of an
4 expired memorandum of understanding, or any other provision of
5 this section, this section shall not apply to a state peace
6 officer/firefighter member who is employed by the state for the
7 first time and becomes a state peace officer/firefighter member of
8 the system on or after January 15, 2011, and is represented by State
9 Bargaining Unit 7. With respect to related state peace
10 officer/firefighter members in managerial, supervisory, or
11 confidential positions and officers or employees of the executive
12 branch of state government who are not members of the civil
13 service, the Director of the ~~Department of Personnel Administration~~
14 *Department of Human Resources* may exercise his or her discretion
15 whether to approve their status in writing to the board.

16 SEC. 157. Section 21369 of the Government Code is amended
17 to read:

18 21369. (a) The combined prior and current service pension
19 for a state safety member, and a local safety member with respect
20 to service to a contracting agency subject to this section, upon
21 retirement after attaining the age of 55 years, is a pension derived
22 from contributions of an employer sufficient, when added to that
23 portion of the service retirement annuity that is derived from the
24 accumulated normal contributions of the member at the date of
25 his or her retirement, to equal one-fiftieth of his or her final
26 compensation multiplied by the number of years of state safety,
27 police, fire, or county peace officer service that is credited to him
28 or her as a state safety member or a local safety member subject
29 to this section at retirement. Notwithstanding the preceding
30 sentence, this section shall apply to the current and prior service
31 pension for any other state safety member based on service to
32 which it would have applied had the member, on July 1, 1971,
33 been in employment described in Section 20403 or 20404.

34 (b) Upon retirement for service prior to attaining the age of 55
35 years, the percentage of final compensation payable for each year
36 of credited service that is subject to this section shall be the product
37 of 2 percent multiplied by the factor set forth in the following table
38 for his or her actual age at retirement:

1		The percent for
2		each year of
3		credited service
4	If the retirement age occurs at:	is:
5	50	0.713
6	50 1/4.....	0.725
7	50 1/2.....	0.737
8	50 3/4.....	0.749
9	51	0.761
10	51 1/4.....	0.775
11	51 1/2.....	0.788
12	51 3/4.....	0.801
13	52	0.814
14	52 1/4.....	0.828
15	52 1/2.....	0.843
16	52 3/4.....	0.857
17	53	0.871
18	53 1/4.....	0.886
19	53 1/2.....	0.902
20	53 3/4.....	0.917
21	54	0.933
22	54 1/4.....	0.950
23	54 1/2.....	0.966
24	54 3/4.....	0.983

25

26 (c) In no event shall the total pension for all service under this

27 section exceed an amount that, when added to the service retirement

28 annuity related to that service, equals 75 percent of final

29 compensation. For state members who retire on or after January

30 1, 1995, and with respect to service for all state employers under

31 this section, the benefit shall not exceed 80 percent of final

32 compensation. For local members who retire on or after January

33 1, 2000, the benefit shall not exceed 85 percent of final

34 compensation. If the pension relates to service to more than one

35 employer and would otherwise exceed that maximum, the pension

36 payable with respect to each employer shall be reduced in the same

37 proportion as the allowance based on service to that employer

38 bears to the total allowance computed as though there were no

39 limit, so that the total of those pensions shall equal the maximum.

40 Where a state or local member retiring on or after January 1, 1995,

1 has service under this section with both state and local agency
2 employers, the higher maximum shall apply and the additional
3 benefit shall be funded by increasing the member's pension payable
4 with respect to the employer for whom the member performed the
5 service subject to the higher maximum.

6 (d) This section shall not apply to a person whose effective date
7 of retirement is prior to July 1, 1971.

8 (e) The Legislature reserves, with respect to any member subject
9 to this section, the right to provide for the adjustment of industrial
10 disability retirement allowances because of earnings of a retired
11 person and modification of the conditions and qualifications
12 required for retirement for disability as it may find appropriate
13 because of the earlier age of service retirement made possible by
14 the benefits under this section.

15 (f) The percentage of final compensation provided in this section
16 shall be reduced by one-third as applied to that part of the
17 member's final compensation that does not exceed four hundred
18 dollars (\$400) per month for service after the effective date of
19 coverage of a member under the federal system. This subdivision
20 shall not apply to a member who retires after the date upon which
21 coverage under the federal system of persons in his or her
22 employment terminates. It shall not apply to a local safety member
23 employed by a contracting agency electing to be subject to this
24 section after March 7, 1973, unless the agency elects to be subject
25 to this paragraph by amendment to its contract or by appropriate
26 provision of a contract entered into after this provision is effective
27 and as to any member, the reduction in the percentage of final
28 compensation shall apply to all local safety service to the agency,
29 if any of the local safety service has been included in the federal
30 system.

31 (g) With the exception of state safety members for service
32 rendered for the California State University, this section shall apply
33 to state safety members who are not employed by the state on or
34 after January 1, 2000.

35 (h) This section shall not apply to a contracting agency nor its
36 employees until the agency elects to be subject to it by amendment
37 to its contract made in the manner prescribed for approval of
38 contracts or in the case of a new contract, by express provision of
39 the contract. The operative date of this section with respect to a
40 local safety member shall be the effective date of the amendment

1 to his or her employer's contract electing to be subject to this
2 section.

3 (i) (1) Notwithstanding Section 3517.8 or any provision of an
4 expired memorandum of understanding, this section shall also
5 apply to a state safety member who is employed by the state or
6 the California State University for the first time and becomes a
7 state safety member of the system on or after January 15, 2011.
8 With respect to related state safety members in managerial,
9 supervisory, or confidential positions and officers or employees
10 of the executive branch of state government who are not members
11 of the civil service, the Director of the ~~Department of Personnel~~
12 ~~Administration~~ *Department of Human Resources* may exercise his
13 or her discretion whether to approve their status in writing to the
14 board.

15 (2) If this subdivision is in conflict with a memorandum of
16 understanding that is current and in effect on January 15, 2011,
17 the memorandum of understanding shall be controlling while it
18 remains in effect. Upon expiration of the memorandum of
19 understanding that is in effect and current on January 15, 2011,
20 this section shall be controlling and may not be superseded by a
21 subsequent memorandum of understanding.

22 (j) This section does not apply to:

23 (1) Former state or California State University employees
24 employed before January 15, 2011, who return to state or university
25 employment on or after January 15, 2011, and who were not
26 previously subject to this section.

27 (2) State employees hired prior to January 15, 2011, who were
28 subject to Section 20281.5 during the first 24 months of state
29 employment, and who were not previously subject to this section.

30 (3) State or California State University employees on an
31 approved leave of absence before January 15, 2011, who return to
32 active employment on or after January 15, 2011, and who were
33 not previously subject to this section.

34 (4) State employees who are subject to Section 21369.2 so long
35 as their memorandum of understanding is in effect. Upon expiration
36 of the memorandum of understanding, notwithstanding Section
37 3517.8, this section shall be controlling and may not be superseded
38 by a subsequent memorandum of understanding.

39 SEC. 158. Section 21369.1 of the Government Code is amended
40 to read:

1 21369.1. (a) The combined current and prior service pensions
 2 for state safety members subject to this section with respect to state
 3 safety service that is subject to this section is a pension derived
 4 from the contributions of the employer sufficient when added to
 5 the service retirement annuity that is derived from the accumulated
 6 normal contributions of the state safety member at the date of his
 7 or her retirement to equal the fraction of one-fiftieth of his or her
 8 final compensation set forth opposite his or her age at retirement
 9 taken to the preceding completed quarter year, in the following
 10 table, multiplied by the number of years of state safety service
 11 subject to this section with which he or she is credited at retirement.

13 Age at	14 Fraction
14 Retirement	
15 50	0.8500
16 50¼	0.8625
17 50½	0.8750
18 50¾	0.8875
19 51	0.9000
20 51¼	0.9125
21 51½	0.9250
22 51¾	0.9375
23 52	0.9500
24 52¼	0.9625
25 52½	0.9750
26 52¾	0.9875
27 53	1.0000
28 53¼	1.0320
29 53½	1.0630
30 53¾	1.0940
31 54	1.1250
32 54¼	1.1570
33 54½	1.1880
34 54¾	1.2190
35 55 and over	1.2500

36
 37 (b) For state safety members with respect to service for all state
 38 employers under this section, the benefit shall not exceed 80
 39 percent of final compensation. If the pension relates to service to
 40 more than one employer, and would otherwise exceed that

1 maximum, the pension payable with respect to each employer shall
2 be reduced in the same proportion as the allowance based on
3 service to that employer bears to the total allowance computed as
4 though there were no limit, so that the total of the pensions shall
5 equal the maximum.

6 (c) This section shall supersede Section 21369 for state safety
7 members with respect to service rendered for the California State
8 University.

9 (d) This section shall also supersede Section 21369 for state
10 safety members, for service not subject to subdivision (c), who are
11 employed by the state on or after January 1, 2000.

12 (e) The Legislature reserves, with respect to any member subject
13 to this section, the right to provide for the adjustment of industrial
14 disability retirement allowances because of earnings of a retired
15 person and modification of the conditions and qualifications
16 required for retirement for disability as it may find appropriate
17 because of the earlier age of service retirement made possible by
18 the benefits under this section.

19 (f) The Legislature reserves the right to subsequently modify
20 or amend this part in order to completely effectuate the intent and
21 purposes of this section and the right to not provide any new
22 comparable advantages if disadvantages to employees result from
23 any modification or amendment.

24 (g) Operation and application of this section are subject to the
25 limitations set forth in Section 21251.13.

26 (h) Notwithstanding any other provision of this section, this
27 section shall not apply to a state safety member who is employed
28 by the state for the first time and becomes a state safety member
29 of the system on or after the first day of the pay period following
30 the effective date of the act adding this subdivision, and is
31 represented by State Bargaining Unit 12, 16, 18, or 19. With respect
32 to related state safety members in managerial, supervisory, or
33 confidential positions and officers or employees of the executive
34 branch of state government who are not members of the civil
35 service, the Director of the ~~Department of Personnel Administration~~
36 *Department of Human Resources* may exercise his or her discretion
37 whether to approve their status in writing to the board.

38 (i) (1) Notwithstanding Section 3517.8, or any provision of an
39 expired memorandum of understanding, or any other provision of
40 this section, this section shall not apply to a state safety member

1 who is employed by the state or the California State University
 2 for the first time and becomes a state safety member of the system
 3 on or after January 15, 2011. With respect to related state safety
 4 members in managerial, supervisory, or confidential positions and
 5 officers or employees of the executive branch of state government
 6 who are not members of the civil service, the Director of the
 7 ~~Department of Personnel Administration~~ *Department of Human*
 8 *Resources* may exercise his or her discretion whether to approve
 9 their status in writing to the board.

10 (2) If this subdivision is in conflict with a memorandum of
 11 understanding that is current and in effect on January 15, 2011,
 12 the memorandum of understanding shall be controlling while it
 13 remains in effect. Upon expiration of the memorandum of
 14 understanding that is in effect and current on January 15, 2011,
 15 this section shall be controlling and may not be superseded by a
 16 subsequent memorandum of understanding.

17 SEC. 159. Section 21369.2 of the Government Code, as added
 18 by Section 21 of Chapter 162 of the Statutes of 2010, is amended
 19 to read:

20 21369.2. (a) The combined prior and current service pension
 21 for a state safety member, upon retirement after attaining the age
 22 of 55 years, is a pension derived from contributions of an employer
 23 sufficient, when added to that portion of the service retirement
 24 annuity that is derived from the accumulated normal contributions
 25 of the member at the date of his or her retirement, to equal
 26 one-fiftieth of his or her final compensation multiplied by the
 27 number of years of state safety, that is credited to him or her as a
 28 state safety member subject to this section at retirement.

29 (b) Upon retirement for service prior to attaining the age of 55
 30 years, the percentage of final compensation payable for each year
 31 of credited service that is subject to this section shall be the product
 32 of 2 percent multiplied by the factor set forth in the following table
 33 for his or her actual age at retirement:

34

35 Age at		
36 Retirement		Fraction
37 50		0.713
38 50¼.....		0.725
39 50½.....		0.737
40 50¾.....		0.749

1	51	0.761
2	51¼.....	0.775
3	51½.....	0.788
4	51¾.....	0.801
5	52	0.814
6	52¼.....	0.828
7	52½.....	0.843
8	52¾.....	0.857
9	53	0.871
10	53¼.....	0.886
11	53½.....	0.902
12	53¾.....	0.917
13	54	0.933
14	54¼.....	0.950
15	54½.....	0.966
16	54¾.....	0.983
17	55	1.0000
18	55¼.....	1.0125
19	55½.....	1.0250
20	55¾.....	1.0375
21	56	1.0500
22	56¼.....	1.0625
23	56½.....	1.0750
24	56¾.....	1.0875
25	57	1.1000
26	57¼.....	1.1125
27	57½.....	1.1250
28	57¾.....	1.1375
29	58	1.1500
30	58¼.....	1.1625
31	58½.....	1.1750
32	58¾.....	1.1875
33	59	1.2000
34	59¼.....	1.2125
35	59½.....	1.2250
36	59¾.....	1.2375
37	60 and over	1.2500

38
39 (c) In no event shall the total pension for all service under this
40 section exceed an amount that, when added to the service retirement

1 annuity related to that service, equals 80 percent of final
2 compensation. If the pension relates to service to more than one
3 employer and would otherwise exceed that maximum, the pension
4 payable with respect to each employer shall be reduced in the same
5 proportion as the allowance based on service to that employer
6 bears to the total allowance computed as though there were no
7 limit, so that the total of those pensions shall equal the maximum.
8 Where a state member has service under this section with both
9 state and local agency employers, the higher maximum shall apply
10 and the additional benefit shall be funded by increasing the
11 member's pension payable with respect to the employer for whom
12 the member performed the service subject to the higher maximum.

13 (d) The Legislature reserves, with respect to any member subject
14 to this section, the right to provide for the adjustment of industrial
15 disability retirement allowances because of earnings of a retired
16 person and modification of the conditions and qualifications
17 required for retirement for disability as it may find appropriate
18 because of the earlier age of service retirement made possible by
19 the benefits under this section.

20 (e) This section shall apply to a state safety member who is
21 employed by the state for the first time and becomes a state safety
22 member of the system on or after the first day of the pay period
23 following the effective date of this section, and is represented by
24 State Bargaining Unit 12, 16, 18, or 19. With respect to related
25 state safety members in managerial, supervisory, or confidential
26 positions and officers or employees of the executive branch of
27 state government who are not members of the civil service, the
28 Director of the ~~Department of Personnel Administration~~
29 *Department of Human Resources* may exercise his or her discretion
30 whether to approve their status in writing to the board.

31 (f) This section does not apply to:

32 (1) Former state employees previously employed before the
33 first day of the pay period following the effective date of this
34 subdivision, who return to state employment on or after the first
35 day of the pay period following the effective date of this
36 subdivision.

37 (2) State employees hired prior to the first day of the pay period
38 following the effective date of this subdivision, who were subject
39 to Section 20281.5 during the first 24 months of state employment.

1 (3) State employees hired prior to the first day of the pay period
 2 following the effective date of this subdivision, who become
 3 subject to representation by State Bargaining Unit 12, 16, 18, or
 4 19 on or after the first day of the pay period following the effective
 5 date of this subdivision.

6 (4) State employees on an approved leave of absence employed
 7 before the first day of the pay period following the effective date
 8 of this subdivision, who return to active employment on or after
 9 the first day of the pay period following the effective date of this
 10 subdivision.

11 SEC. 160. Section 21369.2 of the Government Code, as added
 12 by Section 21 of Chapter 163 of the Statutes of 2010, is amended
 13 to read:

14 21369.2. (a) The combined prior and current service pension
 15 for a state safety member, upon retirement after attaining the age
 16 of 55 years, is a pension derived from contributions of an employer
 17 sufficient, when added to that portion of the service retirement
 18 annuity that is derived from the accumulated normal contributions
 19 of the member at the date of his or her retirement, to equal
 20 one-fiftieth of his or her final compensation multiplied by the
 21 number of years of state safety, that is credited to him or her as a
 22 state safety member subject to this section at retirement.

23 (b) Upon retirement for service prior to attaining the age of 55
 24 years, the percentage of final compensation payable for each year
 25 of credited service that is subject to this section shall be the product
 26 of 2 percent multiplied by the factor set forth in the following table
 27 for his or her actual age at retirement:

28

29

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Age at Retirement	Fraction
50	0.713
50 ¹ / ₄	0.725
50 ¹ / ₂	0.737
50 ³ / ₄	0.749
51	0.761
51 ¹ / ₄	0.775
51 ¹ / ₂	0.788
51 ³ / ₄	0.801
52	0.814
52 ¹ / ₄	0.828

1	52½.....	0.843
2	52¾.....	0.857
3	53	0.871
4	53¼.....	0.886
5	53½.....	0.902
6	53¾.....	0.917
7	54	0.933
8	54¼.....	0.950
9	54½.....	0.966
10	54¾.....	0.983
11	55	1.0000
12	55¼.....	1.0125
13	55½.....	1.0250
14	55¾.....	1.0375
15	56	1.0500
16	56¼.....	1.0625
17	56½.....	1.0750
18	56¾.....	1.0875
19	57	1.1000
20	57¼.....	1.1125
21	57½.....	1.1250
22	57¾.....	1.1375
23	58	1.1500
24	58¼.....	1.1625
25	58½.....	1.1750
26	58¾.....	1.1875
27	59	1.2000
28	59¼.....	1.2125
29	59½.....	1.2250
30	59¾.....	1.2375
31	60 and over	1.2500

32
33 (c) In no event shall the total pension for all service under this
34 section exceed an amount that, when added to the service retirement
35 annuity related to that service, equals 80 percent of final
36 compensation. If the pension relates to service to more than one
37 employer and would otherwise exceed that maximum, the pension
38 payable with respect to each employer shall be reduced in the same
39 proportion as the allowance based on service to that employer
40 bears to the total allowance computed as though there were no

1 limit, so that the total of those pensions shall equal the maximum.
2 Where a state member has service under this section with both
3 state and local agency employers, the higher maximum shall apply
4 and the additional benefit shall be funded by increasing the
5 member's pension payable with respect to the employer for whom
6 the member performed the service subject to the higher maximum.

7 (d) The Legislature reserves, with respect to any member subject
8 to this section, the right to provide for the adjustment of industrial
9 disability retirement allowances because of earnings of a retired
10 person and modification of the conditions and qualifications
11 required for retirement for disability as it may find appropriate
12 because of the earlier age of service retirement made possible by
13 the benefits under this section.

14 (e) This section shall apply to a state safety member who is
15 employed by the state for the first time and becomes a state safety
16 member of the system on or after the first day of the pay period
17 following the effective date of this section, and is represented by
18 State Bargaining Unit 12, 16, 18, or 19. With respect to related
19 state safety members in managerial, supervisory, or confidential
20 positions and officers or employees of the executive branch of
21 state government who are not members of the civil service, the
22 Director of the ~~Department of Personnel Administration~~
23 *Department of Human Resources* may exercise his or her discretion
24 whether to approve their status in writing to the board.

25 (f) This section does not apply to:

26 (1) Former state employees previously employed before the
27 first day of the pay period following the effective date of this
28 subdivision, who return to state employment on or after the first
29 day of the pay period following the effective date of this
30 subdivision.

31 (2) State employees hired prior to the first day of the pay period
32 following the effective date of this subdivision, who were subject
33 to Section 20281.5 during the first 24 months of state employment.

34 (3) State employees hired prior to the first day of the pay period
35 following the effective date of this subdivision, who become
36 subject to representation by State Bargaining Unit 12, 16, 18, or
37 19 on or after the first day of the pay period following the effective
38 date of this subdivision.

39 (4) State employees on an approved leave of absence employed
40 before the first day of the pay period following the effective date

1 of this subdivision, who return to active employment on or after
2 the first day of the pay period following the effective date of this
3 subdivision.

4 SEC. 161. Section 21410 of the Government Code is amended
5 to read:

6 21410. Notwithstanding Sections 21406, 21407, 21408, 21409,
7 and 21411, any state member who becomes subject to Section
8 21159 on or after January 1, 1993, and retires for industrial
9 disability because of incapacity for the performance of duties in
10 any employment with the state employer, as determined by the
11 ~~Department of Personnel Administration~~ *Department of Human*
12 *Resources*, shall receive a disability retirement allowance of 60
13 percent of the member's final compensation plus an annuity
14 purchased with the member's accumulated additional contributions,
15 if any, or, if qualified for service retirement, the member shall
16 receive the service retirement allowance if the allowance, after
17 deducting the annuity, is greater.

18 Benefits payable under this section are payable solely to state
19 members employed in state bargaining units subject to Section
20 21159.

21 SEC. 162. Section 21465 of the Government Code is amended
22 to read:

23 21465. (a) Optional settlement 5 consists of a partial
24 distribution of the actuarial present value of the portion, as
25 specified in this section, of the member's unmodified monthly
26 allowance, as prescribed in Section 21362, 21362.2, 21363,
27 21363.1, 21363.4, or 21423, when a service retirement allowance
28 is payable. The actuarial present value shall be based upon the
29 investment return and postretirement mortality assumptions adopted
30 by the board for that purpose. The member may elect to receive
31 the actuarial present value of no less than 20 percent and no more
32 than 50 percent of his or her unmodified allowance. The member
33 may elect to receive the remaining portion of the unmodified
34 allowance, not distributed as a lump-sum payment, under one of
35 the settlements specified in this article for the remainder of his or
36 her lifetime and thereafter to his or her designated beneficiary,
37 unless this amount is solely limited to the survivor continuance
38 portion. The portion of the unmodified allowance equivalent to
39 the survivor continuance pursuant to Section 21624 may not be
40 distributed as a lump-sum payment. The benefits provided under

1 this section may not exceed the benefits that would have otherwise
2 been provided under any other section in this article.

3 (b) This section shall only apply to the following members who
4 retire on or after January 1, 1999:

5 (1) State peace officer/firefighter members in State Bargaining
6 Unit 6.

7 (2) State peace officer/firefighter members in State Bargaining
8 Unit 8 and state patrol members in State Bargaining Unit 5, if a
9 memorandum of understanding has been agreed upon by the state
10 and the recognized employee organization to become subject to
11 this section.

12 (3) This section shall also apply to state peace officer/firefighter
13 members and state patrol members in related supervisory and
14 confidential positions, if the ~~Department of Personnel~~
15 ~~Administration~~ *Department of Human Resources* has approved
16 their inclusion.

17 SEC. 163. Section 21672 of the Government Code is amended
18 to read:

19 21672. A tax-preferred retirement savings program may include
20 one or more of the following components:

21 (a) Investment fund options for participants, as part of the
22 deferred compensation program administered for state employees
23 by the ~~Department of Personnel Administration~~ *Department of*
24 *Human Resources*.

25 (b) Investment fund options for other participants.

26 (c) Annuity contracts on behalf of all participants.

27 (d) Asset management, administrative, or related services.

28 SEC. 164. Section 21674 of the Government Code is amended
29 to read:

30 21674. (a) Investment fund options under subdivision (a) of
31 Section 21672 shall be provided through a written interagency
32 agreement between the board and the ~~Department of Personnel~~
33 ~~Administration~~ *Department of Human Resources*.

34 (b) Except for investments made pursuant to subdivision (a),
35 participating employers shall enter into a written contractual
36 agreement with the board.

37 (c) Participants shall enter into contractual agreements that are
38 required to effectuate participation in a tax-preferred retirement
39 savings program, including employees participating under a
40 program described in subdivision (a) or (b) of Section 21671, or

1 any other program that provides for the deferral of compensation
2 program or written salary reduction agreements with their
3 employers, for the purpose of making deferrals or for annuity
4 contracts.

5 SEC. 165. Section 22808 of the Government Code is amended
6 to read:

7 22808. An employee enrolled in a health benefit plan under
8 this part shall be entitled to have his or her coverage and the
9 coverage of any family members continued for the duration of a
10 leave of absence, upon his or her application and upon assuming
11 payments of the contributions otherwise required of the employer,
12 if any of the following apply:

13 (a) A leave of absence is granted to the employee without pay
14 under the State Civil Service Act and the rules or regulations of
15 the ~~Department of Personnel Administration~~ *Department of Human*
16 *Resources*, or other comparable leave.

17 (b) The employee is laid off and has not yet obtained other
18 employment, for a period of up to one year.

19 (c) The employee is employed by the California State University
20 and is granted a leave of absence for more than half-time.

21 SEC. 166. Section 22811 of the Government Code is amended
22 to read:

23 22811. Notwithstanding any other provision of this part, a
24 former Member of the Legislature who has served six or more
25 years as a Member of the Legislature may elect, within 60 days
26 after permanent separation from state service, to enroll or continue
27 enrollment in a health benefit plan and dental care plan provided
28 to annuitants. Upon that election, the former member shall pay the
29 total premiums related to that coverage and an additional 2 percent
30 thereof for the administrative costs incurred by the board and the
31 ~~Department of Personnel Administration~~ *Department of Human*
32 *Resources* in administering this section.

33 The health and dental benefits shall be provided without
34 discrimination as to premium rates or benefits coverage. A person
35 who subsequently terminates his or her coverage under this section
36 may not reenroll pursuant to this section.

37 SEC. 167. Section 22814 of the Government Code is amended
38 to read:

39 22814. (a) A judge who retires pursuant to Chapter 11
40 (commencing with Section 75000) of Title 8, but is not yet

1 receiving a pension, may continue his or her coverage and the
2 coverage of any family members for the duration of the leave of
3 absence, upon his or her application and upon assuming payment
4 of the contributions otherwise required of the employer.

5 (b) (1) A judge who leaves judicial office pursuant to
6 subdivision (b) of Section 75521 and has not attained 65 years of
7 age may continue his or her coverage and the coverage of any
8 family members upon assuming payment of the contributions
9 otherwise required of the employer. The judge shall also pay an
10 additional 2 percent of the premium amount to cover administrative
11 expenses incurred by the system or the ~~Department of Personnel~~
12 ~~Administration~~ *Department of Human Resources*.

13 (2) An election to continue coverage under this subdivision shall
14 be made within 60 days of permanent separation. A retired judge
15 who cancels that coverage may not reenroll.

16 (3) Upon attaining 65 years of age, a retired judge who has
17 continuous and uninterrupted coverage pursuant to this subdivision
18 shall be entitled to the applicable employer contribution.

19 SEC. 168. Section 22815 of the Government Code is amended
20 to read:

21 22815. (a) The following persons are eligible for enrollment
22 as provided in this section:

23 (1) A Member of the Legislature or an elective officer of the
24 state whose office is provided by the California Constitution who
25 meets all of the following conditions:

26 (A) Has at least eight years of credited service.

27 (B) Permanently separates from state service on or after January
28 1, 1988, and more than 10 years before his or her minimum age
29 for service retirement, or is an inactive member of the Legislators'
30 Retirement System pursuant to Section 9355.2.

31 (C) Elects to remain a member of a state retirement system
32 supported in whole or in part by state funds, other than the
33 University of California Retirement System.

34 (2) An exempt employee who meets all of the following
35 conditions:

36 (A) Has at least 10 years of credited state service that includes
37 at least two years of credited service while an exempt employee.

38 (B) Permanently separates from state service on or after January
39 1, 1988, and more than 10 years before his or her minimum age
40 for service retirement.

1 (C) Elects to remain a member of a state retirement system
2 supported in whole or in part by state funds, other than the
3 University of California Retirement System.

4 (b) During the period he or she is not yet receiving a retirement
5 allowance, a person described by subdivision (a) may continue
6 enrollment in a health benefit plan or dental care plan without
7 discrimination as to premium rates or benefit coverage, upon
8 assuming payment of the contributions otherwise required of the
9 former employer on account of his or her enrollment and the
10 employee contribution. The person shall also pay an additional 2
11 percent of the premium amount to cover administrative expenses
12 incurred by the system or the ~~Department of Personnel~~
13 ~~Administration~~ *Department of Human Resources*. An election to
14 continue coverage under this section shall be made within 60 days
15 of permanent separation.

16 (c) A person who receives coverage pursuant to this subdivision,
17 and subsequently terminates that coverage, may not be allowed to
18 reenroll and may not enroll as an annuitant pursuant to subdivision
19 (d).

20 (d) Upon retirement and receipt of a retirement allowance, a
21 person described in subdivision (b) may elect to continue
22 enrollment in a health benefit plan or dental care plan without
23 discrimination as to premium rates or benefit coverage, at which
24 time the state shall assume payment of the employer contribution
25 and the person shall thereafter be deemed an annuitant.

26 (e) The board has no duty to locate or notify any person who
27 may be eligible to enroll pursuant to this section.

28 SEC. 169. Section 22816 of the Government Code is amended
29 to read:

30 22816. (a) A person who meets all of the criteria of an
31 annuitant, as defined in subdivision (f) or (g) of Section 22760,
32 other than the condition of receiving a retirement allowance under
33 a retirement system supported in whole or in part by state funds,
34 may continue enrollment in a health benefit plan or dental care
35 plan provided to annuitants without discrimination as to premium
36 rates or benefits coverage, upon assuming payment of the
37 contributions otherwise required of the former employer on account
38 of his or her enrollment and the employee contribution. The person
39 shall also pay an additional 2 percent of the premium amount to
40 cover administrative expenses incurred by the system or the

1 ~~Department of Personnel Administration~~ *Department of Human*
2 *Resources*. An election to continue coverage under this section
3 shall be made within 60 days of permanent separation.

4 (b) A person who receives coverage pursuant to this subdivision
5 who subsequently terminates that coverage may not reenroll.
6 However, termination under this subdivision does not affect an
7 annuitant's rights under Section 22817. The benefits authorized
8 by Section 22817 and this section are separate and distinct benefits.

9 (c) The board has no duty to locate or notify any person who
10 may be eligible to enroll pursuant to this section.

11 SEC. 170. Section 22850 of the Government Code is amended
12 to read:

13 22850. (a) The board may, without compliance with any
14 provision of law relating to competitive bidding, enter into
15 contracts with carriers offering health benefit plans or with entities
16 offering services relating to the administration of health benefit
17 plans.

18 (b) The board may contract with carriers for health benefit plans
19 or approve health benefit plans offered by employee organizations,
20 provided that the carriers have operated successfully in the hospital
21 and medical care fields prior to the contracting for or approval
22 thereof. The plans may include hospital benefits, surgical benefits,
23 inpatient medical benefits, outpatient benefits, obstetrical benefits,
24 and benefits offered by a bona fide church, sect, denomination, or
25 organization whose principles include healing entirely by prayer
26 or spiritual means.

27 (c) Notwithstanding any other provision of this part, the board
28 may contract with health benefit plans offering unique or
29 specialized health services.

30 (d) The board may administer self-funded or minimum premium
31 health benefit plans.

32 (e) The board may contract for or implement employee cost
33 containment and cost reduction incentive programs that involve
34 the employee, the annuitant, and family members as active
35 participants, along with the carrier and the provider, in a joint effort
36 toward containing and reducing the cost of providing medical and
37 hospital health care services to public employees. In developing
38 these plans, the board, in cooperation with the ~~Department of~~
39 ~~Personnel Administration~~ *Department of Human Resources*, may

1 request proposals from carriers and certified public employee
2 representatives.

3 (f) Notwithstanding any other provision of this part, the board
4 may do any of the following:

5 (1) Contract for, or approve, health benefit plans that charge a
6 contracting agency and its employees and annuitants rates based
7 on regional variations in the costs of health care services.

8 (2) Contract for, or approve, health benefit plans exclusively
9 for the employees and annuitants of contracting agencies. State
10 employees and annuitants may not enroll in these plans. The board
11 may offer health benefit plans exclusively for employees and
12 annuitants of contracting agencies in addition to or in lieu of other
13 health benefit plans offered under this part. The governing body
14 of a contracting agency may elect, upon filing a resolution with
15 the board, to provide those health benefit plans to its employees
16 and annuitants. The resolution shall be subject to mutual agreement
17 between the contracting agency and the recognized employee
18 organization, if any.

19 (g) The board shall approve any employee association health
20 benefit plan that was approved by the board in the 1987–88 contract
21 year or prior, provided the plan continues to meet the minimum
22 standards prescribed by the board. The trustees of an employee
23 association health benefit plan are responsible for providing health
24 benefit plan administration and services to its enrollees.
25 Notwithstanding any other provision of this part, the California
26 Correctional Peace Officer Association Health Benefits Trust may
27 offer different health benefit plan designs with varying premiums
28 in different areas of the state.

29 (h) Irrespective of any other provision of law, the sponsors of
30 a health benefit plan approved under this section may reinsure the
31 operation of the plan with an admitted insurer authorized to write
32 disability insurance, if the premium includes the entire prepayment
33 fee.

34 SEC. 171. Section 22865 of the Government Code is amended
35 to read:

36 22865. Prior to the approval of proposed benefits and premium
37 readjustments authorized under Section 22864, the board shall
38 notify the Legislature, the Trustees of the California State
39 University, and the ~~Department of Personnel Administration~~

1 *Department of Human Resources* of the proposed changes in
2 writing.

3 SEC. 172. Section 22871.5 of the Government Code is amended
4 to read:

5 22871.5. (a) Notwithstanding Section 22871, the employer
6 contribution with respect to each excluded employee, as defined
7 by subdivision (b) of Section 3527, who is otherwise eligible shall
8 be determined by the ~~Department of Personnel Administration~~
9 *Department of Human Resources* subject to the appropriation of
10 funds by the Legislature.

11 (b) Notwithstanding Section 22871, the employer contribution
12 with respect to each state employee, as defined by subdivision (c)
13 of Section 3513, who is otherwise eligible shall be determined
14 through the collective bargaining process subject to the
15 appropriation of funds by the Legislature.

16 SEC. 173. Section 22877 of the Government Code is amended
17 to read:

18 22877. (a) As used in this section, the following definitions
19 shall apply:

20 (1) “Coinsurance” means the provision of a health benefit plan
21 design that requires the health benefit plan and state employee to
22 share the cost of hospital or medical expenses at a specified ratio.

23 (2) “Deductible” means the annual amount of out-of-pocket
24 medical expenses that a state employee must pay before the health
25 benefit plan begins paying for expenses.

26 (3) “Program” means the Rural Health Care Equity Program.

27 (4) “Rural area” means an area in which there is no
28 board-approved health maintenance organization plan available
29 for enrollment by state employees residing in the area.

30 (b) (1) The Rural Health Care Equity Program is hereby
31 established for the purpose of funding the subsidization and
32 reimbursement of premium costs, deductibles, coinsurance, and
33 other out-of-pocket health care expenses paid by eligible employees
34 living in rural areas that would otherwise be covered if the state
35 employee was enrolled in a board-approved health maintenance
36 organization plan. The program shall be administered by the
37 ~~Department of Personnel Administration~~ *Department of Human*
38 *Resources* or by a third-party administrator approved by the
39 ~~Department of Personnel Administration~~ *Department of Human*
40 *Resources* in a manner consistent with all applicable state and

1 federal laws. The board shall determine the rural area for each
2 subsequent fiscal year, at the same time that premiums for health
3 maintenance organization plans are approved.

4 (2) Separate accounts shall be maintained within the program
5 for all of the following:

6 (A) Employees, as defined in subdivision (c) of Section 3513.

7 (B) Excluded employees, as defined in subdivision (b) of Section
8 3527.

9 (c) Moneys in the program shall be allocated to the respective
10 accounts as follows:

11 (1) The contribution provided by the state with respect to each
12 employee, as defined in subdivision (c) of Section 3513, who lives
13 in a rural area and is otherwise eligible, shall be an amount
14 determined through the collective bargaining process.

15 (2) The contribution provided by the state with respect to each
16 excluded employee, as defined in subdivision (b) of Section 3527,
17 who lives in a rural area and is otherwise eligible, shall be an
18 amount equal to, but not to exceed, the amount contributed pursuant
19 to paragraph (1).

20 (3) If an eligible employee enters or leaves service with the state
21 during a fiscal year, contributions for the employee shall be made
22 on a pro rata basis. A similar computation shall be used for anyone
23 entering or leaving the bargaining unit, including a person who
24 enters State Bargaining Unit 5 by promotion during a fiscal year.

25 (d) Each fund of the State Treasury, other than the General
26 Fund, shall reimburse the General Fund for any sums allocated
27 pursuant to subdivision (c) for employees whose compensation is
28 paid from that fund. That reimbursement shall be accomplished
29 using the following methodology:

30 (1) On or before December 1 of each year, the ~~Department of~~
31 ~~Personnel Administration~~ *Department of Human Resources* shall
32 provide a list of active state employees who participated in the
33 program during the previous fiscal year to each employing
34 department.

35 (2) On or before January 15 of each year, each department that
36 employed an active state employee identified by the ~~Department~~
37 ~~of Personnel Administration~~ *Department of Human Resources* as
38 a participant in the program shall provide the ~~Department of~~
39 ~~Personnel Administration~~ *Department of Human Resources* with

1 a list of the funds used to pay each employee’s salary, along with
2 the proportion of each employee’s salary attributable to each fund.

3 (3) Using the information provided by the employing
4 departments, the ~~Department of Personnel Administration~~
5 *Department of Human Resources* shall compile a list of program
6 payments attributable to each fund. On or before February 15 of
7 each year, the ~~Department of Personnel Administration~~ *Department*
8 *of Human Resources* shall transmit this list to the Department of
9 Finance.

10 (4) The Department of Finance shall certify to the Controller
11 the amount to be transferred from the unencumbered balance of
12 each fund to the General Fund.

13 (5) The Controller shall transfer to the General Fund from the
14 unencumbered balance of each impacted fund the amount specified
15 by the Department of Finance.

16 (6) To ensure the equitable allocation of costs, the Director of
17 the ~~Department of Personnel Administration~~ *Department of Human*
18 *Resources* or the Director of Finance may require an audit of
19 departmental reports.

20 (e) Notwithstanding any other law and subject to the availability
21 of funds, moneys within the program shall be disbursed for the
22 benefit of eligible employees. The disbursements shall subsidize
23 the preferred provider plan premiums for the employee by an
24 amount equal to the difference between the weighted average of
25 board-approved health maintenance organization premiums and
26 the lowest board-approved preferred provider plan premium
27 available under this part, and reimburse the employee for a portion
28 or all of his or her incurred deductible, coinsurance, and other
29 out-of-pocket health-related expenses that would otherwise be
30 covered if the employee and his or her family members were
31 enrolled in a board-approved health maintenance organization
32 plan. These subsidies and reimbursements shall be provided as
33 determined by the ~~Department of Personnel Administration~~
34 *Department of Human Resources*, which may include, but is not
35 limited to, a supplemental insurance plan, a medical reimbursement
36 account, or a medical spending account plan.

37 (f) Subject to subdivision (h), moneys remaining in an account
38 of the program at the end of any fiscal year shall remain in the
39 account for use in subsequent fiscal years, until the account is
40 terminated. Moneys remaining in a program account upon

1 termination, after payment of all expenses and claims incurred
2 prior to the date of termination, shall be deposited in the General
3 Fund.

4 (g) The Legislature finds and declares that the program shall be
5 operated for the exclusive benefit of employees of State Bargaining
6 Unit 5.

7 (h) This section shall be operative only to the extent that funding
8 is provided in the annual Budget Act or another statute and solely
9 for the benefit of employees of State Bargaining Unit 5.

10 (i) This section shall cease to be operative on July 3, 2010, or
11 on an earlier date if the board makes a formal determination that
12 health maintenance organization plans are no longer the most
13 cost-effective health benefit plans offered by the board.

14 (j) Notwithstanding any other law, on and after July 1, 2009,
15 the benefits of the Rural Health Care Equity Program shall be
16 available only to employees in State Bargaining Unit 5, and shall
17 not be available to any other employees. Pursuant to subdivision
18 (f), any moneys that remain in the accounts of the program on July
19 1, 2009, other than moneys attributable to employees in State
20 Bargaining Unit 5 on that date, shall be deposited in the General
21 Fund. Benefits of the Rural Health Care Equity Program shall
22 cease to be available to employees in State Bargaining Unit 5, on
23 and after July 3, 2010, and any moneys remaining in the accounts
24 of the program shall be deposited in the General Fund.

25 SEC. 174. Section 22944.3 of the Government Code is amended
26 to read:

27 22944.3. (a) Any amount that would otherwise be used to
28 permanently increase compensation pursuant to Section 19827,
29 effective on July 1, 2009, and on July 1, 2010, shall instead be
30 used to permanently prefund postemployment health care benefits
31 for patrol members. The amount used to prefund benefits relative
32 to any increases under the survey methodology effective July 1,
33 2010, shall not exceed 2 percent. The state shall take credit for
34 these prefunding contributions in the survey methodology
35 established in Section 19827 in the same manner as it would for
36 an increase to the base salary for patrol members.

37 (b) Patrol members shall contribute an additional 0.5 percent
38 of base pay toward prefunding retiree health benefit obligations
39 effective on the first day of the pay period following the effective
40 date of the act adding this section and the ratification of the

1 addendum by the members of State Bargaining Unit 5. This
2 contribution shall not reduce the base salary of patrol members
3 under the survey methodology established by Section 19827.

4 (c) Effective July 1, 2012, the state shall contribute toward
5 prefunding retiree health benefits, on a prospective basis, an
6 amount at least equal to the combined contribution rate established
7 pursuant to subdivisions (a) and (b). These contributions may be
8 used in the survey methodology established by Section 19827 if
9 mutually agreed in a memorandum of understanding.

10 (d) Contributions paid pursuant to this section shall be used
11 exclusively for the cost of providing postemployment health care
12 to eligible enrolled patrol member annuitants and their eligible
13 enrolled dependents, beneficiaries, and survivors.

14 (e) Contributions paid pursuant to this section shall not be
15 refundable under any circumstances to a patrol member or his or
16 her beneficiary or survivor.

17 (f) Any amount used to prefund postemployment health care
18 for patrol members pursuant to subdivision (a) shall not be included
19 in any calculation for benefits using final compensation.

20 (g) If the provisions of this section are in conflict with the
21 provisions of a memorandum of understanding reached pursuant
22 to Section 3517.5, the memorandum of understanding shall be
23 controlling without further legislative action, except that if those
24 provisions of a memorandum of understanding require the
25 expenditure of funds, the provisions shall not become effective
26 unless approved by the Legislature in the annual Budget Act.

27 (h) For purposes of this section, “patrol member” has the same
28 meaning as in Section 20390. This section shall not apply to an
29 employee of a county.

30 (i) The Director of the ~~Department of Personnel Administration~~
31 *Department of Human Resources* may exercise his or her discretion
32 to apply the provisions of this section to patrol members who are
33 excepted from the definition of “state employee” in subdivision
34 (c) of Section 3513, and an officer or employee of the executive
35 branch of state government who is not a member of the civil
36 service.

37 SEC. 175. Section 22953 of the Government Code is amended
38 to read:

39 22953. (a) The state, through the ~~Department of Personnel~~
40 *Administration Department of Human Resources*, the Trustees of

1 the California State University, or the Regents of the University
2 of California may contract, upon negotiations with employee
3 organizations, with carriers for dental care plans for employees,
4 annuitants, and eligible family members, provided the carriers
5 have operated successfully in the area of dental care benefits for
6 a reasonable period or have a contract to provide a health benefit
7 plan pursuant to Section 22850. The dental care plans may include
8 a portion of the monthly premium to be paid by the employee or
9 annuitant. Dental care plans provided under this authority may be
10 self-funded by the employer if it is determined to be cost-effective.

11 (b) An employee or annuitant may enroll in a dental care plan
12 provided by a carrier that also provides a health benefit plan
13 pursuant to Section 22850 if the employee or annuitant is also
14 enrolled in the health benefit plan provided by that carrier.
15 However, nothing in this section may be construed to require an
16 employee or annuitant to enroll in a dental care plan and a health
17 benefit plan provided by the same carrier.

18 (c) No contract for a dental care plan may be entered into unless
19 funds are appropriated by the Legislature in a subsequently enacted
20 statute. If a dental care plan is self-funded, funds used for that plan
21 shall be considered continuously appropriated, notwithstanding
22 Section 13340.

23 SEC. 176. Section 22954 of the Government Code is amended
24 to read:

25 22954. Funds appropriated for self-funded dental care plans
26 for state employees, other than employees of the California State
27 University, shall be maintained in the State Employees' Dental
28 Care Fund which is hereby created in the State Treasury. Moneys
29 in this fund shall be used by the ~~Department of Personnel~~
30 ~~Administration~~ *Department of Human Resources* to pay dental
31 claims and other administrative costs. Income earned on the
32 moneys in the State Employees' Dental Care Fund shall be credited
33 to the fund. Moneys in this fund are continuously appropriated in
34 accordance with this section and Section 22953.

35 SEC. 177. Section 22959 of the Government Code is amended
36 to read:

37 22959. The ~~Department of Personnel Administration~~
38 *Department of Human Resources* shall administer the benefits
39 provided by this part for civil service employees and annuitants.
40 The Trustees of the California State University shall administer

1 the benefits provided by this part for employees and annuitants of
2 the California State University.

3 SEC. 178. Section 22959.2 of the Government Code is amended
4 to read:

5 22959.2. The Vision Care Program for State Annuitants shall
6 be administered by the ~~Department of Personnel Administration~~
7 *Department of Human Resources*.

8 SEC. 179. Section 22959.4 of the Government Code is amended
9 to read:

10 22959.4. (a) An annuitant who retires from the state may enroll
11 in a vision care plan offered under this part, if any of the following
12 apply:

13 (1) The annuitant was enrolled in a health benefit plan, a dental
14 care plan, or vision care plan at the time of separation for
15 retirement, and retired within 120 days of the date of separation.

16 (2) The annuitant was not enrolled in a health benefit plan, a
17 dental care plan, or vision care plan at the time of separation for
18 retirement, but was eligible for enrollment as an employee at the
19 time of separation for retirement, and retired within 120 days of
20 the date of separation.

21 (3) The annuitant is part of the Legislators' Retirement System
22 receiving an allowance pursuant to Article 6 (commencing with
23 Section 9359) of Chapter 3.5 of Part 1 of Division 2.

24 (b) The ~~Department of Personnel Administration~~ *Department*
25 *of Human Resources* has no duty to locate or notify any annuitant
26 who may be eligible to enroll, or to provide names or addresses
27 to any person, agency, or entity for the purpose of notifying those
28 annuitants.

29 SEC. 180. Section 22959.6 of the Government Code is amended
30 to read:

31 22959.6. (a) The ~~Department of Personnel Administration~~
32 *Department of Human Resources* may contract with one or more
33 vision care plans for annuitants and eligible family members,
34 provided the carrier or carriers have operated successfully in the
35 area of vision care benefits for a reasonable period, as determined
36 by the ~~Department of Personnel Administration~~ *Department of*
37 *Human Resources*.

38 (b) The ~~Department of Personnel Administration~~ *Department*
39 *of Human Resources*, as the program administrator, has full
40 administrative authority over this program and associated funds

1 and shall require the monthly premium to be paid by the annuitant
2 for the vision care plan. The premium to be paid by the annuitant
3 shall be deducted from his or her monthly allowance. If there are
4 insufficient funds in an annuitant's allowance to pay the premium,
5 the plan provider shall directly bill the annuitant. A vision care
6 plan or plans provided under this authority shall be funded by the
7 annuitants' premium. All premiums received from annuitants shall
8 be deposited in the Vision Care Program for State Annuitants Fund,
9 which is hereby created in the State Treasury. Any income earned
10 on the moneys in the Vision Care Program for State Annuitants
11 Fund shall be credited to the fund. Notwithstanding Section 13340,
12 moneys in the fund are continuously appropriated for the purposes
13 specified in subdivision (d).

14 (c) An annuitant may enroll in a vision care plan provided by
15 a carrier that also provides a health benefit plan pursuant to Section
16 22850 if the employee or annuitant is also enrolled in the health
17 benefit plan provided by that carrier. However, nothing in this
18 section may be construed to require an annuitant to enroll in a
19 vision care plan and a health benefit plan provided by the same
20 carrier. An annuitant enrolled in this program shall only enroll into
21 a vision plan or vision plans contracted for by the ~~Department of~~
22 ~~Personnel Administration~~ *Department of Human Resources*.

23 (d) No contract for a vision care plan may be entered into unless
24 the ~~Department of Personnel Administration~~ *Department of Human*
25 *Resources* determines it is reasonable to do so. Notwithstanding
26 any other provision of law, any premium moneys paid into this
27 program by annuitants for the purposes of the annuitant vision care
28 plan that is contracted for shall be used for the cost of providing
29 vision care benefits to eligible, enrolled annuitants and their eligible
30 and enrolled dependents, the payment of claims for those vision
31 benefits, and the cost of administration of the vision care plan or
32 plans under this vision care program, those costs being determined
33 by the ~~Department of Personnel Administration~~ *Department of*
34 *Human Resources*.

35 (e) If the Director of the ~~Department of Personnel~~
36 ~~Administration~~ *Department of Human Resources* determines that
37 it is not economically feasible to continue this program anytime
38 after its commencement, the director may, upon written notice to
39 enrollees and to the contracting plan or plans, terminate this
40 program within a reasonable time. The notice of termination to

1 the plan or plans shall be determined by the ~~Department of~~
2 ~~Personnel Administration~~ *Department of Human Resources*. The
3 notice to enrollees of the termination of the program shall
4 commence no later than three months prior to the actual date of
5 termination of the program.

6 (f) Premium rates for this program shall be determined by the
7 ~~Department of Personnel Administration~~ *Department of Human*
8 *Resources* in conjunction with the contracted plan or plans and
9 shall be considered separate and apart from active employee
10 premium rates.

11 (g) The director shall report to the Legislature, prior to the end
12 of the second quarter of the third plan year, on the continued
13 economic sustainability of the Vision Care Program for State
14 Annuitants.

15 SEC. 181. Section 22960 of the Government Code is amended
16 to read:

17 22960. (a) The State Peace Officers' and Firefighters' Defined
18 Contribution Plan is hereby established for state peace officer and
19 firefighter members in Bargaining Unit 6 who have become subject
20 to this part by memorandum of understanding, as provided by
21 Section 3517.5.

22 (b) The plan may also be provided to state peace officers or
23 firefighters who are either excluded from the definition of state
24 employee in subdivision (c) of Section 3513, or are nonelected
25 officers or employees of the executive branch of government and
26 are not members of the civil service, and who supervise employees
27 in a bargaining unit that is subject to this part, provided that the
28 ~~Department of Personnel Administration~~ *Department of Human*
29 *Resources* has approved their inclusion for coverage under this
30 part.

31 SEC. 182. Section 22960.35 of the Government Code is
32 amended to read:

33 22960.35. (a) Except as provided in this part, the plan shall
34 be administered by the board in conformity with its powers and
35 duties for administration of the system as set forth in Part 3
36 (commencing with Section 20000). The board shall, to the extent
37 that it determines feasible, follow the procedures set forth in Article
38 7 (commencing with Section 20220) of Chapter 2 of Part 3.

1 (b) The board may retain a third-party administrator to perform
2 recordkeeping, customer service or other plan administration
3 services.

4 (c) The board shall notify the ~~Department of Personnel~~
5 ~~Administration~~ *Department of Human Resources* when it is
6 prepared to implement the plan.

7 SEC. 183. Section 22960.60 of the Government Code is
8 amended to read:

9 22960.60. (a) Employer and employee contribution rates may
10 be determined by the terms of the memorandum of understanding
11 applicable to each plan participant and the employer in accordance
12 with the requirements of this section.

13 (b) Through the ~~Department of Personnel Administration~~
14 *Department of Human Resources*, the employer shall provide the
15 board with a true and correct copy of each memorandum of
16 understanding applicable to plan participants. The board may
17 prescribe procedures for the orderly transmittal and receipt of these
18 documents.

19 (c) Except as provided in subdivision (e), after receipt of an
20 applicable memorandum of understanding that sets forth an
21 employer contribution rate and any employee contribution rate,
22 the board shall, in accordance with Section 22960.36, amend the
23 plan to provide for the employer contribution rate and any
24 employee contribution rate set forth in the memorandum of
25 understanding.

26 (d) The employer contribution rate and any employee
27 contribution rate for state peace officers and firefighters who have
28 become subject to this part pursuant to the provisions of subdivision
29 (b) of Section 22960 shall be the contribution rate or rates set forth
30 in the memorandum of understanding for state peace officers and
31 firefighter members in Bargaining Unit 6.

32 (e) The board may refuse to amend the plan under this section
33 if, in the board's considered judgment, the proposed amendment
34 would violate any applicable provision of Title 26 of the United
35 States Code.

36 (f) The initial employer contribution rate shall be prescribed in
37 the memorandum of understanding. In the event an MOU expires
38 and no new memorandums of understanding takes effect, the last
39 memorandums of understanding in place shall control.

1 SEC. 184. Section 22960.100 of the Government Code is
2 amended to read:

3 22960.100. (a) Notwithstanding any other provision of law,
4 the plan established by this part shall also apply to state peace
5 officer and firefighter members in State Bargaining Unit 8 who
6 have become subject to this part by a memorandum of
7 understanding, as provided in Section 3517.5.

8 (b) The plan may also be provided to state peace officers or
9 firefighters who are either excluded from the definition of state
10 employee in subdivision (c) of Section 3513, or are nonelected
11 officers or employees of the executive branch of government and
12 are not members of the civil service, and who supervise employees
13 in a bargaining unit that is subject to this part, provided that the
14 ~~Department of Personnel Administration~~ *Department of Human*
15 *Resources* has approved their inclusion for coverage under this
16 part.

17 SEC. 185. Section 68203 of the Government Code is amended
18 to read:

19 68203. (a) On July 1, 1980, and on July 1 of each year
20 thereafter, the salary of each justice and judge named in Sections
21 68200 to 68202, inclusive, and 68203.1 shall be increased by the
22 amount that is produced by multiplying the then current salary of
23 each justice or judge by the average percentage salary increase for
24 the current fiscal year for California State employees; provided,
25 that in any fiscal year in which the Legislature places a dollar
26 limitation on salary increases for state employees the same
27 limitation shall apply to judges in the same manner applicable to
28 state employees in comparable wage categories.

29 (b) For the purposes of this section, salary increases for state
30 employees shall be those increases as reported by the ~~Department~~
31 ~~of Personnel Administration~~ *Department of Human Resources*.

32 (c) The salary increase for judges and justices made on July 1,
33 1980, for the 1980–81 fiscal year, shall in no case exceed 5 percent.

34 (d) On January 1, 2001, the salary of the justices and judges
35 named in Sections 68200 to 68202, inclusive, shall be increased
36 by the amount that is produced by multiplying the salary of each
37 justice and judge as of December 31, 2000, by 8½ percent.

38 (e) On January 1, 2007, the salary of the justices and judges
39 identified in Sections 68200 to 68202, inclusive, and 68203.1 shall
40 also be increased by the amount that is produced by multiplying

1 the salary of each justice and judge as of December 31, 2006, by
2 8.5 percent.

3 SEC. 186. Section 77601 of the Government Code is amended
4 to read:

5 77601. The task force shall be comprised of the following
6 members:

7 (a) Four representatives of trial courts, appointed by the Chief
8 Justice, representing two urban, one suburban, and one rural courts.

9 (b) Four representatives of counties, appointed by the Governor
10 from a list of nominees submitted by the California State
11 Association of Counties, representing urban, suburban, and rural
12 counties.

13 (c) Three representatives appointed by the Senate Rules
14 Committee, at least two of whom shall represent trial court
15 employee organizations.

16 (d) Three representatives appointed by the Speaker of the
17 Assembly, at least two of whom shall represent trial court employee
18 organizations.

19 (e) The Director of the ~~Department of Personnel Administration~~
20 *Department of Human Resources* or his or her representative.

21 (f) The Chief Executive Officer of PERS or his or her
22 representative.

23 (g) The Director of Finance or his or her representative.

24 (h) The Chief Justice shall designate a justice of the court of
25 appeal as nonvoting chairperson.

26 SEC. 187. Section 77602 of the Government Code is amended
27 to read:

28 77602. The Judicial Council shall provide staff support for the
29 task force and shall develop guidelines for procedures and practices
30 for the task force, which shall include input from and approval of
31 the task force. The ~~Department of Personnel Administration~~
32 *Department of Human Resources*, the Department of Finance, and
33 the Legislative Analyst shall provide additional support, at the
34 request of the Judicial Council. The California State Association
35 of Counties is encouraged to provide additional staff support.

36 SEC. 188. Section 100503 of the Government Code is amended
37 to read:

38 100503. In addition to meeting the minimum requirements of
39 Section 1311 of the federal act, the board shall do all of the
40 following:

1 (a) Determine the criteria and process for eligibility, enrollment,
2 and disenrollment of enrollees and potential enrollees in the
3 Exchange and coordinate that process with the state and local
4 government entities administering other health care coverage
5 programs, including the State Department of Health Care Services,
6 the Managed Risk Medical Insurance Board, and California
7 counties, in order to ensure consistent eligibility and enrollment
8 processes and seamless transitions between coverage.

9 (b) Develop processes to coordinate with the county entities
10 that administer eligibility for the Medi-Cal program and the entity
11 that determines eligibility for the Healthy Families Program,
12 including, but not limited to, processes for case transfer, referral,
13 and enrollment in the Exchange of individuals applying for
14 assistance to those entities, if allowed or required by federal law.

15 (c) Determine the minimum requirements a carrier must meet
16 to be considered for participation in the Exchange, and the
17 standards and criteria for selecting qualified health plans to be
18 offered through the Exchange that are in the best interests of
19 qualified individuals and qualified small employers. The board
20 shall consistently and uniformly apply these requirements,
21 standards, and criteria to all carriers. In the course of selectively
22 contracting for health care coverage offered to qualified individuals
23 and qualified small employers through the Exchange, the board
24 shall seek to contract with carriers so as to provide health care
25 coverage choices that offer the optimal combination of choice,
26 value, quality, and service.

27 (d) Provide, in each region of the state, a choice of qualified
28 health plans at each of the five levels of coverage contained in
29 subdivisions (d) and (e) of Section 1302 of the federal act.

30 (e) Require, as a condition of participation in the Exchange,
31 carriers to fairly and affirmatively offer, market, and sell in the
32 Exchange at least one product within each of the five levels of
33 coverage contained in subdivisions (d) and (e) of Section 1302 of
34 the federal act. The board may require carriers to offer additional
35 products within each of those five levels of coverage. This
36 subdivision shall not apply to a carrier that solely offers
37 supplemental coverage in the Exchange under paragraph (10) of
38 subdivision (a) of Section 100504.

- 1 (f) (1) Require, as a condition of participation in the Exchange,
2 carriers that sell any products outside the Exchange to do both of
3 the following:
- 4 (A) Fairly and affirmatively offer, market, and sell all products
5 made available to individuals in the Exchange to individuals
6 purchasing coverage outside the Exchange.
- 7 (B) Fairly and affirmatively offer, market, and sell all products
8 made available to small employers in the Exchange to small
9 employers purchasing coverage outside the Exchange.
- 10 (2) For purposes of this subdivision, “product” does not include
11 contracts entered into pursuant to Part 6.2 (commencing with
12 Section 12693) of Division 2 of the Insurance Code between the
13 Managed Risk Medical Insurance Board and carriers for enrolled
14 Healthy Families beneficiaries or contracts entered into pursuant
15 to Chapter 7 (commencing with Section 14000) of, or Chapter 8
16 (commencing with Section 14200) of, Part 3 of Division 9 of the
17 Welfare and Institutions Code between the State Department of
18 Health Care Services and carriers for enrolled Medi-Cal
19 beneficiaries.
- 20 (g) Determine when an enrollee’s coverage commences and the
21 extent and scope of coverage.
- 22 (h) Provide for the processing of applications and the enrollment
23 and disenrollment of enrollees.
- 24 (i) Determine and approve cost-sharing provisions for qualified
25 health plans.
- 26 (j) Establish uniform billing and payment policies for qualified
27 health plans offered in the Exchange to ensure consistent
28 enrollment and disenrollment activities for individuals enrolled in
29 the Exchange.
- 30 (k) Undertake activities necessary to market and publicize the
31 availability of health care coverage and federal subsidies through
32 the Exchange. The board shall also undertake outreach and
33 enrollment activities that seek to assist enrollees and potential
34 enrollees with enrolling and reenrolling in the Exchange in the
35 least burdensome manner, including populations that may
36 experience barriers to enrollment, such as the disabled and those
37 with limited English language proficiency.
- 38 (l) Select and set performance standards and compensation for
39 navigators selected under subdivision (l) of Section 100502.
- 40 (m) Employ necessary staff.

1 (1) The board shall hire a chief fiscal officer, a chief operations
2 officer, a director for the SHOP Exchange, a director of Health
3 Plan Contracting, a chief technology and information officer, a
4 general counsel, and other key executive positions, as determined
5 by the board, who shall be exempt from civil service.

6 (2) (A) The board shall set the salaries for the exempt positions
7 described in paragraph (1) and subdivision (i) of Section 100500
8 in amounts that are reasonably necessary to attract and retain
9 individuals of superior qualifications. The salaries shall be
10 published by the board in the board's annual budget. The board's
11 annual budget shall be posted on the Internet Web site of the
12 Exchange. To determine the compensation for these positions, the
13 board shall cause to be conducted, through the use of independent
14 outside advisors, salary surveys of both of the following:

15 (i) Other state and federal health insurance exchanges that are
16 most comparable to the Exchange.

17 (ii) Other relevant labor pools.

18 (B) The salaries established by the board under subparagraph
19 (A) shall not exceed the highest comparable salary for a position
20 of that type, as determined by the surveys conducted pursuant to
21 subparagraph (A).

22 (C) ~~The Department of Personnel Administration~~ *Department*
23 *of Human Resources* shall review the methodology used in the
24 surveys conducted pursuant to subparagraph (A).

25 (3) The positions described in paragraph (1) and subdivision (i)
26 of Section 100500 shall not be subject to otherwise applicable
27 provisions of the Government Code or the Public Contract Code
28 and, for those purposes, the Exchange shall not be considered a
29 state agency or public entity.

30 (n) Assess a charge on the qualified health plans offered by
31 carriers that is reasonable and necessary to support the
32 development, operations, and prudent cash management of the
33 Exchange. This charge shall not affect the requirement under
34 Section 1301 of the federal act that carriers charge the same
35 premium rate for each qualified health plan whether offered inside
36 or outside the Exchange.

37 (o) Authorize expenditures, as necessary, from the California
38 Health Trust Fund to pay program expenses to administer the
39 Exchange.

1 (p) Keep an accurate accounting of all activities, receipts, and
2 expenditures, and annually submit to the United States Secretary
3 of Health and Human Services a report concerning that accounting.
4 Commencing January 1, 2016, the board shall conduct an annual
5 audit.

6 (q) (1) Annually prepare a written report on the implementation
7 and performance of the Exchange functions during the preceding
8 fiscal year, including, at a minimum, the manner in which funds
9 were expended and the progress toward, and the achievement of,
10 the requirements of this title. This report shall be transmitted to
11 the Legislature and the Governor and shall be made available to
12 the public on the Internet Web site of the Exchange. A report made
13 to the Legislature pursuant to this subdivision shall be submitted
14 pursuant to Section 9795.

15 (2) In addition to the report described in paragraph (1), the board
16 shall be responsive to requests for additional information from the
17 Legislature, including providing testimony and commenting on
18 proposed state legislation or policy issues. The Legislature finds
19 and declares that activities including, but not limited to, responding
20 to legislative or executive inquiries, tracking and commenting on
21 legislation and regulatory activities, and preparing reports on the
22 implementation of this title and the performance of the Exchange,
23 are necessary state requirements and are distinct from the
24 promotion of legislative or regulatory modifications referred to in
25 subdivision (d) of Section 100520.

26 (r) Maintain enrollment and expenditures to ensure that
27 expenditures do not exceed the amount of revenue in the fund, and
28 if sufficient revenue is not available to pay estimated expenditures,
29 institute appropriate measures to ensure fiscal solvency.

30 (s) Exercise all powers reasonably necessary to carry out and
31 comply with the duties, responsibilities, and requirements of this
32 act and the federal act.

33 (t) Consult with stakeholders relevant to carrying out the
34 activities under this title, including, but not limited to, all of the
35 following:

36 (1) Health care consumers who are enrolled in health plans.

37 (2) Individuals and entities with experience in facilitating
38 enrollment in health plans.

39 (3) Representatives of small businesses and self-employed
40 individuals.

1 (4) The State Medi-Cal Director.

2 (5) Advocates for enrolling hard-to-reach populations.

3 (u) Facilitate the purchase of qualified health plans in the
4 Exchange by qualified individuals and qualified small employers
5 no later than January 1, 2014.

6 (v) Report, or contract with an independent entity to report, to
7 the Legislature by December 1, 2018, on whether to adopt the
8 option in paragraph (3) of subdivision (c) of Section 1312 of the
9 federal act to merge the individual and small employer markets.
10 In its report, the board shall provide information, based on at least
11 two years of data from the Exchange, on the potential impact on
12 rates paid by individuals and by small employers in a merged
13 individual and small employer market, as compared to the rates
14 paid by individuals and small employers if a separate individual
15 and small employer market is maintained. A report made pursuant
16 to this subdivision shall be submitted pursuant to Section 9795.

17 (w) With respect to the SHOP Program, collect premiums and
18 administer all other necessary and related tasks, including, but not
19 limited to, enrollment and plan payment, in order to make the
20 offering of employee plan choice as simple as possible for qualified
21 small employers.

22 (x) Require carriers participating in the Exchange to immediately
23 notify the Exchange, under the terms and conditions established
24 by the board when an individual is or will be enrolled in or
25 disenrolled from any qualified health plan offered by the carrier.

26 (y) Ensure that the Exchange provides oral interpretation
27 services in any language for individuals seeking coverage through
28 the Exchange and makes available a toll-free telephone number
29 for the hearing and speech impaired. The board shall ensure that
30 written information made available by the Exchange is presented
31 in a plainly worded, easily understandable format and made
32 available in prevalent languages.

33 SEC. 189. Section 1777 of the Health and Safety Code is
34 amended to read:

35 1777. (a) The Continuing Care Advisory Committee of the
36 department shall act in an advisory capacity to the department on
37 matters relating to continuing care contracts.

38 (b) The members of the committee shall include:

39 (1) Three representatives of nonprofit continuing care providers
40 pursuant to this chapter, each of whom shall have offered

1 continuing care services for at least five years prior to appointment.
2 One member shall represent a multifacility provider and shall be
3 appointed by the Governor in even years. One member shall be
4 appointed by the Senate Committee on Rules in odd years. One
5 member shall be appointed by the Speaker of the Assembly in odd
6 years.

7 (2) Three senior citizens who are not eligible for appointment
8 pursuant to paragraphs (1) and (4) who shall represent consumers
9 of continuing care services, all of whom shall be residents of
10 continuing care retirement communities but not residents of the
11 same provider. One senior citizen member shall be appointed by
12 the Governor in even years. One senior citizen member shall be
13 appointed by the Senate Committee on Rules in odd years. One
14 senior citizen member shall be appointed by the Speaker of the
15 Assembly in odd years.

16 (3) A certified public accountant with experience in the
17 continuing care industry, who is not a provider of continuing care
18 services. This member shall be appointed by the Governor in even
19 years.

20 (4) A representative of a for-profit provider of continuing care
21 contracts pursuant to this chapter. This member shall be appointed
22 by the Governor in even years.

23 (5) An actuary. This member shall be appointed by the
24 Governor in even years.

25 (6) One representative of residents of continuing care retirement
26 communities appointed by the senior citizen representatives on
27 the committee.

28 (7) One representative of either nonprofit or for-profit providers
29 appointed by the representatives of nonprofit and for-provider
30 providers on the committee.

31 (c) Commencing January 1, 1997, all members shall serve
32 two-year terms and be appointed based on their interest and
33 expertise in the subject area. The Governor shall designate the
34 chairperson for the committee with the advice and consent of the
35 Senate. A member may be reappointed at the pleasure of the
36 appointing power. The appointing power shall fill all vacancies
37 on the committee within 60 days. All members shall continue to
38 serve until their successors are appointed and qualified.

39 (d) The members of the committee shall serve without
40 compensation, except that each member shall be paid from the

1 Continuing Care Provider Fee Fund a per diem of twenty-five
2 dollars (\$25) for each day's attendance at a meeting of the
3 committee not to exceed six days in any month. The members of
4 the committee shall also receive their actual and necessary travel
5 expenses incurred in the course of their duties. Reimbursement of
6 travel expenses shall be at rates not to exceed those applicable to
7 comparable state employees under ~~Department of Personnel~~
8 ~~Administration~~ *Department of Human Resources* regulations.

9 (e) Prior to commencement of service, each member shall file
10 with the department a statement of economic interest and a
11 statement of conflict of interest pursuant to Article 3 (commencing
12 with Section 87300) of the Government Code.

13 (f) If, during the period of appointment, any member no longer
14 meets the qualifications of subdivision (b), that member shall
15 submit his or her resignation to their appointing power and a
16 qualified new member shall be appointed by the same power to
17 fulfill the remainder of the term.

18 (g) This section shall remain in effect only until January 1, 2013,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2013, deletes or extends that date.

21 SEC. 190. Section 11755 of the Health and Safety Code is
22 amended to read:

23 11755. The department shall do all of the following:

24 (a) Adopt regulations pursuant to Section 11152 of the
25 Government Code.

26 (b) Employ administrative, technical, and other personnel as
27 may be necessary for the performance of its powers and duties.

28 (c) Do or perform any of the acts that may be necessary,
29 desirable, or proper to carry out the purpose of this division.

30 (d) Provide funds to counties for the planning and
31 implementation of local programs to alleviate problems related to
32 alcohol and other drug use.

33 (e) Review and execute negotiated net amount contracts and
34 Drug Medi-Cal contracts, and approve or disapprove county plans
35 submitted for state and federal funds allocated by the department.

36 (f) Provide for technical assistance and training to local alcohol
37 and other drug programs to assist in the planning and
38 implementation of quality services. The department may charge
39 a fee to cover the cost of providing technical assistance to these
40 alcohol and other drug programs.

- 1 (g) Review research in, and serve as a resource to provide
2 information relating to, alcohol and other drug programs.
- 3 (h) In cooperation with the ~~Department of Personnel~~
4 ~~Administration~~ *Department of Human Resources*, encourage
5 training in other state agencies to assist the agencies to recognize
6 employee problems relating to alcohol and other drug use that
7 affects job performance and encourage the employees to seek
8 appropriate services.
- 9 (i) Assist and cooperate with the Office of Statewide Health
10 Planning and Development and the California Health Policy and
11 Data Advisory Commission in the drafting and adoption of the
12 state health plan to assure inclusion of appropriate provisions
13 relating to alcohol and other drug problems.
- 14 (j) In the same manner and subject to the same conditions as
15 other state agencies, develop and submit annually to the
16 Department of Finance a program budget for the state-funded
17 alcohol and other drug program, which budget shall include
18 expenditures proposed to be made under this division, and may
19 include expenditures proposed to be made by any other state agency
20 relating to alcohol and other drug problems, pursuant to an
21 interagency agreement with the department.
- 22 (k) Review and certify alcohol and other drug programs meeting
23 state standards pursuant to Chapter 7 (commencing with Section
24 11830) and Chapter 13 (commencing with Section 11847) of Part
25 2.
- 26 (l) Develop standards for assuring minimal statewide levels of
27 service quality provided by alcohol and other drug programs.
- 28 (m) Review and license narcotic treatment programs.
- 29 (n) Develop and implement, in partnership with the counties,
30 alcohol and other drug prevention strategies especially designed
31 for youth.
- 32 (o) Develop and maintain a centralized alcohol and drug abuse
33 indicator data collection system that shall gather and obtain
34 information on the status of the alcohol and other drug abuse
35 problems in the State of California. This information shall include,
36 but not be limited to, all of the following:
- 37 (1) The number and characteristics of persons receiving recovery
38 or treatment services from alcohol and other drug programs
39 providing publicly funded services or services licensed by the
40 department.

1 (2) The location and types of services offered by these programs.

2 (3) The number of admissions to hospitals on both an emergency
3 room and inpatient basis for treatment related to alcohol and other
4 drugs.

5 (4) The number of arrests for alcohol and other drug violations.

6 (5) The number of *the* Department of ~~the Youth Authority~~
7 *Corrections and Rehabilitation, Division of Juvenile Justice,*
8 commitments for drug violations.

9 (6) The number of Department of *Corrections and Rehabilitation*
10 commitments for drug violations.

11 (7) The number or percentage of persons having alcohol or other
12 drug problems as determined by survey information.

13 (8) The amounts of illicit drugs confiscated by law enforcement
14 in the state.

15 (9) The statewide alcohol and other drug program distribution
16 and the fiscal impact of alcohol and other drug problems upon the
17 state.

18 Providers of publicly funded services or services licensed by the
19 department to clients-participants shall report data in a manner, in
20 a format, and under a schedule prescribed by the department.

21 (p) Issue an annual report that portrays the drugs abused,
22 populations affected, user characteristics, crime-related costs,
23 socioeconomic costs, and other related information deemed
24 necessary in providing a problem profile of alcohol and other drug
25 abuse in the state.

26 (q) (1) Require any individual, public or private organization,
27 or government agency, receiving federal grant funds, to comply
28 with all federal statutes, regulations, guidelines, and terms and
29 conditions of the grants. The failure of the individual, public or
30 private organization, or government agency, to comply with the
31 statutes, regulations, guidelines, and terms and conditions of grants
32 received may result in the department's disallowing noncompliant
33 costs, or the suspension or termination of the contract or grant
34 award allocating the grant funds.

35 (2) Adopt regulations implementing this subdivision in
36 accordance with Chapter 3.5 (commencing with Section 11340)
37 of Part 1 of Division 3 of Title 2 of the Government Code. For the
38 purposes of the Administrative Procedure Act, the adoption of the
39 regulations shall be deemed necessary for the preservation of the
40 public peace, health and safety, or general welfare. Subsequent

1 amendments to the adoption of emergency regulations shall be
2 deemed an emergency only if those amendments are adopted in
3 direct response to a change in federal statutes, regulations,
4 guidelines, or the terms and conditions of federal grants. Nothing
5 in this paragraph shall be interpreted as prohibiting the department
6 from adopting subsequent amendments on a nonemergency basis
7 or as emergency regulations in accordance with the standards set
8 forth in Section 11346.1 of the Government Code.

9 SEC. 191. Section 50909 of the Health and Safety Code is
10 amended to read:

11 50909. (a) Notwithstanding Sections 19816 and 19825 of the
12 Government Code, the compensation of key exempt management,
13 including the executive director, the chief deputy director, the
14 general counsel, the director of financing, the director of
15 homeownership programs, the director of multifamily programs,
16 the director of insurance and the financial risk management director
17 shall be established by the board in the agency's annual budget,
18 in amounts which are reasonably necessary, in the discretion of
19 the board, to attract and hold a person of superior qualifications.

20 (b) (1) To determine the compensation for the positions
21 described in this section, the agency shall cause to be conducted,
22 through the use of independent outside advisors, salary surveys of
23 both of the following:

24 (A) Other state and local housing finance agencies that are most
25 comparable to CalHFA.

26 (B) Other relevant labor pools.

27 (2) The salaries so set by the board shall not exceed the highest
28 comparable salary for a position of that type, as determined by the
29 survey.

30 (c) ~~The Department of Personnel Administration~~ *Department*
31 *of Human Resources* shall review the methodology used in these
32 salary surveys.

33 (d) Members of the board shall not receive a salary but shall be
34 entitled to a per diem allowance of one hundred dollars (\$100) for
35 each day's attendance at a meeting of the board or a meeting of a
36 committee of the board, not to exceed three hundred dollars (\$300)
37 in any month, and reimbursement for expenses incurred in the
38 performance of their duties under this part, including travel and
39 other necessary expenses.

1 SEC. 192. Section 10203.2 of the Insurance Code is amended
2 to read:

3 10203.2. Life insurance conforming to all the following
4 conditions is another form of group life insurance:

5 (a) Written under a policy covering, when issued, not less than
6 25 employees in eligible classes or positions as designated by the
7 ~~Department of Personnel Administration~~ *Department of Human*
8 *Resources* pursuant to Section 19849.11 of the Government Code.

9 (b) Written under a policy issued to the State of California
10 through the ~~Department of Personnel Administration~~ *Department*
11 *of Human Resources* or its designee pursuant to Sections 19849.10
12 to 19849.12, inclusive, of the Government Code.

13 (c) The premium on the policy is to be paid by the employees
14 alone, by the state alone, or in part by the state with the remainder
15 to be paid by the employees.

16 (d) Insuring only managerial and confidential employees as
17 defined by subdivisions (e) and (f) of Section 3513 of the
18 Government Code, and employees excluded from the definition
19 of state employees in subdivision (c) of Section 3513 of the
20 Government Code.

21 (e) Insuring for amounts of insurance based upon some plan
22 which will preclude individual selection.

23 (f) Insuring for the benefit of persons other than the ~~Department~~
24 ~~of Personnel Administration~~ *Department of Human Resources* or
25 its designee.

26 (g) Written under a policy insuring, when issued, not less than
27 75 percent of all employees eligible for insurance under the policy,
28 or 75 percent of the employees of any class or position thereof
29 reasonably determined by conditions pertaining to employment or
30 of any established unit thereof not formed for the purpose of
31 procuring insurance. If a group policy is intended to insure several
32 classes, positions, or units, it may be issued as respects the classes,
33 positions, or units of which 75 percent are covered and extended
34 to those other units, classes, or positions of which 75 percent
35 express the desire to be covered. In this case, when the employees
36 apply and pay for additional amounts of insurance, a smaller
37 percentage of employees may be insured for the additional amounts
38 of insurance. If any employee fails to become insured under an
39 existing policy when he or she becomes eligible and later wishes
40 to become insured thereunder, the insurer may require satisfactory

1 evidence of insurability before insurance is granted on the
2 employee.

3 SEC. 193. Section 11871 of the Insurance Code is amended
4 to read:

5 11871. The State Compensation Insurance Fund may enter into
6 a master agreement with the ~~Department of Personnel~~
7 ~~Administration~~ *Department of Human Resources* to render services
8 in the adjustment and disposition of claims for workers'
9 compensation to any state agencies, including any officer,
10 department, division, bureau, commission, board or authority, not
11 insured with the fund.

12 The master agreement shall provide for rendition of services at
13 a uniform rate to all agencies, except that the rate for the California
14 Highway Patrol may be fixed independently of the uniform rate.

15 The fund may, in accordance with the agreement, adjust and
16 dispose of claims for workers' compensation made by an officer
17 or employee of any state agency not insured with the fund.

18 The fund may make all expenditures, including payment to
19 claimants for medical care or for adjustment or settlement of
20 claims, necessary to the adjustment and final disposition of claims.
21 The agreement shall provide that the state agency whose officer
22 or employee is a claimant shall reimburse the fund for the
23 expenditures and for the actual cost of services rendered.

24 The fund may in its own name, or in the name of the state agency
25 for which the services are performed, do any and all things
26 necessary to recover on behalf of the state agency for which it
27 renders service any and all amounts which an employer might
28 recover from third persons under Chapter 5 (commencing with
29 Section 3850) of Part 1 of Division 4 of the Labor Code, or which
30 an insurer might recover pursuant to Section 11662 including the
31 right to commence and prosecute actions, to file, pursuant to
32 Chapter 5 (commencing with Section 3850) of Part 1 of Division
33 4 of the Labor Code, liens for whatever sums would be recoverable
34 by suit against a third person, to intervene in other court
35 proceedings, and to compromise claims and actions before or after
36 commencement of suit or after entry of judgment when in the
37 opinion of the fund full collection cannot be enforced.

38 SEC. 194. Section 12693.65 of the Insurance Code is amended
39 to read:

1 12693.65. (a) Vision benefits shall be provided to subscribers
2 and shall meet the federal coverage requirements in Section 2103
3 of Title XXI of the Social Security Act.

4 (b) The covered benefits shall be equivalent to those provided
5 to state employees through the ~~Department of Personnel~~
6 ~~Administration~~ *Department of Human Resources*, except for tinted
7 lenses and also photochromatic lenses, unless otherwise deemed
8 medically necessary.

9 (c) The board shall establish the required subscriber copayment
10 levels for vision benefits consistent with the limitations of Section
11 2103 of Title XXI of the Social Security Act. The copayment levels
12 established by the board shall, to the extent possible, reflect the
13 copayment levels provided to state employees through the
14 ~~Department of Personnel Administration~~ *Department of Human*
15 *Resources*.

16 (d) From March 1, 2011, to June 30, 2012, inclusive, the
17 adoption and readoption, by the board, of regulations to modify
18 vision benefits pursuant to this section, including, but not limited
19 to, restriction of providers through which covered vision benefits
20 may be obtained, restriction of benefits for services from
21 nonparticipating providers, or restriction of products and materials
22 provided as benefits pursuant to this section, shall be deemed to
23 be an emergency and necessary to avoid serious harm to the public
24 peace, health, safety, or general welfare for purposes of Sections
25 11346.1 and 11349.6 of the Government Code, and the board is
26 hereby exempted from the requirement that it describe facts
27 showing the need for immediate action and from review by the
28 Office of Administrative Law.

29 SEC. 195. Section 12710 of the Insurance Code is amended
30 to read:

31 12710. The California Major Risk Medical Insurance Program
32 is hereby created in the Health and Welfare Agency. The program
33 shall be managed by the Major Risk Medical Insurance Board.
34 The board shall consist of seven members, five of whom shall be
35 appointed as follows:

36 The Governor shall appoint three members, subject to
37 confirmation by the Senate, and shall designate one of these
38 appointees as chair of the board. The Senate Committee on Rules
39 shall appoint one member. The Speaker of the Assembly shall
40 appoint one member. The terms of appointment shall be four years.

1 The Secretary of Business, Transportation, and Housing, or his
2 or her designee, and the Secretary of Health and Welfare, or his
3 or her designee, shall serve on the board as ex officio, nonvoting
4 members.

5 The board shall appoint an executive director for the board, who
6 shall serve at the pleasure of the board. The executive director
7 shall receive the salary established by the ~~Department of Personnel~~
8 ~~Administration~~ *Department of Human Resources* for exempt
9 officials. The executive director shall administer the affairs of the
10 board as directed by the board, and shall direct the staff of the
11 board. The executive director may appoint, with the approval of
12 the board, staff necessary to carry out the provisions of this part.

13 SEC. 196. Section 122 of the Labor Code is amended to read:

14 122. The administrative director shall appoint a medical director
15 who shall possess a physician's and surgeon's certificate granted
16 under Chapter 5 (commencing with Section 2000) of Division 2
17 of the Business and Professions Code. The medical director shall
18 employ medical assistants who shall also possess physicians' and
19 surgeons' certificates and other staff necessary to the performance
20 of his or her duties. The salaries for the medical director and his
21 or her assistants shall be fixed by the ~~Department of Personnel~~
22 ~~Administration~~ *Department of Human Resources*, commensurate
23 with the salaries paid by private industry to medical directors and
24 assistant medical directors.

25 SEC. 197. Section 123 of the Labor Code is amended to read:

26 123. The administrative director may employ necessary
27 assistants, officers, experts, statisticians, actuaries, accountants,
28 workers' compensation administrative law judges, stenographic
29 shorthand reporters, legal secretaries, disability evaluation raters,
30 program technicians, and other employees to implement new,
31 efficient court management systems. The salaries of the workers'
32 compensation administrative law judges shall be fixed by the
33 ~~Department of Personnel Administration~~ *Department of Human*
34 *Resources* for a class of positions which perform judicial functions.

35 SEC. 198. Section 3352 of the Labor Code is amended to read:

36 3352. "Employee" excludes the following:

37 (a) Any person defined in subdivision (d) of Section 3351 who
38 is employed by his or her parent, spouse, or child.

1 (b) Any person performing services in return for aid or
2 sustenance only, received from any religious, charitable, or relief
3 organization.

4 (c) Any person holding an appointment as deputy clerk or deputy
5 sheriff appointed for his or her own convenience, and who receives
6 no compensation from the county or municipal corporation or from
7 the citizens thereof for his or her services as the deputy. This
8 exclusion is operative only as to employment by the county or
9 municipal corporation and does not deprive any person so
10 deputized from recourse against a private person employing him
11 or her for injury occurring in the course of and arising out of the
12 employment.

13 (d) Any person performing voluntary services at or for a
14 recreational camp, hut, or lodge operated by a nonprofit
15 organization, exempt from federal income tax under Section 101(6)
16 of the Internal Revenue Code, of which he or she or a member of
17 his or her family is a member and who receives no compensation
18 for those services other than meals, lodging, or transportation.

19 (e) Any person performing voluntary service as a ski patrolman
20 who receives no compensation for those services other than meals
21 or lodging or the use of ski tow or ski lift facilities.

22 (f) Any person employed by a ski lift operator to work at a snow
23 ski area who is relieved of and not performing any prescribed
24 duties, while participating in recreational activities on his or her
25 own initiative.

26 (g) Any person, other than a regular employee, participating in
27 sports or athletics who receives no compensation for the
28 participation other than the use of athletic equipment, uniforms,
29 transportation, travel, meals, lodgings, or other expenses incidental
30 thereto.

31 (h) Any person defined in subdivision (d) of Section 3351 who
32 was employed by the employer to be held liable for less than 52
33 hours during the 90 calendar days immediately preceding the date
34 of the injury for injuries, as defined in Section 5411, or during the
35 90 calendar days immediately preceding the date of the last
36 employment in an occupation exposing the employee to the hazards
37 of the disease or injury for injuries, as defined in Section 5412, or
38 who earned less than one hundred dollars (\$100) in wages from
39 the employer during the 90 calendar days immediately preceding
40 the date of the injury for injuries, as defined in Section 5411, or

1 during the 90 calendar days immediately preceding the date of the
2 last employment in an occupation exposing the employee to the
3 hazards of the disease or injury for injuries, as defined in Section
4 5412.

5 (i) Any person performing voluntary service for a public agency
6 or a private, nonprofit organization who receives no remuneration
7 for the services other than meals, transportation, lodging, or
8 reimbursement for incidental expenses.

9 (j) Any person, other than a regular employee, performing
10 officiating services relating to amateur sporting events sponsored
11 by any public agency or private, nonprofit organization, who
12 receives no remuneration for these services other than a stipend
13 for each day of service no greater than the amount established by
14 the ~~Department of Personnel Administration~~ *Department of Human*
15 *Resources* as a per diem expense for employees or officers of the
16 state. The stipend shall be presumed to cover incidental expenses
17 involved in officiating, including, but not limited to, meals,
18 transportation, lodging, rule books and courses, uniforms, and
19 appropriate equipment.

20 (k) Any student participating as an athlete in amateur sporting
21 events sponsored by any public agency, public or private nonprofit
22 college, university or school, who receives no remuneration for
23 the participation other than the use of athletic equipment, uniforms,
24 transportation, travel, meals, lodgings, scholarships, grants-in-aid,
25 or other expenses incidental thereto.

26 (l) Any law enforcement officer who is regularly employed by
27 a local or state law enforcement agency in an adjoining state and
28 who is deputized to work under the supervision of a California
29 peace officer pursuant to paragraph (4) of subdivision (a) of Section
30 832.6 of the Penal Code.

31 (m) Any law enforcement officer who is regularly employed
32 by the Oregon State Police, the Nevada Department of Motor
33 Vehicles and Public Safety, or the Arizona Department of Public
34 Safety and who is acting as a peace officer in this state pursuant
35 to subdivision (a) of Section 830.32 of the Penal Code.

36 (n) Any person, other than a regular employee, performing
37 services as a sports official for an entity sponsoring an
38 intercollegiate or interscholastic sports event, or any person
39 performing services as a sports official for a public agency, public
40 entity, or a private nonprofit organization, which public agency,

1 public entity, or private nonprofit organization sponsors an amateur
2 sports event. For purposes of this subdivision, “sports official”
3 includes an umpire, referee, judge, scorekeeper, timekeeper, or
4 other person who is a neutral participant in a sports event.

5 (o) Any person who is an owner-builder, as defined in
6 subdivision (a) of Section 50692 of the Health and Safety Code,
7 who is participating in a mutual self-help housing program, as
8 defined in Section 50087 of the Health and Safety Code, sponsored
9 by a nonprofit corporation.

10 SEC. 199. Section 4600 of the Labor Code is amended to read:

11 4600. (a) Medical, surgical, chiropractic, acupuncture, and
12 hospital treatment, including nursing, medicines, medical and
13 surgical supplies, crutches, and apparatuses, including orthotic and
14 prosthetic devices and services, that is reasonably required to cure
15 or relieve the injured worker from the effects of his or her injury
16 shall be provided by the employer. In the case of his or her neglect
17 or refusal reasonably to do so, the employer is liable for the
18 reasonable expense incurred by or on behalf of the employee in
19 providing treatment.

20 (b) As used in this division and notwithstanding any other
21 provision of law, medical treatment that is reasonably required to
22 cure or relieve the injured worker from the effects of his or her
23 injury means treatment that is based upon the guidelines adopted
24 by the administrative director pursuant to Section 5307.27 or, prior
25 to the adoption of those guidelines, the updated American College
26 of Occupational and Environmental Medicine’s Occupational
27 Medicine Practice Guidelines.

28 (c) Unless the employer or the employer’s insurer has
29 established a medical provider network as provided for in Section
30 4616, after 30 days from the date the injury is reported, the
31 employee may be treated by a physician of his or her own choice
32 or at a facility of his or her own choice within a reasonable
33 geographic area.

34 (d) (1) If an employee has notified his or her employer in
35 writing prior to the date of injury that he or she has a personal
36 physician, the employee shall have the right to be treated by that
37 physician from the date of injury if either of the following
38 conditions exist:

39 (A) The employer provides nonoccupational group health
40 coverage in a health care service plan, licensed pursuant to Chapter

1 2.2 (commencing with Section 1340) of Division 2 of the Health
2 and Safety Code.

3 (B) The employer provides nonoccupational health coverage in
4 a group health plan or a group health insurance policy as described
5 in Section 4616.7.

6 (2) For purposes of paragraph (1), a personal physician shall
7 meet all of the following conditions:

8 (A) Be the employee's regular physician and surgeon, licensed
9 pursuant to Chapter 5 (commencing with Section 2000) of Division
10 2 of the Business and Professions Code.

11 (B) Be the employee's primary care physician and has
12 previously directed the medical treatment of the employee, and
13 who retains the employee's medical records, including his or her
14 medical history. "Personal physician" includes a medical group,
15 if the medical group is a single corporation or partnership
16 composed of licensed doctors of medicine or osteopathy, which
17 operates an integrated multispecialty medical group providing
18 comprehensive medical services predominantly for
19 nonoccupational illnesses and injuries.

20 (C) The physician agrees to be predesignated.

21 (3) If the employer provides nonoccupational health care
22 pursuant to Chapter 2.2 (commencing with Section 1340) of
23 Division 2 of the Health and Safety Code, and the employer is
24 notified pursuant to paragraph (1), all medical treatment, utilization
25 review of medical treatment, access to medical treatment, and other
26 medical treatment issues shall be governed by Chapter 2.2
27 (commencing with Section 1340) of Division 2 of the Health and
28 Safety Code. Disputes regarding the provision of medical treatment
29 shall be resolved pursuant to Article 5.55 (commencing with
30 Section 1374.30) of Chapter 2.2 of Division 2 of the Health and
31 Safety Code.

32 (4) If the employer provides nonoccupational health care, as
33 described in Section 4616.7, all medical treatment, utilization
34 review of medical treatment, access to medical treatment, and other
35 medical treatment issues shall be governed by the applicable
36 provisions of the Insurance Code.

37 (5) The insurer may require prior authorization of any
38 nonemergency treatment or diagnostic service and may conduct
39 reasonably necessary utilization review pursuant to Section 4610.

1 (6) An employee shall be entitled to all medically appropriate
2 referrals by the personal physician to other physicians or medical
3 providers within the nonoccupational health care plan. An
4 employee shall be entitled to treatment by physicians or other
5 medical providers outside of the nonoccupational health care plan
6 pursuant to standards established in Article 5 (commencing with
7 Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety
8 Code.

9 (e) (1) When at the request of the employer, the employer's
10 insurer, the administrative director, the appeals board, or a workers'
11 compensation administrative law judge, the employee submits to
12 examination by a physician, he or she shall be entitled to receive,
13 in addition to all other benefits herein provided, all reasonable
14 expenses of transportation, meals, and lodging incident to reporting
15 for the examination, together with one day of temporary disability
16 indemnity for each day of wages lost in submitting to the
17 examination.

18 (2) Regardless of the date of injury, "reasonable expenses of
19 transportation" includes mileage fees from the employee's home
20 to the place of the examination and back at the rate of twenty-one
21 cents (\$0.21) a mile or the mileage rate adopted by the Director
22 of the ~~Department of Personnel Administration~~ *Department of*
23 *Human Resources* pursuant to Section 19820 of the Government
24 Code, whichever is higher, plus any bridge tolls. The mileage and
25 tolls shall be paid to the employee at the time he or she is given
26 notification of the time and place of the examination.

27 (f) When at the request of the employer, the employer's insurer,
28 the administrative director, the appeals board, or a workers'
29 compensation administrative law judge, an employee submits to
30 examination by a physician and the employee does not proficiently
31 speak or understand the English language, he or she shall be
32 entitled to the services of a qualified interpreter in accordance with
33 conditions and a fee schedule prescribed by the administrative
34 director. These services shall be provided by the employer. For
35 purposes of this section, "qualified interpreter" means a language
36 interpreter certified, or deemed certified, pursuant to Article 8
37 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of
38 Division 3 of Title 2 of, or Section 68566 of, the Government
39 Code.

40 (g) This section shall become operative on January 1, 2010.

1 SEC. 200. Section 322 of the Military and Veterans Code is
2 amended to read:

3 322. Officers, warrant officers, and enlisted men and women
4 on active duty in the service of the state, except in situations
5 described in Section 188, shall be reimbursed for their necessary
6 traveling and other expenses in accordance with the rules and
7 regulations adopted by the ~~Department of Personnel Administration~~
8 *Department of Human Resources*.

9 SEC. 201. Section 1011 of the Military and Veterans Code is
10 amended to read:

11 1011. (a) There is in the department a Veterans' Home of
12 California, Yountville, situated at Veterans' Home, Napa County.

13 (b) (1) The department may establish and construct a second
14 home that shall be situated in the County of Imperial, Los Angeles,
15 Orange, Riverside, San Bernardino, San Diego, or Ventura. The
16 home may be located on one or more sites. The department shall
17 operate the second home concurrently with the first home.

18 (2) The initial site is the Veterans' Home of California, Barstow,
19 situated in Barstow, San Bernardino County. That site may provide
20 skilled nursing care for up to 250 residents.

21 (3) When completed, the second site shall be the Veterans'
22 Home of California, Chula Vista, situated in Chula Vista, San
23 Diego County, pursuant to the recommendations made by the
24 commission established pursuant to former Section 1011.5.

25 (4) When completed, the third site shall be the Veterans' Home
26 of California, Lancaster, situated in Lancaster, Los Angeles County,
27 pursuant to the recommendations made by the commission
28 established pursuant to former Section 1011.5.

29 (5) When completed, the fourth site shall be the Veterans' Home
30 of California, Ventura, situated in the community of Saticoy,
31 Ventura County.

32 (6) There shall be an administrator for, and located at, each site
33 of the southern California home.

34 (7) The department may complete any preapplication process
35 necessary with the United States Department of Veterans Affairs
36 for construction of the second home.

37 (c) The Legislature hereby finds and declares that the second
38 home is a new state function. The department may perform any
39 or all work in operating the second home by independent
40 contractors, except the overall administration and management of

1 the home. Any and all actions of the department taken before
2 September 17, 1996, that are consistent with this subdivision are
3 hereby ratified and confirmed, it having at all times been the intent
4 of the Legislature that the department be so authorized.

5 (d) There shall be an administrator for each home or homesite,
6 who shall be recommended by the Secretary of Veterans Affairs
7 and appointed by the Governor, and shall be located at that home
8 or homesite. The salary for each administrator shall be subject to
9 the approval of the ~~Department of Personnel Administration~~
10 *Department of Human Resources*.

11 SEC. 202. Section 10295 of the Public Contract Code is
12 amended to read:

13 10295. (a) All contracts entered into by any state agency for
14 (1) the acquisition of goods or elementary school textbooks, (2)
15 services, whether or not the services involve the furnishing or use
16 of goods or are performed by an independent contractor, (3) the
17 construction, alteration, improvement, repair, or maintenance of
18 property, real or personal, or (4) the performance of work or
19 services by the state agency for or in cooperation with any person,
20 or public body, are void unless and until approved by the
21 department. Every contract shall be transmitted with all papers,
22 estimates, and recommendations concerning it to the department
23 and, if approved by the department, shall be effective from the
24 date of the approval.

25 (b) This section applies to any state agency that by general or
26 specific statute is expressly or impliedly authorized to enter into
27 transactions referred to in this section.

28 (c) This section does not apply to the following:

29 (1) Any transaction entered into by the Trustees of the California
30 State University, by the Board of Governors of the California
31 Community Colleges, or by a department under the State Contract
32 Act or the California State University Contract Law.

33 (2) Any contract of a type specifically mentioned and authorized
34 to be entered into by the Department of Transportation under
35 Section 14035 or 14035.5 of the Government Code, Sections 99316
36 to 99319, inclusive, of the Public Utilities Code, or the Streets and
37 Highways Code.

38 (3) Any contract entered into by the Department of
39 Transportation that is not funded by money derived by state tax

1 sources but, rather, is funded by money derived from federal or
2 local tax sources.

3 (4) Any contract entered into by the ~~Department of Personnel~~
4 ~~Administration~~ *Department of Human Resources* for state
5 employee benefits, occupational health and safety, training services,
6 or combination thereof.

7 (5) Any contract let by the Legislature.

8 (6) Any contract entered into under the authority of Chapter 4
9 (commencing with Section 11770) of Part 3 of Division 2 of the
10 Insurance Code.

11 SEC. 203. Section 10344.1 of the Public Contract Code is
12 amended to read:

13 10344.1. The ~~Department of Personnel Administration~~
14 ~~Department of Human Resources~~, with respect to contracts it enters
15 into for state employees for employee benefits, occupational health
16 and safety, training services, or any combination thereof, shall
17 provide all qualified bidders with a fair opportunity to enter the
18 bidding process, therefore stimulating competition in a manner
19 conducive to sound fiscal practices. The ~~Department of Personnel~~
20 ~~Administration~~ *Department of Human Resources* shall make
21 available to any member of the public its guidelines for awarding
22 these contracts, and to the extent feasible, implement the objectives
23 set forth in Section 10351.

24 SEC. 204. Section 10349 of the Public Contract Code is
25 amended to read:

26 10349. The ~~Department of Personnel Administration~~
27 ~~Department of Human Resources~~ shall establish a program for
28 training state agency contracting personnel in contract
29 administration and contract management. The cost of training state
30 agency contracting personnel shall be paid by state agencies out
31 of their appropriations for personnel training. The ~~Department of~~
32 ~~Personnel Administration~~ *Department of Human Resources* shall,
33 prior to establishing the training program required by this section,
34 consult with the department concerning the training curriculum
35 and the development of a training manual on contract
36 administration.

37 SEC. 205. Section 832.9 of the Penal Code is amended to read:

38 832.9. (a) A governmental entity employing a peace officer,
39 as defined in Section 830, judge, court commissioner, or an
40 attorney employed by the Department of Justice, the State Public

1 Defender, or a county office of a district attorney or public defender
2 shall reimburse the moving and relocation expenses of those
3 employees, or any member of his or her immediate family residing
4 with the officer in the same household or on the same property
5 when it is necessary to move because the officer has received a
6 credible threat that a life threatening action may be taken against
7 the officer, judge, court commissioner, or an attorney employed
8 by the Department of Justice, the State Public Defender, or a county
9 office of the district attorney or public defender or his or her
10 immediate family as a result of his or her employment.

11 (b) The person relocated shall receive actual and necessary
12 moving and relocation expenses incurred both before and after the
13 change of residence, including reimbursement for the costs of
14 moving household effects either by a commercial household goods
15 carrier or by the employee.

16 (1) Actual and necessary moving costs shall be those costs that
17 are set forth in the ~~Department of Personnel Administration~~
18 *Department of Human Resources* rules governing promotional
19 relocations while in the state service. The department shall not be
20 required to administer this section.

21 (2) The public entity shall not be liable for any loss in value to
22 a residence or for the decrease in value due to a forced sale.

23 (3) Except as provided in subdivision (c), peace officers, judges,
24 court commissioners, and attorneys employed by the Department
25 of Justice, the State Public Defender, or a county office of a district
26 attorney or public defender shall receive approval of the appointing
27 authority prior to incurring any cost covered by this section.

28 (4) Peace officers, judges, court commissioners, and attorneys
29 employed by the Department of Justice, the State Public Defender,
30 or a county office of a district attorney or public defender shall
31 not be considered to be on duty while moving unless approved by
32 the appointing authority.

33 (5) For a relocation to be covered by this section, the appointing
34 authority shall be notified as soon as a credible threat has been
35 received.

36 (6) Temporary relocation housing shall not exceed 60 days.

37 (7) The public entity ceases to be liable for relocation costs after
38 120 days of the original notification of a viable threat if the peace
39 officer, judge, court commissioner, or attorney employed by the

1 Department of Justice, the State Public Defender, or a county office
2 of a district attorney or public defender has failed to relocate.

3 (c) (1) For purposes of the right to reimbursement of moving
4 and relocation expenses pursuant to this section, judges shall be
5 deemed to be employees of the State of California and a court
6 commissioner is an employee of the court by which he or she is
7 employed.

8 (2) For purposes of paragraph (3) of subdivision (b), a court
9 commissioner shall receive approval by the presiding judge of the
10 superior court in the county in which he or she is located.

11 (3) For purposes of paragraph (3) of subdivision (b), judges,
12 including justices of the Supreme Court and the Courts of Appeal,
13 shall receive approval from the Chief Justice, or his or her designee.

14 (d) As used in this section, “credible threat” means a verbal or
15 written statement or a threat implied by a pattern of conduct or a
16 combination of verbal or written statements and conduct made
17 with the intent and the apparent ability to carry out the threat so
18 as to cause the person who is the target of the threat to reasonably
19 fear for his or her safety or the safety of his or her immediate
20 family.

21 (e) As used in this section, “immediate family” means the
22 spouse, parents, siblings, and children residing with the peace
23 officer, judge, court commissioner, or attorney employed by the
24 Department of Justice, the State Public Defender, or a county office
25 of a district attorney or public defender.

26 SEC. 206. Section 6050 of the Penal Code is amended to read:

27 6050. (a) The Governor, upon recommendation of the
28 secretary, shall appoint the wardens of the various state prisons.
29 Each warden shall be subject to removal by the secretary. If the
30 secretary removes him or her, the secretary’s action shall be final.
31 The wardens shall be exempt from civil service.

32 (b) ~~The Department of Personnel Administration~~ *Department*
33 *of Human Resources* shall fix the compensation of the wardens of
34 the state prisons.

35 SEC. 207. Section 309.1 of the Public Utilities Code is
36 amended to read:

37 309.1. (a) The Governor may appoint one adviser for each
38 member of the commission upon the request of the commission
39 member. Each adviser shall receive a salary fixed by the
40 commission with the approval of the ~~Department of Personnel~~

1 ~~Administration~~ *Department of Human Resources*. The total number
2 of advisers exempt from civil service may not exceed five.

3 (b) This section shall become operative on January 1, 2003.

4 SEC. 208. Section 185024 of the Public Utilities Code is
5 amended to read:

6 185024. (a) The authority shall appoint an executive director,
7 exempt from civil service, who shall serve at the pleasure of the
8 authority, to administer the affairs of the authority as directed by
9 the authority.

10 (b) For purposes of managing and administering the ongoing
11 work of the authority in implementing the high-speed train project,
12 the Governor, upon the recommendation of the executive director,
13 may appoint up to six additional individuals, exempt from civil
14 service, who shall serve at the pleasure of the executive director.
15 Pursuant to this subdivision, the Governor may appoint persons
16 only for the following positions:

- 17 (1) Chief program manager.
- 18 (2) Up to three regional directors.
- 19 (3) Chief financial officer.
- 20 (4) Director of risk management and project controls.

21 (c) The compensation of the executive director and the additional
22 persons authorized by subdivision (b) shall be established by the
23 authority, and approved by the ~~Department of Personnel~~
24 ~~Administration~~ *Department of Human Resources*, in an amount
25 that is reasonably necessary, in the discretion of the authority, to
26 attract and hold a person of superior qualifications. The authority
27 shall cause to be conducted, through the use of independent outside
28 advisers, a salary survey to determine the compensation for the
29 positions under this subdivision. The ~~Department of Personnel~~
30 ~~Administration~~ *Department of Human Resources* may, in its
31 discretion, accept a previously completed salary survey that meets
32 the requirements of this subdivision, and shall review the
33 methodology used in the survey. The salary survey shall consider
34 both of the following:

- 35 (1) Other state, regional, and local transportation agencies that
36 are most comparable to the authority and its responsibilities.
- 37 (2) Other relevant labor pools.

38 The compensation set by the authority shall not exceed the
39 highest comparable compensation for a position of that type, as
40 determined by the salary survey. Based on the salary survey, these

1 positions shall be paid a salary established by the authority and
2 approved by the ~~Department of Personnel Administration~~
3 *Department of Human Resources*.

4 (d) The executive director may, as authorized by the authority,
5 appoint necessary staff to carry out the provisions of this part.

6 SEC. 209. Section 19270 of the Revenue and Taxation Code
7 is amended to read:

8 19270. (a) Consistent with the development and
9 implementation of the California Child Support Automation System
10 (CCSAS), the Franchise Tax Board and the Department of Child
11 Support Services shall enter into a letter of agreement and an
12 interagency agreement whereby the Department of Child Support
13 Services shall assume responsibility for collection of child support
14 delinquencies and the Financial Institution Data Match System as
15 set forth in this article. The letter of agreement and the interagency
16 agreement shall, at a minimum, set forth all of the following:

17 (1) Contingent upon the enactment of the Budget Act, and
18 staffing authorization from the Department of Finance and the
19 ~~Department of Personnel Administration~~ *Department of Human*
20 *Resources*, the Department of Child Support Services shall assume
21 responsibility for leadership and staff of collection of child support
22 delinquencies and the Financial Institution Data Match System.

23 (2) All employees and other personnel who staff or provide
24 support for the collection of child support delinquencies and the
25 Financial Institution Data Match System at the Franchise Tax
26 Board shall become the employees of the Department of Child
27 Support Services at their existing or equivalent classification,
28 salaries, and benefits.

29 (3) Any other provisions necessary to ensure continuity of
30 function and meet or exceed existing levels of service, including,
31 but not limited to, agreements for continued use of automated
32 systems used by the Franchise Tax Board to locate child support
33 obligors and their assets.

34 (b) It is the intent of the Legislature that any provision of income
35 tax return information by the Franchise Tax Board to the
36 Department of Child Support Services pursuant to this article shall
37 be done in accordance with the privacy and confidential
38 information laws of this state and the United States, and to the
39 satisfaction of the Franchise Tax Board.

1 SEC. 210. Section 2266 of the Vehicle Code is amended to
2 read:

3 2266. (a) The Legislature finds and declares all of the
4 following:

5 (1) The communications operators of the Department of the
6 California Highway Patrol are among the lowest paid when
7 compared to operators employed by other law enforcement
8 agencies in the state. The department's communication centers
9 suffer from significant staff shortages and high turnover rates.
10 Increasing the wages paid to these communications operators will
11 increase their professionalism while reducing their rate of turnover.

12 (2) The recruitment and retention problem is especially evident
13 in the classifications of Communications Operator I and II.

14 (3) In order for the state to recruit and retain the highest qualified
15 and capable communications operators, those employees should
16 be compensated in an amount equal to the estimated average total
17 compensation for the classifications corresponding to
18 Communications Operator I and II within the police departments
19 in the Cities of Los Angeles, Oakland, San Diego, and San Jose
20 and the City and County of San Francisco.

21 (4) According to the Department of the California Highway
22 Patrol, it costs the department thirty-six thousand one hundred
23 ninety-eight dollars (\$36,198) to train a Communications Operator
24 I and sixty-five thousand two hundred two dollars (\$65,202) to
25 train a Communications Operator II to their respective
26 classifications. After the department has trained an operator, all
27 too often the new, fully trained operator will move to a local agency
28 to a higher wage.

29 (5) This section is not in violation of the Ralph C. Dills Act
30 (Chapter 10.3 (commencing with Section 3512) of Division 4 of
31 Title 1 of the Government Code), which requires that changes for
32 salaries and benefits be collectively bargained between
33 representatives of the state and the employee's union. This section
34 does not circumvent that process. This section simply authorizes
35 ~~the Department of Personnel Administration~~ *Department of Human*
36 *Resources*, when determining compensation for communications
37 operators in the Department of the California Highway Patrol, to
38 consider the total compensation for communications operators in
39 other jurisdictions.

1 (b) When determining compensation for communications
2 operators in the Department of the California Highway Patrol, the
3 ~~Department of Personnel Administration~~ *Department of Human*
4 *Resources* may consider the total compensation for
5 communications operators in comparable positions in the police
6 departments specified in paragraph (3) of subdivision (a).

7 SEC. 211. Section 80122 of the Water Code is amended to
8 read:

9 80122. The department may do any of the following as may
10 be, in the determination of the department, necessary for the
11 purposes of this division:

12 (a) Hire and appoint employees as required, at salary levels
13 determined by the director to be competitive to attract and retain
14 persons with the necessary expertise and skills. Prior to hiring or
15 appointing an employee at a salary in excess of a salary approved
16 by the ~~Department of Personnel Administration~~ *Department of*
17 *Human Resources*, the director shall submit the proposed salary
18 to the Director of Finance who shall submit it to the Legislature
19 in accordance with Section 27.00 of the annual Budget Act. No
20 excess salary authorized under this section may be paid on or after
21 January 1, 2003. The excess portion of a salary authorized under
22 this section may not be considered salary in the calculation of final
23 compensation for purposes of benefits under the Public Employees'
24 Retirement System.

25 (b) Engage the services of private parties to render professional
26 and technical assistance and advice and other services in carrying
27 out the purposes of this division.

28 (c) Contract for the services of other public agencies.

29 (d) The State Personnel Board and the ~~Department of Personnel~~
30 ~~Administration~~ *Department of Human Resources* shall assist the
31 department in expediting the hiring of personnel necessary and
32 desirable for the timely and successful implementation and
33 administration of the department's duties and responsibilities
34 pursuant to this division.

35 SEC. 212. The provisions of this plan shall become operative
36 on July 1, 2012.