

**Introduced by Committee on Public Employment and Retirement
(Senators Negrete McLeod (Chair), Gaines, Padilla, Vargas, and
Walters)**

February 23, 2012

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, and 59205 of the Education Code, to amend Section 17450 of the Family Code, to amend Section 2203 of the Fish and Game 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 Sections 927.13, 1150, 1156, 1156.1, 3513, 3517.63, 3527, 3535, 3537, 3539.5, 3541, 3572.1, 7507, 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, 19770, 19775, 19775.1, 19775.15, 19775.16, 19775.17, 19775.18, 19815, 19815.41, 19815.8, 19816.21, 19816.22, 19819.5, 19822.6, 19827.3, 19829.5, 19829.6, 19844.7, 19849.11, 19849.13, 19849.14, 19849.16, 19853, 19853.1, 19867, 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, 20687, 20963.1, 21159, 21160, 21195, 21223, 21251.13, 21353, 21354.1, 21362.2, 21363, 21363.1, 21363.4, 21363.8, 21369, 21369.1, 21410, 21465, 21672, 21674, 22808, 22811, 22814, 22815, 22816, 22850, 22865, 22871.5, 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 amend and repeal Sections 19608 and 21369.2 of, to

add Section 19573 to, to repeal Section 19702 of, and to repeal and add Section 19815.2 of, the Government Code, to amend Sections 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 832.9 and 6050 of the Penal Code, to amend Sections 10295, 10344.1, and 10349 of the Public Contract 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 the Department of Human Resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1308, as introduced, Committee on Public Employment and Retirement. 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 law establishes the Department of Personnel Administration for purposes of managing the nonmerit aspects of the state's personnel system.

Governor's Reorganization No. 1, operative July 1, 2012, creates the Department of Human Resources, which is 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 also abolishes the Department of Personnel Administration, and transfers the functions and duties performed by the Department of Personnel Administration to the Department of Human Resources. The plan eliminates certain functions of the State Personnel Board relating to investigating and hearing complaints of discrimination in the civil service. The plan also authorizes 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 requires 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.

This bill would enact the statutory changes necessary to reflect the changes made by the Governor’s Reorganization Plan No. 1.

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

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

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~~ *Human*
7 *Resources* pursuant to Section 19825 of the Government Code,
8 who shall be designated as an executive officer unless the licensing
9 act of the particular board designates the person as a registrar.

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

12 4809.8. (a) The board shall establish an advisory committee
13 to assist, advise, and make recommendations for the
14 implementation of rules and regulations necessary to ensure proper
15 administration and enforcement of this chapter and to assist the
16 board in its examination, licensure, and registration programs. This
17 committee shall be known as the Veterinary Medicine
18 Multidisciplinary Advisory Committee. Members of the
19 multidisciplinary committee shall be appointed by the board from
20 lists of nominees solicited by the board. The committee shall
21 consist of the following seven members: four licensed
22 veterinarians, two registered veterinary technicians, and one public
23 member. Members of the multidisciplinary committee shall
24 represent a sufficient cross section of the interests in veterinary
25 medicine in order to address the issues before it, as determined by
26 the board, including veterinarians, registered veterinary technicians,
27 and members of the public.

28 (b) Multidisciplinary committee members shall hold office for
29 a term of three years and appointments shall be staggered
30 accordingly. A member may be reappointed, but no person shall
31 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~~ *Human*
11 *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 *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~~ *Human Resources*.
12 The executive director shall be the board's executive officer and
13 shall carry out and execute the duties as specified by law and by
14 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~~ *Human Resources*. The executive
28 director shall be the commission's executive officer and shall carry
29 out and execute the duties as specified by law and by the
30 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~~ *Human Resources* for
12 classifications of state employees that are excluded from the
13 definition of "state employee" by paragraph (c) of Section 3513
14 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 *Human Resources* may establish the normal rate of contribution
32 for a state employee who is a member of the Defined Benefit
33 Program who is excepted from the definition of "state employee"
34 in subdivision (c) of Section 3513 of the Government Code, and
35 an officer or employee of the executive branch of state government
36 who is not a member of the civil service. The normal rate of
37 contribution shall be the same for all members identified in this
38 subdivision. The contribution rate shall be effective the beginning
39 of the pay period indicated by the Director of ~~the Department of~~
40 ~~Personnel Administration~~ *Human Resources* but shall be no earlier

1 than the beginning of the pay period following the date the board
2 receives notification.

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

5 24003. (a) The member shall provide medical documentation
6 to substantiate the impairment qualifying the member for the
7 disability allowance.

8 (b) On receipt of an application for disability allowance under
9 this part, the system may order a medical examination or review
10 of medical documentation of a member to determine whether the
11 member is incapacitated for performance of service. The medical
12 examination or review of medical documentation shall be
13 conducted by a practicing physician, selected by the board, with
14 expertise in the member's impairment and the board shall pay all
15 costs associated with the examination or review of medical
16 documentation. If the member refuses to submit to the required
17 medical examination or review of medical documentation, the
18 application for disability allowance shall be rejected. If a medical
19 examination is ordered:

20 (1) The member shall either remain in this state, or return to
21 this state at the member's own expense, to undergo the medical
22 examination, or the application shall be rejected, unless this
23 requirement is waived by the board. The board shall pay all other
24 reasonable costs related to travel and meals in accordance with the
25 rates set for state employees by the Department of ~~Personnel~~
26 ~~Administration~~ *Human Resources*.

27 (2) If the member is too ill to be examined, the system shall
28 postpone the examination until the member can be examined. The
29 member or the member's treating physician shall inform the
30 system, in writing, when the medical examination can be
31 rescheduled.

32 (c) The system may reject the disability allowance application
33 under this part if the member fails to provide requested medical
34 documentation to substantiate a disability, as defined in Section
35 22126, within 45 days from the date of the request or within 30
36 days from the time that a legally designated representative is
37 empowered to act on behalf of a member who is mentally or
38 physically incapacitated.

39 (d) If the board determines that a member who has applied for
40 a disability allowance under this part may perform service in the

1 member's former position of employment or in a comparable level
2 position with the assistance of reasonable accommodation, the
3 board may require the member to request reasonable
4 accommodation from the employer. Failure of the member to
5 request reasonable accommodation, as directed by the board, may
6 be grounds for cancellation of the disability allowance application.

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

11 (f) The system shall inform the member of the rejection or
12 cancellation of the member's disability allowance application under
13 this part within 30 days after that determination is made by the
14 system.

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

20 SEC. 9. Section 24103 of the Education Code is amended to
21 read:

22 24103. (a) The member shall provide medical documentation
23 substantiating the impairment qualifying the member for the
24 disability retirement under this part.

25 (b) On receipt of an application for disability retirement under
26 this part, the system may order a medical examination or review
27 of medical documentation of a member to determine whether the
28 member is incapacitated for performance of service. The medical
29 examination or review of medical documentation shall be
30 conducted by a practicing physician, selected by the board, with
31 expertise in the member's impairment, and the board shall pay all
32 costs associated with the examination or review of medical
33 documentation. If the member refuses to submit to the required
34 medical examination or review of medical documentation, the
35 application for disability retirement shall be rejected. If a medical
36 examination is ordered:

37 (1) The member shall either remain in this state, or return to
38 this state at the member's own expense, to undergo the medical
39 examination or the application shall be rejected, unless this
40 requirement is waived by the board. The board shall pay all other

1 reasonable costs related to travel and meals in accordance with the
2 rates set for state employees by the Department of ~~Personnel~~
3 ~~Administration~~ *Human Resources*.

4 (2) If the member is too ill to be examined, the system shall
5 postpone the examination until the member can be examined. The
6 member or the member's treating physician shall inform the
7 system, in writing, when the medical examination can be
8 rescheduled.

9 (c) The system may reject the disability retirement application
10 under this part if the member fails to provide requested medical
11 documentation to substantiate a disability, as defined in Section
12 22126, within 45 days from the date of the request or within 30
13 days from the time that a legally designated representative is
14 empowered to act on behalf of a member who is mentally or
15 physically incapacitated.

16 (d) If the board determines that a member who has applied for
17 disability retirement under this part may perform service in the
18 member's former position of employment or in a comparable level
19 position with the assistance of reasonable accommodation, the
20 board may require the member to request reasonable
21 accommodation from the employer. Failure of the member to
22 request reasonable accommodation, as directed by the board, may
23 be grounds for cancellation of the disability retirement application
24 under this part.

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

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

33 (g) In determining whether a member meets the definition of
34 disability pursuant to Section 22126, the board shall make a
35 determination on the basis of competent medical documentation
36 and shall not use the awarding of a disability retirement as a
37 substitute for the disciplinary process.

38 SEC. 10. Section 59008 of the Education Code is amended to
39 read:

1 59008. (a) The Department of ~~Personnel Administration~~
2 *Human Resources* shall consider making salaries for teachers,
3 specialists, and administrators of the California School for the
4 Deaf competitive with the salaries of similarly qualified school
5 teachers, specialists, and administrators who are employed by the
6 encompassing school districts.

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

12 SEC. 11. Section 59104 of the Education Code is amended to
13 read:

14 59104. (a) The Department of ~~Personnel Administration~~
15 *Human Resources* shall consider making salaries for teachers,
16 specialists, and administrators of the California School for the
17 Blind competitive with the salaries of similarly qualified school
18 teachers, specialists, and administrators who are employed by the
19 encompassing school districts.

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

25 SEC. 12. Section 59205 of the Education Code is amended to
26 read:

27 59205. (a) The Department of ~~Personnel Administration~~
28 *Human Resources* shall consider making salaries for teachers,
29 specialists, and administrators of the Diagnostic Center, Southern
30 California, the Diagnostic Center, Central California, and the
31 Diagnostic Center, Northern California, competitive with the
32 salaries of similarly qualified school teachers, specialists, and
33 administrators who are employed by the encompassing school
34 districts.

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

1 SEC. 13. Section 17450 of the Family Code is amended to
2 read:

3 17450. (a) For purposes of this article:

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

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

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

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

15 (c) (1) The department may return or allow a local child support
16 agency to retain a child support delinquency for a specified purpose
17 for collection where the department determines that the return or
18 retention of the delinquency for the purpose so specified will
19 enhance the collectibility of the delinquency. The department shall
20 establish a process whereby a local child support agency may
21 request and shall be allowed to withdraw, rescind, or otherwise
22 recall the submittal of an account that has been submitted.

23 (2) If an obligor is disabled, meets the federal Supplemental
24 Security Income resource test, and is receiving Supplemental
25 Security Income/State Supplementary Payments (SSI/SSP), or,
26 but for excess income as described in Section 416.1100 and
27 following of Part 416 of Title 20 of the Code of Federal
28 Regulations, would be eligible to receive as SSI/SSP, pursuant to
29 Section 12200 of the Welfare and Institutions Code, and the obligor
30 has supplied the local child support agency with proof of his or
31 her eligibility for, and, if applicable, receipt of, SSI/SSP or Social
32 Security Disability Insurance benefits, then the child support
33 delinquency shall not be referred to the department for collection,
34 and, if referred, shall be withdrawn, rescinded, or otherwise recalled
35 from the department by the local child support agency. The
36 department shall not take any collection action, or if the local child
37 support agency has already taken collection action, shall cease
38 collection actions in the case of a disabled obligor when the
39 delinquency is withdrawn, rescinded, or otherwise recalled by the

1 local child support agency in accordance with the process
2 established as described in paragraph (1).

3 (d) It is the intent of the Legislature that when the California
4 Child Support Automation System (CCSAS) is fully operational,
5 any statutes that should be modified based upon the status of the
6 system shall be revised. During the development and
7 implementation of CCSAS, the department, as the Title IV-D
8 agency, may, through appropriate interagency agreement, delegate
9 any and all of the functions or procedures specified in this article
10 to the Franchise Tax Board. The Franchise Tax Board shall perform
11 those functions or procedures as specified in Sections 19271 to
12 19275, inclusive, of the Revenue and Taxation Code until such
13 time as the director, by letter to the executive officer of the
14 Franchise Tax Board, revokes such delegation of Title IV-D
15 functions. Sections 19271 to 19275, inclusive, of the Revenue and
16 Taxation Code shall be effective for these purposes until the
17 revocation of delegation to the Franchise Tax Board.

18 (e) Consistent with the development and implementation of the
19 California Child Support Automation System (CCSAS), the
20 Franchise Tax Board and the department shall enter into a letter
21 of agreement and an interagency agreement whereby the
22 department shall assume responsibility for collection of child
23 support delinquencies and the Financial Institution Data Match
24 System as set forth in this article. The letter of agreement and
25 interagency agreement shall, at a minimum, set forth all of the
26 following:

27 (1) Contingent upon the enactment of the Budget Act, and
28 staffing authorization from the Department of Finance and the
29 Department of ~~Personnel Administration~~ *Human Resources*, the
30 department shall assume responsibility for leadership and staffing
31 of the collection of child support delinquencies and the Financial
32 Institution Data Match System.

33 (2) All employees and other personnel who staff or provide
34 support for the collection of child support delinquencies and the
35 Financial Institution Data Match System at the Franchise Tax
36 Board shall become the employees of the department at their
37 existing or equivalent classification, salaries, and benefits.

38 (3) Any other provisions necessary to ensure continuity of
39 function and meet or exceed existing levels of service, including,
40 but not limited to, agreements for continued use of automated

1 systems used by the Franchise Tax Board to locate child support
2 obligors and their assets.

3 SEC. 14. Section 2203 of the Fish and Game Code is amended
4 to read:

5 2203. (a) The director, with the advice of the committee
6 established pursuant to Section 2150.3, shall adopt regulations to
7 establish and administer a grant program, including eligibility
8 criteria, by which persons or governmental agencies who operate
9 facilities to care and shelter mammals may apply for grants for
10 maintenance, operations, and capital improvements. The program
11 shall include provisions for emergency grants with an expedited
12 review process.

13 (b) Each member of the committee who is eligible to receive
14 per diem and mileage shall be allowed per diem and mileage in
15 accordance with the rules of the Department of ~~Personnel~~
16 ~~Administration~~ *Human Resources* for attending any meeting of
17 the committee involving this article.

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

20 6006. The director shall appoint a Cotton Pest Control Board,
21 consisting of 10 members, to assist and advise him or her on
22 matters which pertain to the control of cotton pests and to carry
23 out its authority specified in this article.

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

27 Any member of the board who misses two meetings without the
28 permission of the board, is deemed to have resigned as a member
29 of the board.

30 The board may meet in regular session each month. The
31 chairperson of the board or the director may call any other meeting
32 of the board at any time. Each member shall be allowed per diem
33 and mileage in accordance with Department of ~~Personnel~~
34 ~~Administration~~ *Human Resources* rules for attending any meeting
35 of the board.

36 The board shall annually review the effectiveness of the cotton
37 pest control program.

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

1 6042. The board shall meet at the call of its chairman or the
2 secretary or at the request of any three members of the board. The
3 board shall meet at least once a year. Members of the board shall
4 be allowed per diem and mileage in accordance with rules of the
5 Department of ~~Personnel Administration~~ *Human Resources* for
6 attendance at meetings and other board activities authorized by
7 the board and approved by the secretary.

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

10 6047.4. (a) The powers of the board shall be the following:

11 (1) Submit recommendations to the secretary on, but not limited
12 to, the following:

13 (A) Selection of officers.

14 (B) Terms of office for board members.

15 (C) Annual assessment rate.

16 (D) Annual budget.

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

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

19 (3) Adopt, amend, and rescind all proper and necessary bylaws
20 and procedures.

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

23 (b) A majority of the members of the board shall constitute a
24 quorum of the board. The vote of a majority of the members present
25 at a meeting at which there is a quorum constitutes an act of the
26 board, except for actions taken pursuant to subdivision (a) of
27 Section 6047.7, which shall require a majority of the vote of the
28 board. The board may continue to transact business at a meeting
29 where a quorum is initially present, notwithstanding the withdrawal
30 of members, provided any action is approved by the requisite
31 majority of the required quorum.

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

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

38 6988. The secretary, upon consultation with the pome and stone
39 fruit tree, nut tree, olive tree, and grapevine nursery industry, shall

1 appoint a board to assist and advise him or her concerning the
2 implementation of this article.

3 (a) Membership on the board shall consist of 11 representatives,
4 a majority of whom are licensed producers of pome, stone, nut,
5 olive, and grape nursery stock, but also users and a public member
6 as follows:

7 (1) Two each from the stone fruit (including almonds) and nut
8 (other than almond) industries.

9 (2) Four from the grape industry.

10 (3) One each from the pome fruit and olive industries.

11 (4) One public representative.

12 (b) Board members shall represent all areas of the state involved
13 in the production of pome and stone fruit trees, nut trees, olive
14 trees, and grapevines.

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

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

26 (e) The board shall review and make recommendations to the
27 secretary concerning the ongoing operations of the department and
28 the University of California pertaining to this article. This shall
29 include advice on fiscal expenditure, assessments needed to cover
30 costs, and proposals concerning the development of planting
31 materials.

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

34 14581. There is, in the department, a Fertilizer Inspection
35 Advisory Board consisting of nine persons appointed by the
36 secretary, eight of whom shall be licensed under this chapter and
37 subject to the payment of the inspection fee in accordance with
38 this chapter, and one of whom shall be a public member. The
39 members of the board shall receive no compensation, but are
40 entitled to payment of necessary traveling expenses in accordance

1 with the rules of the Department of ~~Personnel Administration~~
2 *Human Resources*. These expenses shall be paid out of
3 appropriations made to the department pursuant to this chapter.

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

6 14971. There is in state government a Feed Inspection Advisory
7 Board consisting of eight persons appointed by the director, who
8 are licensed under this chapter, and who are subject to payment
9 of the inspection tonnage tax in accordance with this chapter. The
10 director may appoint one additional member to the board who shall
11 be a public member. The members of the board shall receive no
12 salary, but are entitled to payment of necessary traveling expenses
13 in accordance with Department of ~~Personnel Administration~~
14 *Human Resources* rules. These expenses shall be paid out of
15 appropriations made to the department.

16 Upon the director's request, the board shall submit to the director
17 the names of three or more natural persons, each of whom shall
18 be a citizen and resident of this state and not a producer, shipper,
19 or processor nor financially interested in any producer, shipper,
20 or processor, for appointment by the director as a public member
21 of the board. The director may appoint one of the nominees as the
22 public member on the board. If all nominees are unsatisfactory to
23 the director, the board shall continue to submit lists of nominees
24 until the director has made a selection. Any vacancy in the office
25 of the public member of the board shall be filled by appointment
26 by the director from the nominee or nominees similarly qualified
27 submitted by the board. The public member of the board shall
28 represent the interests of the general public in all matters coming
29 before the board and shall have the same voting and other rights
30 and immunities as other members of the board.

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

33 27574. The committee shall meet at the call of its chairman,
34 the director, or at the request of any three members of the
35 committee. The committee shall meet at least once a year.
36 Necessary expenditures incurred by the committee members in
37 attending committee meetings may be reimbursed in accordance
38 with Department of ~~Personnel Administration~~ *Human Resources*
39 rules.

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

3 29028. Each member of the board shall serve without
4 compensation, but each member shall be reimbursed for actual
5 and necessary expenses, including travel expenses, incurred in
6 attending meetings of the board and any other official duty
7 authorized by the board and approved by the director. The
8 reimbursements shall be made in accordance with the rules of the
9 Department of ~~Personnel Administration~~ *Human Resources*.

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

12 40576. Each member of the committee, or any alternate
13 member serving in the absence of a regular member, may, with
14 the approval of the director, be reimbursed for the actual and
15 necessary expenses incurred in the performance of his or her
16 official duties. However, a member or alternate member may not
17 receive any other consideration for serving on the committee. The
18 reimbursement shall be made at the rate permitted under the rules
19 of the Department of ~~Personnel Administration~~ *Human Resources*.

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

22 41008. Each member of the committee, any alternate member
23 serving in the absence of a regular member, and any member of
24 an advisory committee appointed by the chairman of the committee,
25 may, with approval of the director, be reimbursed for the actual
26 and necessary expenses incurred in the performance of their official
27 duties. However, members may not receive any other consideration.
28 Any of these reimbursements shall be made at the rate permitted
29 under the rules of the Department of ~~Personnel Administration~~
30 *Human Resources*.

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

33 41867. Each member of the committee, any alternate member
34 serving in the absence of a regular member, and any member of
35 an advisory committee appointed by the chairman of the committee,
36 with approval of the secretary, may be reimbursed for the actual
37 necessary expenses incurred in the performance of their official
38 duties. Any reimbursement shall be made at the rate permitted
39 under the rules of the Department of ~~Personnel Administration~~

1 *Human Resources* and a member shall not receive any other
2 compensation.

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

5 52885. No board member, alternate, member of a committee
6 who is a nonmember of the board, or ex officio member shall
7 receive a salary, but may, if approved by the board, be allowed
8 per diem in accordance with Department of ~~Personnel~~
9 ~~Administration~~ *Human Resources* rules for each day spent in actual
10 attendance on, or in traveling to and from, meetings of the board
11 or committees of the board, or on special assignment for the board.

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

14 54442. (a) To aid in preparation of the report required under
15 this chapter, the secretary shall establish an advisory committee
16 consisting of the following persons:

17 (1) Six representatives of cooperative bargaining associations
18 from names submitted by cooperative bargaining associations, two
19 of whom shall be appointed by the Governor, two of whom shall
20 be appointed by the Speaker of the Assembly, and two of whom
21 shall be appointed by the Senate Committee on Rules.

22 (2) Six representatives of processors from names submitted by
23 processors, two of whom shall be appointed by the Governor, two
24 of whom shall be appointed by the Speaker of the Assembly, and
25 two of whom shall be appointed by the Senate Committee on Rules.

26 (b) The members of the advisory committee shall be reimbursed
27 for travel expenses pursuant to the rules and regulations adopted
28 by the Director of the ~~Department of Personnel Administration~~
29 *Human Resources* pursuant to Section 19820 of the Government
30 Code for attendance at a meeting approved by the Secretary of
31 Food and Agriculture.

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

34 74743. No board member or alternate member or member of
35 a committee established by the commission who is a nonmember
36 of the commission shall receive any compensation. Each board
37 member or each alternate member serving in place of a board
38 member, except ex officio members who are state officers or
39 employees, and each member of a committee established by the
40 commission who is not a board member or alternate member, may

1 receive per diem not to exceed one hundred dollars (\$100) per day,
2 as established by the commission. In addition, board members and
3 alternate members of the commission and members of committees
4 established by the commission shall be reimbursed for actual and
5 necessary travel expenses under the rules of the Department of
6 ~~Personnel Administration~~ *Human Resources*. The per diem and
7 reimbursement for travel expenses shall be paid to those members
8 for each day spent in actual attendance at, or in traveling to and
9 from, meetings of the commission or committees of the
10 commission, or on special assignment for the commission, as
11 provided by the commission.

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

14 77939. Members and alternate members of the commission
15 and members of committees established by the commission shall
16 not receive any compensation but shall receive the per diem
17 established by Section 11564.5 of the Government Code. Ex officio
18 members who are state officers or employees and who are
19 compensated by the state are not eligible for per diem pursuant to
20 this section. In addition, members and alternate members of the
21 commission and members of committees established by the
22 commission shall be reimbursed for actual and necessary travel
23 expenses under the rules of the Department of ~~Personnel~~
24 ~~Administration~~ *Human Resources*. The per diem and
25 reimbursement for travel expenses shall be paid to those members
26 for each day spent in actual attendance at, or in traveling to and
27 from, meetings of the commission or committees of the
28 commission, or on special assignment for the commission, as
29 approved by the commission.

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

32 78239. Members and alternate members of the commission,
33 and members of committees established by the commission, shall
34 not receive any compensation, but notwithstanding Section 11564.5
35 of the Government Code, shall receive the per diem established
36 by the commission, not to exceed one hundred dollars (\$100) per
37 day. Ex officio members who are state officers or employees are
38 not eligible for per diem pursuant to this section. In addition,
39 members and alternate members of the commission, and members
40 of committees established by the commission, shall be reimbursed

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

8 SEC. 31. Section 927.13 of the Government Code is amended
9 to read:

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

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

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

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

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

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

7 (2) Payment of claims for reimbursement for health care services
8 or mental health services provided under the Medi-Cal program,
9 pursuant to Chapter 7 (commencing with Section 14000) of Part
10 3 of Division 9 of the Welfare and Institutions Code.

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

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

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

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

18 SEC. 32. Section 1150 of the Government Code is amended
19 to read:

20 1150. As used in this article:

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

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

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

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

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

39 SEC. 33. Section 1156 of the Government Code is amended
40 to read:

1 1156. (a) Any eligible employee who is participating in a
2 flexible benefits program may elect to receive one or more benefits
3 that qualify to be excluded from gross income in lieu of a portion
4 of his or her salary.

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

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

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

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

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

13 (5) An officer or employee of the State of California in the
14 executive or judicial branch of government who is not a state civil
15 service employee pursuant to Part 2 (commencing with Section
16 18500) of Division 5 of Title 2.

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

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

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

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

35 (f) There is in the State Treasury the Flexelect Benefit Fund
36 which, notwithstanding Section 13340, is continuously appropriated
37 without regard to fiscal years to the Department of ~~Personnel~~
38 ~~Administration~~ *Human Resources* for expenditure to implement
39 the flexible benefits program and to pay the related administrative
40 costs. The fund shall consist of the amounts received from state

1 employee compensation excluded from gross income and
2 transmitted to the Flexelect Benefit Fund, income of whatever
3 nature earned on the money in the Flexelect Benefit Fund during
4 any fiscal year and credited to the fund, and amounts appropriated
5 therefor in the annual Budget Act and other statutes.

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

11 SEC. 34. Section 1156.1 of the Government Code is amended
12 to read:

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

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

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

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

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

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

1 and transmitted to the State Employees’ Pretax Parking Fund
2 pursuant to subdivision (a).

3 SEC. 35. Section 3513 of the Government Code is amended
4 to read:

5 3513. As used in this chapter:

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

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

13 (c) “State employee” means any civil service employee of the
14 state, and the teaching staff of schools under the jurisdiction of the
15 State Department of Education or the Superintendent of Public
16 Instruction, except managerial employees, confidential employees,
17 supervisory employees, employees of the Department of ~~Personnel~~
18 ~~Administration~~ *Human Resources*, professional employees of the
19 Department of Finance engaged in technical or analytical state
20 budget preparation other than the auditing staff, professional
21 employees in the Personnel/Payroll Services Division of the
22 Controller’s office engaged in technical or analytical duties in
23 support of the state’s personnel and payroll systems other than the
24 training staff, employees of the Legislative Counsel Bureau,
25 employees of the Bureau of State Audits, employees of the office
26 of the Inspector General, employees of the board, conciliators
27 employed by the State Conciliation Service within the Department
28 of Industrial Relations, employees of the Office of the State Chief
29 Information Officer except as otherwise provided in Section
30 11546.5, and intermittent athletic inspectors who are employees
31 of the State Athletic Commission.

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

38 (e) “Managerial employee” means any employee having
39 significant responsibilities for formulating or administering agency

1 or departmental policies and programs or administering an agency
2 or department.

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

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

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

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

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

38 (k) “Fair share fee” means the fee deducted by the state
39 employer from the salary or wages of a state employee in an
40 appropriate unit who does not become a member of and financially

1 support the recognized employee organization. The fair share fee
 2 shall be used to defray the costs incurred by the recognized
 3 employee organization in fulfilling its duty to represent the
 4 employees in their employment relations with the state, and shall
 5 not exceed the standard initiation fee, membership dues, and
 6 general assessments of the recognized employee organization.

7 SEC. 36. Section 3517.63 of the Government Code is amended
 8 to read:

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

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

29 SEC. 37. Section 3527 of the Government Code is amended
 30 to read:

31 3527. As used in this chapter:

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

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

1 supervisory employees, as defined in subdivision (g) of Section
2 3513, and all civil service employees of the Department of
3 ~~Personnel Administration~~ *Human Resources*, professional
4 employees of the Department of Finance engaged in technical or
5 analytical state budget preparation other than the auditing staff,
6 professional employees in the Personnel/Payroll Services Division
7 of the Controller’s office engaged in technical or analytical duties
8 in support of the state’s personnel and payroll systems other than
9 the training staff, employees of the Legislative Counsel Bureau,
10 employees of the Bureau of State Audits, employees of the Public
11 Employment Relations Board, conciliators employed by the State
12 Conciliation Service within the Department of Industrial Relations,
13 employees of the office of the State Chief Information Officer
14 except as provided in Section 11546.5, and intermittent athletic
15 inspectors who are employees of the State 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. 38. Section 3535 of the Government Code is amended
30 to read:

31 3535. The Department of ~~Personnel Administration~~ *Human*
32 *Resources* may adopt rules and regulations for the administration
33 of excluded employer-employee relations, including supervisory
34 employer-employee relations, under these provisions. Such rules
35 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. 39. 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~~ *Human*
14 *Resources*. The registration statement shall, at a minimum, list the
15 name of the organization, its affiliations, headquarters, and other
16 business addresses, its principal business telephone number, a list
17 of principal officers and representatives, and a copy of its
18 organization bylaws.

19 SEC. 40. Section 3539.5 of the Government Code is amended
20 to read:

21 3539.5. (a) The Department of ~~Personnel Administration~~
22 *Human Resources* may adopt or amend regulations to implement
23 employee benefits for those state officers and employees excluded
24 from, or not otherwise subject to, the Ralph C. Dills Act (Chapter
25 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. 41. 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~~ *Human Resources* relative to the payment of these
28 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~~ *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. 42. 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~~ *Human*
3 *Resources*.

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

5 SEC. 43. 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~~ *Human Resources*.

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

29 SEC. 44. Section 8546 of the Government Code is amended
30 to read:

31 8546. It is the intent of the Legislature that the Bureau of State
32 Audits have the independence necessary to conduct all of its audits
33 in conformity with “Government Auditing Standards” published
34 by the Comptroller General of the United States and the standards
35 published by the American Institute of Certified Public
36 Accountants, free from influence of existing state control agencies
37 that could be the subject of audits conducted by the bureau.
38 Therefore, all of the following exclusions apply to the office:

39 (a) Notwithstanding Section 19790, the State Auditor shall
40 establish an equal employment opportunity program that shall

1 meet the criteria and objectives established by the State Personnel
2 Board. The State Auditor shall report annually to the State
3 Personnel Board and the commission regarding the program.

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

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

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

19 (e) Notwithstanding Section 11033, the State Auditor or officers
20 and employees of the bureau may be absent from the state on
21 business of the state upon approval of the State Auditor or Chief
22 Deputy State Auditor.

23 (f) Sections 11040, 11042, and 11043 shall not apply to the
24 Bureau of State Audits. The State Auditor may employ legal
25 counsel under those terms that he or she deems necessary to
26 conduct the legal business of, or render legal counsel to, the State
27 Auditor.

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

36 (h) The State Auditor shall be exempt from all contract
37 requirements of the Public Contract Code that require oversight,
38 review, or approval by the Department of General Services or any
39 other state agency. The State Auditor may contract on behalf of

1 the State of California for goods and services that he or she deems
2 necessary for the furtherance of the purposes of the bureau.

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

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

21 SEC. 45. Section 8870.4 of the Government Code is amended
22 to read:

23 8870.4. (a) Except as provided in subdivision (d), the members
24 of the Alfred E. Alquist Seismic Safety Commission shall serve
25 without compensation but shall be paid per diem expenses of one
26 hundred dollars (\$100) for each day's attendance at a meeting of
27 the commission, plus actual necessary travel expenses as
28 determined by Department of ~~Personnel Administration~~ *Human*
29 *Resources* rules.

30 (b) The members of the commission who represent the
31 California Emergency Management Agency, the California
32 Building Standards Commission, and the Division of the State
33 Architect shall be employees in good standing of those respective
34 entities. Any per diem and travel expenses of those members of
35 the commission shall be paid by the agencies that they represent
36 on the commission, in compliance with applicable conditions or
37 regulations set by the Department of ~~Personnel Administration~~
38 *Human Resources*.

39 SEC. 46. Section 8880.18 of the Government Code is amended
40 to read:

1 8880.18. Compensation and Expenses

2 Commissioners shall be compensated at the rate of one hundred
3 dollars (\$100) for each day they are engaged in Commission
4 business. Commission members shall be reimbursed for actual
5 expenses incurred on Commission business, including necessary
6 travel expenses as determined by the Department of ~~Personnel~~
7 ~~Administration~~ *Human Resources*.

8 SEC. 47. Section 8903 of the Government Code is amended
9 to read:

10 8903. When traveling to and from a session of the Legislature,
11 or when traveling to and from a meeting of a committee of which
12 he or she is a member, or when traveling pursuant to any other
13 legislative function or responsibility as authorized or directed by
14 the rules of the house of which he or she is a member or by the
15 joint rules, when that travel is by a common carrier of passengers,
16 a Member of the Legislature shall be entitled to reimbursement
17 for the actual costs of travel by the common carrier. If the member
18 travels by other means and common carrier service is available
19 and feasible he or she shall be reimbursed in the amount of the
20 fare of available common carrier service. If common carrier service
21 is unavailable or not feasible, a member shall be reimbursed at a
22 rate not to exceed the rate established by the Department of
23 ~~Personnel Administration~~ *Human Resources* for the reimbursement
24 of officers and employees of the state pursuant to Section 19820.
25 No mileage shall be allowed or paid for travel in a conveyance
26 owned or provided by and at the expense of a public agency. As
27 used in this section, “common carrier” means carrier by aircraft,
28 railroad, bus, or vessel.

29 SEC. 48. Section 9149.4 of the Government Code is amended
30 to read:

31 9149.4. The members of the commission shall serve without
32 compensation, but shall receive reimbursement for travel and living
33 expenses in connection with their official duties, at rates established
34 by the Department of ~~Personnel Administration~~ *Human Resources*.

35 SEC. 49. Section 11270 of the Government Code is amended
36 to read:

37 11270. As used in this article, “administrative costs” means
38 the amounts expended by the Legislature, the Legislative Counsel
39 Bureau, the office of the Governor, the office of the State Chief
40 Information Officer, the Office of Planning and Research, the

1 Department of Justice, the office of the Controller, the office of
2 the Treasurer, the State Personnel Board, the Department of
3 Finance, the Office of Administrative Law, the Department of
4 ~~Personnel Administration~~ *Human Resources*, the Secretary of the
5 State and Consumer Services Agency, the Secretary of the
6 California Health and Human Services Agency, the Bureau of
7 State Audits, and the California State Library, and a proration of
8 any other cost to or expense of the state for services or facilities
9 provided for the Legislature and the above agencies, for supervision
10 or administration of the state government or for services to other
11 state agencies.

12 SEC. 50. Section 11552 of the Government Code is amended
13 to read:

14 11552. (a) Effective January 1, 1988, an annual salary of
15 eighty-five thousand four hundred two dollars (\$85,402) shall be
16 paid to each of the following:

- 17 (1) Commissioner of Financial Institutions.
- 18 (2) Commissioner of Corporations.
- 19 (3) Director of Transportation.
- 20 (4) Real Estate Commissioner.
- 21 (5) Director of Social Services.
- 22 (6) Director of Water Resources.
- 23 (7) Chief Deputy Secretary for Adult Operations of the
24 Department of Corrections and Rehabilitation.
- 25 (8) Director of General Services.
- 26 (9) Director of Motor Vehicles.
- 27 (10) Chief Deputy Secretary for Juvenile Justice in the
28 Department of Corrections and Rehabilitation.
- 29 (11) Executive Officer of the Franchise Tax Board.
- 30 (12) Director of Employment Development.
- 31 (13) Director of Alcoholic Beverage Control.
- 32 (14) Director of Housing and Community Development.
- 33 (15) Director of Alcohol and Drug Programs.
- 34 (16) Director of Statewide Health Planning and Development.
- 35 (17) Director of ~~the Department of Personnel Administration~~
36 *Human Resources*.
- 37 (18) Director of Health Care Services.
- 38 (19) Director of Mental Health.
- 39 (20) Director of Developmental Services.
- 40 (21) State Public Defender.

- 1 (22) Director of the California State Lottery.
- 2 (23) Director of Fish and Game.
- 3 (24) Director of Parks and Recreation.
- 4 (25) Director of Rehabilitation.
- 5 (26) Director of the Office of Administrative Law.
- 6 (27) Director of Consumer Affairs.
- 7 (28) Director of Forestry and Fire Protection.
- 8 (29) The Inspector General pursuant to Section 6125 of the
- 9 Penal Code.
- 10 (30) Director of Child Support Services.
- 11 (31) Director of Industrial Relations.
- 12 (32) Chief Deputy Secretary for Adult Programs in the
- 13 Department of Corrections and Rehabilitation.
- 14 (33) Director of Toxic Substances Control.
- 15 (34) Director of Pesticide Regulation.
- 16 (35) Director of Managed Health Care.
- 17 (36) Director of Environmental Health Hazard Assessment.
- 18 (37) Director of Technology.
- 19 (38) Director of California Bay-Delta Authority.
- 20 (39) Director of California Conservation Corps.
- 21 (b) The annual compensation provided by this section shall be
- 22 increased in any fiscal year in which a general salary increase is
- 23 provided for state employees. The amount of the increase provided
- 24 by this section shall be comparable to, but shall not exceed, the
- 25 percentage of the general salary increases provided for state
- 26 employees during that fiscal year.
- 27 SEC. 51. Section 11565.5 of the Government Code is amended
- 28 to read:
- 29 11565.5. Notwithstanding Sections 11553, 11553.5, 11555,
- 30 11556, 11563.7, and 11564, with respect to any salary increase
- 31 made after January 1, 1997, for nonelected members of state boards
- 32 and commissions specified in Sections 11553, 11553.5, 11555,
- 33 11556, 11563.7, and 11564, the annual compensation provided by
- 34 these sections shall not automatically increase but may be increased
- 35 in any fiscal year in which there is a general increase in the salary
- 36 ranges and rates for state civil service classifications. The amount
- 37 of the increase, as determined by the Department of ~~Personnel~~
- 38 ~~Administration~~ *Human Resources* and subject to the appropriation
- 39 of funds by the Legislature in the annual Budget Act, shall not
- 40 exceed the percentage of the general increase in the salary rates

1 and ranges for classifications provided during that fiscal year for
2 state employees designated as managerial.

3 SEC. 52. Section 12010.6 of the Government Code is amended
4 to read:

5 12010.6. (a) The purpose of this section is to increase the
6 Governor’s managerial flexibility without increasing costs. It is
7 the intent of the Legislature that positions designated as exempt
8 from civil service by this section shall be filled by a Governor’s
9 appointment only after they are vacated by civil service employees.

10 (b) The Governor may designate as exempt from civil service
11 positions in the executive agencies over which he has line
12 responsibility and which have civil-service-exempt officers and
13 employees appointed pursuant to subdivision (f) or (g) of Section
14 4 of Article VII of the California Constitution; provided that the
15 designations shall be limited to positions covered by these
16 subdivisions and shall not cause the total number of positions
17 exempted under these subdivisions to exceed one-half of 1 percent
18 of the number of full-time equivalent positions in these agencies
19 collectively.

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

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

27 (e) The authority to designate positions as exempt from civil
28 service shall not result in the displacement of civil service
29 employees and shall not result in hiring additional employees into
30 positions not authorized in the Budget Act.

31 (f) The Department of ~~Personnel Administration~~ *Human*
32 *Resources* shall report to the Joint Legislative Audit Committee
33 by January 31 of each year the current percentage of
34 civil-service-exempt officers and employees in state service.

35 SEC. 53. Section 12012.85 of the Government Code is amended
36 to read:

37 12012.85. There is hereby created in the State Treasury a fund
38 called the “Indian Gaming Special Distribution Fund” for the
39 receipt and deposit of moneys received by the state from Indian
40 tribes pursuant to the terms of tribal-state gaming compacts. These

1 moneys shall be available for appropriation by the Legislature for
2 the following purposes:

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

5 (b) Grants, including any administrative costs, for the support
6 of state and local government agencies impacted by tribal
7 government gaming.

8 (c) Compensation for regulatory costs incurred by the State
9 Gaming Agency and the Department of Justice in connection with
10 the implementation and administration of tribal-state gaming
11 compacts.

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

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

29 (f) Any other purpose specified by law.

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

32 (1) An appropriation to the Indian Gaming Revenue Sharing
33 Trust Fund in an aggregate amount sufficient to make payments
34 of any shortfalls that may occur in the Indian Gaming Revenue
35 Sharing Trust Fund.

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

39 (3) The amount appropriated in the annual Budget Act for
40 allocation between the Department of Justice and the California

1 Gambling Control Commission for regulatory functions that
2 directly relates to Indian gaming.

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

5 SEC. 54. Section 13332.07 of the Government Code is amended
6 to read:

7 13332.07. No funds shall be used to purchase furnishings for
8 any house, mobilehome, or apartment of three or more rooms other
9 than a dormitory that is rented to a state employee. This provision
10 shall not apply to the purchase of refrigerators, heaters,
11 air-conditioning equipment, stoves, linoleum, or equipment
12 normally furnished in the construction of a house, as may be
13 determined by the Department of ~~Personnel Administration~~ *Human*
14 *Resources*. It is the intent of the Legislature that furnishings are
15 not to be provided by the state and that no moneys shall be paid
16 from any appropriation for their replacement or repair, except in
17 connection with the disposal thereof.

18 SEC. 55. Section 14876 of the Government Code is amended
19 to read:

20 14876. (a) Pressmen, typographers, linotypers, compositors,
21 bookbinders, lithographers, engravers, apprentices and assistants
22 and all other employees of the Office of State Printing employed
23 in allied work shall be paid on an hourly wage basis. The basic
24 wage of those employees shall be the prevailing hourly wage paid
25 to persons identified by the Department of ~~Personnel~~
26 ~~Administration~~ *Human Resources* to be in similar and comparable
27 employment by private printers in the major metropolitan areas in
28 California. The Department of ~~Personnel Administration~~ *Human*
29 *Resources* shall accept and give validity to certified copies of
30 agreed upon contracts submitted by either the employer, the
31 employer group, or the employee organization.

32 The Department of ~~Personnel Administration~~ *Human Resources*
33 shall survey only major employers where there are agreed upon
34 contracts. If any agreed upon contract contains any provision or
35 provisions that do not reflect the actual practice of the employer,
36 the Department of ~~Personnel Administration~~ *Human Resources*
37 shall disregard the provision or provisions.

38 If the Department of ~~Personnel Administration~~ *Human Resources*
39 finds that salary relationships between surveyed classes do not
40 accurately reflect relationships in duties and responsibilities of

1 employees of the Office of State Printing, the department shall
2 adjust those wage rates on an equitable basis notwithstanding the
3 survey findings.

4 As used in this section, prevailing wages and prevailing benefits
5 means wages and benefits arrived at through negotiation between
6 an employer or employer organization and an employee
7 organization that is the bona fide representative of the employer's
8 employees and certified as the bona fide representative by the
9 Director of Industrial Relations. In order to be so certified, the
10 employee organization shall be free from employer influence and
11 domination.

12 (b) In addition to these wages, and the rights and privileges
13 afforded state employees under the provisions of the State Civil
14 Service Act, and other statutes, there shall be paid to each employee
15 of the Office of State Printing, either directly or to a health and
16 welfare fund on his or her behalf, an amount equal to the prevailing
17 individual contributions paid to health and welfare plans for
18 employees in similar and comparable employment by private
19 printers in the major metropolitan areas. Where those contracts do
20 not disclose the dollar value of health and welfare benefits, the
21 state shall provide the same or substantially the same level of
22 benefits as provided for in the agreed upon contracts. Any
23 adjustments made pursuant to subdivisions (a) and (b) of this
24 section shall be effective as of March 1, 1977, and each March 1,
25 thereafter.

26 (c) As an alternative to subdivision (b), a person first employed
27 to any position described in subdivision (a) after October 1, 1977,
28 may elect to become an "employee" as defined in paragraph (5)
29 of subdivision (a) of Section 22772 within 90 days of commencing
30 that employment.

31 Any person who is a member of a health and welfare plan
32 described in subdivision (b) who loses eligibility for participation
33 in the plan, or if the plan of which the person is a member ceases
34 to exist, that person may elect to become an "employee," as defined
35 in paragraph (5) of subdivision (a) of Section 22772, within 90
36 days of the date that eligibility is lost or the plan ceases to exist.

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

1 (e) If the provisions of this section are in conflict with the
2 provisions of a memorandum of understanding reached pursuant
3 to Section 3517.5, the memorandum of understanding shall be
4 controlling without further legislative action, except that if the
5 provisions of a memorandum of understanding require the
6 expenditure of funds, the provisions may not become effective
7 unless approved by the Legislature in the annual Budget Act.

8 SEC. 56. Section 14998.3 of the Government Code is amended
9 to read:

10 14998.3. (a) The commission shall submit a list of
11 recommended candidates for the position of Director of the Film
12 Commission to the Governor for consideration. The Governor
13 shall appoint the director.

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

17 (c) The secretary, or his or her designee, shall act as the director
18 during the absence from the state or other temporary absence,
19 disability, or unavailability of the director, or during a vacancy in
20 that position.

21 SEC. 57. Section 16649.94 of the Government Code is amended
22 to read:

23 16649.94. This chapter shall not apply to any Internal Revenue
24 Code Section 457, 401(k), or 403(b) defined contribution plan
25 administered by the Department of ~~Personnel Administration~~
26 *Human Resources*.

27 SEC. 58. Section 18000.5 of the Government Code is amended
28 to read:

29 18000.5. (a) Notwithstanding Sections 18000 and 19990, any
30 officer or employee of the state may receive for his or her personal
31 use compensation from any nonprofit corporation formed
32 exclusively to aid and assist an entity described in subdivision (b)
33 for services rendered to the nonprofit corporation and for his or
34 her expenses of performing these services, provided that the
35 nonprofit corporation obtains the prior written approval of the
36 Department of ~~Personnel Administration~~ *Human Resources* to
37 provide the compensation to any officer or employee and files with
38 the Controller and the Department of ~~Personnel Administration~~
39 *Human Resources* by September 30 of each year a statement
40 disclosing the names of state officers and employees compensated

1 and their respective amounts of compensation for the preceding
2 fiscal year, and the giving or receipt of the compensation is not in
3 violation of any state or federal law. Any subsequent changes to
4 the compensation for any officer or employee provided under this
5 section must be approved by the Department of ~~Personnel~~
6 ~~Administration~~ *Human Resources*.

7 The board of directors of the entities described in subdivision
8 (b) shall determine whether the services are incompatible with the
9 state responsibilities of the officer or employee and whether the
10 services rendered to the nonprofit corporation interfere with the
11 officer's or employee's full-time obligation to the state. The board
12 of directors of the entities described in subdivision (b) also shall
13 review any issues of compliance of the nonprofit corporation with
14 the terms of any contractual arrangements with the state
15 independently of the officer's or employee's receiving
16 compensation from the nonprofit corporation.

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

20 (1) A state museum.

21 (2) A district agricultural association, as provided for in Section
22 3951 of the Food and Agricultural Code.

23 SEC. 59. Section 18573 of the Government Code is amended
24 to read:

25 18573. Each appointing power shall report promptly to the
26 board *and the Department of Human Resources* such information
27 as the board may require in connection with each appointment,
28 separation from service, or other change in position or salary, or
29 other matter affecting the status of positions or the performance
30 of duties of employees in the state civil service, ~~and all these~~. *The*
31 reports shall be prepared in the manner and form prescribed by
32 the board.

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

37 SEC. 60. Section 18574 of the Government Code is amended
38 to read:

39 18574. All officers and employees of the State and any county,
40 city, district, or other subdivision of the State recognized by law

1 shall aid in all proper ways in carrying this part and the board rules
2 into effect, ~~and~~ allow the reasonable use of public buildings, and
3 heat and light them for the purpose of making examinations of
4 applicants and holding hearings and investigations under this part.
5 ~~Such persons~~ *Officers and employees* shall afford to the board ~~and~~
6 *the Department of Human Resources*, or ~~its~~ *the board's or*
7 *department's* authorized representatives, all reasonable facilities
8 ~~and~~, permit inspection of all books and papers applying or in any
9 way appertaining to all offices subject to the authority of the ~~State,~~
10 ~~and state~~, produce ~~such~~ *the* books or papers, and attend and testify
11 when required so to do.

12 SEC. 61. Section 18706 of the Government Code is amended
13 to read:

14 18706. The board may make agreements with personnel
15 agencies in other jurisdictions, political subdivisions, and ~~State~~
16 *state* agencies excepted from the ~~State~~ *state* civil service.

17 SEC. 62. Section 18707 of the Government Code is amended
18 to read:

19 18707. The board ~~and the Department of Human Resources~~
20 may enter into agreements to make available ~~its~~ *their* services and
21 facilities, upon request, to any county, city, district or other
22 subdivision of the state recognized by law, and to state agencies
23 excepted from the state civil service, and they may enter into
24 ~~agreements~~ *agreements* for the exchange of personnel services or
25 the utilization of the services and facilities ~~of the board.~~ ~~Such.~~ *The*
26 agreements shall be approved by the Director of General Services.

27 SEC. 63. Section 18708 of the Government Code is amended
28 to read:

29 18708. The board shall cooperate with the Director of Finance,
30 the Department of ~~Personnel Administration~~ *Human Resources*,
31 the California Victim Compensation and Government Claims
32 Board, the Controller, and other state agencies, in matters not
33 covered by this part, and not inconsistent with this part, to promote
34 the efficient and economical administration of the state's business.

35 SEC. 64. Section 18711 of the Government Code is amended
36 to read:

37 18711. The board ~~and the Department of Human Resources~~
38 may join associations of personnel agencies having as their purpose
39 the interchanging or supplying of information relating to the
40 technique of personnel administration.

1 SEC. 65. Section 18714 of the Government Code is amended
2 to read:

3 18714. (a) Nothing in this part shall preclude the Department
4 of ~~Personnel Administration~~ *Human Resources* from providing by
5 rule for a system of adjusting employee grievances which shall be
6 administered within the departments before recourse to any remedy
7 provided in this part.

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

15 SEC. 66. Section 18717 of the Government Code is amended
16 to read:

17 18717. (a) The board shall develop objective criteria for
18 determining the application of the state safety category of
19 membership in the Public Employees' Retirement System to
20 positions in the state civil service. Upon the request of the
21 Department of ~~Personnel Administration~~ *Human Resources* or an
22 employee organization, the board shall then determine which
23 classes of positions meet all or part of the elements of the criteria
24 and shall list the positions in order based upon the degree in which
25 their duties meet the criteria. An employee organization that
26 requests a determination with respect to a class of position
27 previously determined not to meet the criteria shall submit a written
28 argument supporting the assertion that the class of position meets
29 the criteria. The board, if it finds the written argument to be
30 unpersuasive, may refuse to commence determination proceedings
31 unless and until either the Department of ~~Personnel Administration~~
32 *Human Resources* requests a determination with respect to that
33 class of position or the employee organization submits to the board
34 a supporting argument which the board finds persuasive. The board
35 shall indicate to the department whether the classes qualify for
36 state safety membership. The Public Employees' Retirement
37 System and employing agencies shall assist and cooperate with
38 the board in preparation of the report.

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

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

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

12 (e) For classes of employees recommended for state safety
13 membership by a memorandum of understanding reached pursuant
14 to Section 3517.5, a copy of the report authorized under this section
15 shall be submitted to the Legislature with the signed memorandum
16 of understanding.

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

19 SEC. 67. Section 18801.1 of the Government Code is amended
20 to read:

21 18801.1. The Department of ~~Personnel Administration~~ *Human*
22 *Resources* shall designate managerial positions, as defined in
23 subdivision (e) of Section 3513, and shall report those designations
24 to the board annually. Any disputes as to the managerial
25 classification or position designations may be appealed to the State
26 Personnel Board.

27 SEC. 68. Section 18802 of the Government Code is amended
28 to read:

29 18802. From time to time as it deems necessary, the board may
30 establish additional classes and divide, combine, alter, or abolish
31 existing classes. In establishing, altering, or abolishing classes, the
32 board shall consider the recommendations of the Department of
33 ~~Personnel Administration~~ *Human Resources*. When those actions
34 are taken the board shall determine in each instance whether
35 positions affected are to be reallocated to another class or classes
36 after taking into account the duties and responsibilities,
37 qualifications, performance standards, and other related criteria
38 before and after the change, and shall determine the status of the
39 probationary and permanent employees affected.

1 SEC. 69. Section 18904 of the Government Code is amended
2 to read:

3 18904. For each class there shall be maintained a separate
4 departmental reemployment list within a given state agency, which
5 shall consist of the names of persons on the general reemployment
6 list but employed in that state agency at the time of separation.
7 There shall also be maintained a separate subdivisional
8 reemployment list within a given state agency which shall consist
9 of the names of persons employed in a subdivision of a state agency
10 at the time of separation if subdivisions for that state agency have
11 been set up with the approval of the Department of ~~Personnel~~
12 ~~Administration~~ *Human Resources* for layoff purposes.

13 SEC. 70. Section 18905 of the Government Code is amended
14 to read:

15 18905. The order in which names appear on reemployment
16 lists shall be determined by the relative order of the scores
17 determined as for layoff in accordance with Section 19997.3 and
18 Department of ~~Personnel Administration~~ *Human Resources* rules.

19 SEC. 71. Section 19134 of the Government Code is amended
20 to read:

21 19134. (a) Personal services contracts entered into by a state
22 agency in accordance with Section 19130 for persons providing
23 janitorial and housekeeping services, custodians, food service
24 workers, laundry workers, window cleaners, and security guard
25 services shall include provisions for employee wages and benefits
26 that are valued at least 85 percent of the state employer cost of
27 wages and benefits provided to state employees for performing
28 similar duties.

29 (b) For purposes of this section, “benefits” includes “health,
30 dental, retirement, and vision benefits, and holiday, sick, and
31 vacation pay.”

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

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

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

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

7 (f) The Department of General Services and the Department of
8 ~~Personnel Administration~~ *Human Resources* may adopt guidelines
9 and regulations to implement the requirements of this section.

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

11 (h) Holiday pay shall be provided to employees of contractors
12 providing services specified in subdivision (a) on any state holiday
13 that the state facility in which the services are being provided is
14 closed.

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

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

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

26 (2) A special certificate issued pursuant to Section 214 of Title
27 29 of the United States Code.

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

30 (4) A habilitation services program as described in Sections
31 19352 and 19356.6 of the Welfare and Institutions Code.

32 SEC. 72. Section 19172 of the Government Code is amended
33 to read:

34 19172. During the probationary period the appointing power
35 or his or her officially delegated representative shall evaluate the
36 work and efficiency of a probationer in the manner and at such
37 periods as the Department of ~~Personnel Administration~~ *Human*
38 *Resources* rules may require.

39 SEC. 73. Section 19253.5 of the Government Code is amended
40 to read:

1 19253.5. (a) In accordance with board rule, the appointing
2 power may require an employee to submit to a medical examination
3 by a physician or physicians designated by the appointing power
4 to evaluate the capacity of the employee to perform the work of
5 his or her position.

6 (b) Fees for the examination and for the services of medical
7 specialists or technicians, if necessary, shall be paid by the state
8 agency. The employee may submit medical or other evidence to
9 the examining physician or to the appointing power. The examining
10 physician shall make a written report of the examination to the
11 appointing power. The appointing power shall provide a copy to
12 the physician designated by the employee.

13 (c) When the appointing power, after considering the
14 conclusions of the medical examination and other pertinent
15 information, concludes that the employee is unable to perform the
16 work of his or her present position, but is able to perform the work
17 of another position including one of less than full time, the
18 appointing power may demote or transfer the employee to such a
19 position.

20 Except as authorized by the Department of ~~Personnel~~
21 ~~Administration~~ *Human Resources* under Section 19837, the
22 employee demoted or transferred pursuant to this section shall
23 receive the maximum of the salary range of the class to which he
24 or she is demoted or transferred, provided that the salary is not
25 greater than the salary he or she received at the time of his or her
26 demotion or transfer.

27 (d) When the appointing power after considering the conclusions
28 of the medical examination provided for by this section or medical
29 reports from the employee's physician, and other pertinent
30 information, concludes that the employee is unable to perform the
31 work of his or her present position, or any other position in the
32 agency, and the employee is not eligible or waives the right to
33 retire for disability and elects to withdraw his or her retirement
34 contributions or to permit his or her contributions to remain in the
35 retirement fund with rights to service retirement, the appointing
36 power may terminate the appointment of the employee.

37 (e) The appointing power may demote, transfer, or terminate
38 an employee under this section without requiring the employee to
39 submit to a medical examination when the appointing power relies
40 upon a written statement submitted to the appointing power by the

1 employee as to the employee's condition or upon medical reports
2 submitted to the appointing power by the employee.

3 (f) The employee shall be given written notice of any demotion,
4 transfer, or termination under this section at least 15 days prior to
5 the effective date thereof. No later than 15 days after service of
6 the notice, the employee may appeal the action of the appointing
7 power to the board. The board, in accordance with its rules, shall
8 hold a hearing. The board may sustain, disapprove, or modify the
9 demotion, transfer, or termination.

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

14 (h) Upon the request of an appointing authority or the petition
15 of the employee who was terminated, demoted, or transferred in
16 accordance with this section, the employee shall be reinstated to
17 an appropriate vacant position in the same class, in a comparable
18 class or in a lower related class if it is determined by the board
19 that the employee is no longer incapacitated for duty. Such a
20 reinstatement to a position in a different agency may be made only
21 with the concurrence of that agency. In approving or ordering the
22 reinstatements, the board may require the satisfactory completion
23 of a new probationary period. When the board finds the employee
24 who was terminated, demoted, or transferred is no longer
25 incapacitated for duty but there is no vacant position to which the
26 employee appropriately can be appointed, the name of the
27 employee shall be placed upon those reemployment lists that are
28 determined to be appropriate by the board.

29 (i) (1) If the appointing power, after considering the conclusions
30 of the medical examination provided for by this section or medical
31 reports from the employee's physician and other pertinent
32 information, concludes that the employee is unable to perform the
33 work of his or her present position or any other position in the
34 agency and the employee is eligible and does not waive the right
35 to retire for disability, the appointing power shall file an application
36 for disability retirement on the employee's behalf. The appointing
37 power shall give the employee 15 days written notice of its
38 intention to file such an application and a reasonable opportunity
39 to respond to the appointing power prior to the appointing power's
40 filing of the application. However, the appointing power's decision

1 to file the application is final and is not appealable to the State
2 Personnel Board.

3 (2) Notwithstanding Section 21153, upon filing the application
4 for disability retirement, the appointing power may remove the
5 employee from the job and place the employee on involuntary
6 leave status. The employee may use any accrued leave eligible
7 during the period of the involuntary leave. If the employee’s leave
8 credits and programs are exhausted or if they do not provide
9 benefits at least equal to the estimated retirement allowance, the
10 appointing power shall pay the employee an additional temporary
11 disability allowance so that the employee receives payment equal
12 to the retirement allowance. The appointing power shall continue
13 to make all employer contributions to the employee’s health plans
14 during the period of the involuntary leave.

15 (3) If the application for disability retirement is subsequently
16 granted, the retirement system shall reimburse the appointing power
17 for the temporary disability allowance which shall be deducted
18 from any back disability retirement benefits otherwise payable to
19 the employee. If the application is denied, the appointing power
20 shall reinstate the employee to his or her position with back salary
21 and benefits pursuant to subdivision (g), less any temporary
22 disability allowance paid by the appointing power. The appointing
23 power shall also restore any leave credits the employee used during
24 the period of the involuntary leave.

25 SEC. 74. Section 19261 of the Government Code is amended
26 to read:

27 19261. (a) The Department of ~~Personnel Administration~~
28 *Human Resources* may establish standards of health and safety in
29 state agencies and may develop a comprehensive health and safety
30 program designed to improve the efficiency and raise the morale
31 of state employees.

32 Nothing in this section or in the standards established thereunder
33 shall discriminate against treatment by prayer or spiritual means
34 nor require physical examination of any employee who files with
35 the board an affidavit setting forth that he or she depends
36 exclusively upon prayer for healing in accordance with the
37 teachings of a bona fide religious sect, denomination or
38 organization and that he or she is to the best of his or her
39 knowledge and belief in good health and that he or she claims
40 exemption on such grounds, except that when there is probable

1 cause to believe that such employee is not physically able to
2 perform the duties of his or her employment, the board may require
3 a physical examination of the employee sufficient to indicate
4 whether or not he or she is able to perform the duties of his or her
5 employment.

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

13 SEC. 75. Section 19573 is added to the Government Code, to
14 read:

15 19573. The Department of Human Resources may establish
16 disciplinary criteria applicable to adverse actions taken by
17 appointing bodies pursuant to the causes of discipline set forth in
18 Section 19572.

19 SEC. 76. Section 19576.1 of the Government Code is amended
20 to read:

21 19576.1. Effective January 1, 1996, notwithstanding Section
22 19576, this section shall apply only to state employees in State
23 Bargaining Unit 5.

24 Whenever an answer is filed by an employee who has been
25 suspended without pay for five days or less or who has received
26 a formal reprimand or up to a five percent reduction in pay for five
27 months or less, the Department of ~~Personnel Administration~~ *Human*
28 *Resources* or its authorized representative shall make an
29 investigation, with or without a hearing, as it deems necessary.
30 However, if he or she receives one of the cited actions in more
31 than three instances in any 12-month period, he or she, upon each
32 additional action within the same 12-month period, shall be
33 afforded a hearing before the State Personnel Board if he or she
34 files an answer to the action.

35 The Department of ~~Personnel Administration~~ *Human Resources*
36 shall not have the above authority with regard to formal
37 reprimands. Formal reprimands shall not be appealable by the
38 receiving employee by any means, except that the State Personnel
39 Board, pursuant to its constitutional authority, shall maintain its
40 right to review all formal reprimands. Formal reprimands shall

1 remain available for use by the appointing authorities for the
2 purpose of progressive discipline.

3 Disciplinary action taken pursuant to this section is not subject
4 to Sections 19180, 19574.1, 19574.2, 19575, 19575.5, 19579,
5 19580, 19581, 19581.5, 19582, 19583, and 19587, or to State
6 Personnel Board Rules 51.1 to 51.9, inclusive, 52, and 52.1 to
7 52.5, inclusive.

8 Notwithstanding any other law or rule, if the provisions of this
9 section are in conflict with the provisions of the memorandum of
10 understanding reached pursuant to Section 3517.5, the
11 memorandum of understanding shall be controlling without further
12 legislative action, except that if the provisions of a memorandum
13 of understanding require the expenditure of funds, the provisions
14 shall not become effective unless approved by the Legislature in
15 the annual Budget Act.

16 SEC. 77. Section 19582 of the Government Code is amended
17 to read:

18 19582. (a) Hearings may be held by the board, or by any
19 authorized representative, but the board shall render the decision
20 that in its judgment is just and proper.

21 During a hearing, after the appointing authority has completed
22 the opening statement or the presentation of evidence, the
23 employee, without waiving his or her right to offer evidence in the
24 event the motion is not granted, may move for a dismissal of the
25 charges.

26 If it appears that the evidence presented supports the granting
27 of the motion as to some but not all of the issues involved in the
28 action, the board or the authorized representative shall grant the
29 motion as to those issues and the action shall proceed as to the
30 issues remaining. Despite the granting of the motion, no judgment
31 shall be entered prior to a final determination of the action on the
32 remaining issues, and shall be subject to final review and approval
33 by the board.

34 (b) If a contested case is heard by an authorized representative,
35 he or she shall prepare a proposed decision in a form that may be
36 adopted as the decision in the case. A copy of the proposed decision
37 shall be filed by the board as a public record and furnished to each
38 party within 10 days after the proposed decision is filed with the
39 board. The board itself may adopt the proposed decision in its
40 entirety, may remand the proposed decision, or may reduce the

1 adverse action set forth therein and adopt the balance of the
2 proposed decision.

3 (c) If the proposed decision is not remanded or adopted as
4 provided in subdivision (b), each party shall be notified of the
5 action, and the board itself may decide the case upon the record,
6 including the transcript, with or without taking any additional
7 evidence, or may refer the case to the same or another authorized
8 representative to take additional evidence. If the case is so assigned
9 to an authorized representative, he or she shall prepare a proposed
10 decision as provided in subdivision (b) upon the additional
11 evidence and the transcript and other papers that are part of the
12 record of the prior hearing. A copy of the proposed decision shall
13 be furnished to each party. The board itself shall decide no case
14 provided for in this subdivision without affording the parties the
15 opportunity to present oral and written argument before the board
16 itself. If additional oral evidence is introduced before the board
17 itself, no board member may vote unless he or she heard the
18 additional oral evidence.

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

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

31 (e)

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

36 SEC. 78. Section 19583 of the Government Code is amended
37 to read:

38 19583. The board shall render a decision within a reasonable
39 time after the hearing or investigation. The adverse action taken
40 by the appointing power shall stand unless modified or revoked

1 by the board. If the board finds that the cause or causes for which
2 the adverse action was imposed were insufficient or not sustained,
3 or that the employee was justified in the course of conduct upon
4 which the causes were based, it may modify or revoke the adverse
5 action and it may order the employee returned to his or her position
6 with appropriate restoration of backpay and lost benefits either as
7 of the date of the adverse action or as of such later date as it may
8 specify. The decision of the board shall be entered upon the minutes
9 of the board and the official roster. *In arriving at a decision, the*
10 *board, in exercising its discretion consistent with its authority*
11 *under Section 3 of Article VII of the California Constitution, shall*
12 *give consideration and respect to any applicable disciplinary*
13 *criteria established pursuant to Section 19573.*

14 SEC. 79. Section 19592 of the Government Code is amended
15 to read:

16 19592. When action is taken under this article, the provisions
17 of this article and related board ~~rule~~ *and Department of Human*
18 *Resources rules* shall constitute the entire disciplinary action and
19 review process, except that the provisions of Sections 19574.1,
20 19583.5, and 19584 shall also apply in a manner consistent with
21 the provisions of this article.

22 SEC. 80. Section 19608 of the Government Code, as added by
23 Section 24 of Chapter 88 of the Statutes of 1998, is repealed.

24 ~~19608. Any demonstration project implemented under this~~
25 ~~chapter shall not include the adoption or waiver of regulations or~~
26 ~~statutes that are administered or enforced by the Department of~~
27 ~~Personnel Administration without the express approval of the~~
28 ~~Department of Personnel Administration.~~

29 SEC. 81. Section 19608 of the Government Code, as added by
30 Section 24 of Chapter 91 of the Statutes of 1998, is amended to
31 read:

32 19608. Any demonstration project implemented under this
33 chapter shall not include the adoption or waiver of regulations or
34 statutes that are administered or enforced by the Department of
35 ~~Personnel Administration~~ *Human Resources* without the express
36 approval of the Department of ~~Personnel Administration~~ *Human*
37 *Resources*.

38 SEC. 82. Section 19702 of the Government Code is repealed.

39 ~~19702. (a) A person shall not be discriminated against under~~
40 ~~this part on any basis listed in subdivision (a) of Section 12940,~~

1 as those bases are defined in Sections 12926 and 12926.1, except
2 as otherwise provided in Section 12940. A person shall not be
3 retaliated against because he or she has opposed any practice made
4 an unlawful employment practice, or made a charge, testified,
5 assisted, or participated in any manner in an investigation,
6 proceeding, or hearing under this part. This subdivision is
7 declaratory of existing law.

8 (b) For purposes of this article, “discrimination” includes
9 harassment.

10 (c) If the board finds that a person has engaged in discrimination
11 under this part, and it appears that this practice consisted of acts
12 described in Section 243.4, 261, 262, 286, 288, 288a, or 289 of
13 the Penal Code, the board, with the consent of the complainant,
14 shall provide the local district attorney’s office with a copy of the
15 board’s decision and order.

16 (d) (1) Except as otherwise provided in paragraph (2), if the
17 board finds that discrimination has occurred in violation of this
18 part, the board shall issue and cause to be served on the appointing
19 authority an order requiring the appointing authority to cause the
20 discrimination to cease and desist and to take any action, including,
21 but not limited to, hiring, reinstatement, or upgrading of employees,
22 with or without backpay, and compensatory damages, which, in
23 the judgment of the board, will effectuate the purposes of this part.
24 Consistent with this authority, the board may establish rules
25 governing the award of compensatory damages. The order shall
26 include a requirement of reporting the manner of compliance.

27 (2) Notwithstanding paragraph (1), this paragraph applies to
28 state employees in State Bargaining Unit 6 or 8. If the board finds
29 that discrimination has occurred in violation of this part, the board
30 shall issue and cause to be served on the appointing authority an
31 order requiring the appointing authority to cause the discrimination
32 to cease and desist and to take any action, including, but not limited
33 to, hiring, reinstatement, or upgrading of employees, with or
34 without backpay, adding additional seniority, and compensatory
35 damages, which, in the judgment of the board, will effectuate the
36 purposes of this part. Consistent with this authority, the board may
37 establish rules governing the award of compensatory damages.
38 The order shall include a requirement of reporting the manner of
39 compliance.

1 ~~(e) Any person claiming discrimination within the state civil~~
2 ~~service may submit a written complaint that states the particulars~~
3 ~~of the alleged discrimination, the name of the appointing authority,~~
4 ~~the persons alleged to have committed the unlawful discrimination,~~
5 ~~and any other information that the board may require. The~~
6 ~~complaint shall be filed with the appointing authority or, in~~
7 ~~accordance with board rules, with the board itself.~~

8 ~~(f) (1) Complaints shall be filed within one year of the alleged~~
9 ~~unlawful discrimination or the refusal to act in accordance with~~
10 ~~this section, except that this period may be extended for not greater~~
11 ~~than 90 days following the expiration of that year, if a person~~
12 ~~allegedly aggrieved by unlawful discrimination first obtained~~
13 ~~knowledge of the facts of the alleged unlawful discrimination after~~
14 ~~the expiration of one year from the date of its occurrence.~~
15 ~~Complaints of discrimination in adverse actions or rejections on~~
16 ~~probation shall be filed in accordance with Sections 19175 and~~
17 ~~19575.~~

18 ~~(2) Notwithstanding paragraph (1), this paragraph shall apply~~
19 ~~only to state employees in State Bargaining Unit 8. Complaints~~
20 ~~shall be filed within one year of the alleged unlawful discrimination~~
21 ~~or the refusal to act in accordance with this section, except that~~
22 ~~this period may be extended for not greater than 90 days following~~
23 ~~the expiration of that year, if a person allegedly aggrieved by~~
24 ~~unlawful discrimination first obtained knowledge of the facts of~~
25 ~~the alleged unlawful discrimination after the expiration of one year~~
26 ~~from the date of its occurrence. Complaints of discrimination in~~
27 ~~disciplinary actions defined in Section 19576.5 shall be filed in~~
28 ~~accordance with that section. Complaints of discrimination in all~~
29 ~~other disciplinary actions shall be filed in accordance with Section~~
30 ~~19575. Complaints of discrimination in rejections on probation~~
31 ~~shall be filed in accordance with Section 19175.3.~~

32 ~~(g) If an employee of the appointing authority refuses, or~~
33 ~~threatens to refuse, to cooperate in the investigation of a complaint~~
34 ~~of discrimination, the appointing authority may seek assistance~~
35 ~~from the board. The board may provide for direct investigation or~~
36 ~~hearing of the complaint, the use of subpoenas, or any other action~~
37 ~~that will effectuate the purposes of this section.~~

38 ~~(h) If a person demonstrates by a preponderance of evidence~~
39 ~~that the person's opposition to any practice made an unlawful~~
40 ~~employment practice under this part, or the person's charging,~~

1 ~~testifying, assisting, or participation in any manner in an~~
2 ~~investigation, proceeding, or hearing under this part, was a~~
3 ~~contributing factor in any adverse employment action taken against~~
4 ~~him or her, the burden of proof shall be on the supervisor, manager,~~
5 ~~employee, or appointing power to demonstrate by clear and~~
6 ~~convincing evidence that the alleged adverse employment action~~
7 ~~would have occurred for legitimate, independent reasons even if~~
8 ~~the person had not engaged in activities protected under this part.~~
9 ~~If the supervisor, manager, employee, or appointing power fails~~
10 ~~to meet this burden of proof in any administrative review,~~
11 ~~challenge, or adjudication in which retaliation has been~~
12 ~~demonstrated to be a contributing factor, the person shall have a~~
13 ~~complete affirmative defense to the adverse employment action.~~

14 (i) ~~As used in this part, “adverse employment action” includes~~
15 ~~promising to confer, or conferring, any benefit, effecting, or~~
16 ~~threatening to effect, any reprisal, or taking, or directing others to~~
17 ~~take, or recommending, processing, or approving, any personnel~~
18 ~~action, including, but not limited to, appointment, promotion,~~
19 ~~transfer, assignment, performance evaluation, suspension, or other~~
20 ~~disciplinary action.~~

21 SEC. 83. Section 19770 of the Government Code is amended
22 to read:

23 19770. (a) With the exception of Chapter 7.5 (commencing
24 with Section 400) of Part 1 of Division 2 of the Military and
25 Veterans Code, this part, rather than provisions of the Military and
26 Veterans Code, governs leave for military service, rights and
27 benefits accrued during that service, and reinstatement after that
28 service, for executive branch employees. Both the State Personnel
29 Board and the Department of ~~Personnel Administration~~ *Human*
30 *Resources* have responsibilities for carrying out certain provisions
31 of this chapter as provided in subdivision (b).

32 (b) The State Personnel Board is responsible for the provisions
33 of this chapter pertaining to civil service examinations, list
34 eligibility, appointments, reinstatements, probationary periods,
35 and status. The Department of ~~Personnel Administration~~ *Human*
36 *Resources* is responsible for the provisions of this chapter on
37 eligibility for military leave and the effect of these leaves on the
38 employee’s salary, vacation, sick leave, and seniority.

39 (c) For the purposes of this chapter:

1 (1) “Employee” means that term as defined by subdivision (d)
2 of Section 19815.

3 (2) “Civil service employee” means an employee legally holding
4 a position in the state civil service.

5 (3) “Exempt employee” means an employee who is exempt
6 from the state civil service by Section 4 of Article VII of the
7 California Constitution.

8 SEC. 84. Section 19775 of the Government Code is amended
9 to read:

10 19775. An employee who is granted a long-term military leave
11 of absence and who for a period of not less than one year
12 immediately prior to the effective date active duty begins has had
13 continuous state service as defined by Department of ~~Personnel~~
14 ~~Administration~~ *Human Resources* rule which is not broken by a
15 permanent separation shall be entitled to receive his or her salary
16 or compensation for the first 30 calendar days of active duty served
17 during the absence.

18 SEC. 85. Section 19775.1 of the Government Code is amended
19 to read:

20 19775.1. An employee who is granted a short-term military
21 leave of absence for active military duty, but not for inactive duty,
22 including, but not limited to, scheduled reserve drill periods, and
23 who for a period of not less than one year immediately prior to the
24 effective date of active duty has had continuous state service as
25 defined by Department of ~~Personnel Administration~~ *Human*
26 *Resources* rule that is not broken by a permanent separation, or
27 who has had continuous state service immediately prior to the
28 effective date of active duty not broken by a permanent separation
29 and sufficient recognized military service that need not be
30 contiguous to equal one year shall be entitled to receive his or her
31 salary or compensation for the first 30 calendar days of active duty
32 served during the absence.

33 An employee who is granted emergency military leave under
34 Section 19773, shall receive his or her salary or compensation as
35 a state employee while going to, engaging in, and returning from
36 the duty. The employee shall not receive his or her salary or
37 compensation for more than 30 days each time he or she is granted
38 the emergency military leave.

39 SEC. 86. Section 19775.15 of the Government Code is amended
40 to read:

1 19775.15. (a) In addition to the benefits provided pursuant to
2 Sections 19775 and 19775.1, an employee who, as a member of
3 the California National Guard or a United States military reserve
4 organization, is called into active duty as a result of the Iraq-Kuwait
5 crisis on or after August 2, 1990, shall have the benefits provided
6 for in subdivision (b).

7 (b) Any employee to which subdivision (a) applies, while on
8 active duty, shall, with respect to active duty served on or after
9 August 2, 1990, receive from the state, for a period not to exceed
10 180 calendar days, as part of his or her compensation both of the
11 following:

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

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

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

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

29 SEC. 87. Section 19775.16 of the Government Code is amended
30 to read:

31 19775.16. (a) In addition to the benefits provided pursuant to
32 Sections 19775 and 19775.1, an employee who, as a member of
33 the California National Guard or a United States military reserve
34 organization, is called into active duty as a result of the Bosnia
35 crisis on or after November 21, 1995, shall have the benefits
36 provided for in subdivision (b).

37 (b) Any employee to which subdivision (a) applies, while on
38 active duty, shall, with respect to active duty served on or after
39 November 21, 1995, as a result of the Bosnia crisis, receive from

1 the state, for a period not to exceed 180 calendar days, as part of
2 his or her compensation both of the following:

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

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

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

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

20 (e) Benefits provided under paragraph (1) of subdivision (b)
21 shall only be provided to an employee who was not eligible to
22 participate in the federal Ready Reserve Mobilization Income
23 Insurance Program (10 U.S.C. Sec. 12521 et seq.) or a successor
24 federal program that, in the determination of the Director of
25 ~~Personnel Administration~~ *Human Resources*, is substantively
26 similar to the federal Ready Reserve Mobilization Income
27 Insurance Program. For an employee eligible to participate in the
28 federal Ready Reserve Mobilization Income Insurance Program
29 or a successor program, and whose monthly salary as a state
30 employee was higher than the sum of his or her military pay and
31 allowances and the maximum allowable benefit under the federal
32 Ready Reserve Mobilization Income Insurance Program or a
33 successor program, the employee shall receive the amount payable
34 under paragraph (1) of subdivision (b), but that amount shall be
35 reduced by the maximum allowable benefit under the federal Ready
36 Reserve Mobilization Income Insurance Program or a successor
37 program. For individuals who elected the federal Ready Reserve
38 Mobilization Income Insurance Program, the state shall reimburse
39 for the cost of the insurance premium for the period of time on
40 active duty, not to exceed 180 calendar days.

1 SEC. 88. Section 19775.17 of the Government Code is amended
2 to read:

3 19775.17. (a) In addition to the benefits provided pursuant to
4 Sections 19775 and 19775.1, a state employee who, as a member
5 of the California National Guard or a United States military reserve
6 organization, is ordered to active duty by Presidential determination
7 that it is necessary to augment the active forces for any operational
8 mission, or when in time of national emergency declared by the
9 President or otherwise authorized by law, 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 as authorized pursuant to Sections 12302 and 12304 of Title
14 10 of the United States Code, but not for more than 180 calendar
15 days, as part of his or her compensation both of the following:

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

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

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

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

1 program, and whose monthly salary as a state employee was higher
2 than the sum of his or her military pay and allowances and the
3 maximum allowable benefit under the federally sponsored income
4 protection program, the state employee shall receive the amount
5 payable under paragraph (1) of subdivision (b), but that amount
6 shall be reduced by the maximum allowable benefit under the
7 federally sponsored income protection program. For individuals
8 who elected the federally sponsored income protection program,
9 the state shall reimburse for the cost of the insurance premium for
10 the period of time on active duty, not to exceed 180 calendar days.

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

14 (f) This section shall not apply to any state employee entitled
15 to additional compensation or benefits pursuant to Section
16 19775.16 or 19775.18 of this code, or Section 395.08 of the
17 Military and Veterans Code.

18 SEC. 89. Section 19775.18 of the Government Code is amended
19 to read:

20 19775.18. (a) In addition to the benefits provided pursuant to
21 Sections 19775 and 19775.1, a state employee who, as a member
22 of the California National Guard or a United States military reserve
23 organization, is ordered to active duty on and after September 11,
24 2001, as a result of the War on Terrorism, shall have the benefits
25 provided for in subdivision (b).

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

32 (1) The difference between the amount of his or her military
33 pay and allowances and the amount the employee would have
34 received as a state employee, including any merit raises that would
35 otherwise have been granted during the time the individual was
36 on active duty. The amount an employee, as defined in Section
37 18526, would have received as a state employee, including any
38 merit raises that would otherwise have been granted during the
39 time the individual was on active duty, shall be determined by the
40 Department of ~~Personnel Administration~~ *Human Resources*.

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

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

10 (d) Benefits provided under paragraph (1) of subdivision (b)
11 shall only be provided to a state employee who was not eligible
12 to participate in a federally sponsored income protection program
13 for National Guard personnel or military reserve personnel, or
14 both, called into active duty, as determined by the Department of
15 ~~Personnel Administration~~ *Human Resources*. For a state employee
16 eligible to participate in a federally sponsored income protection
17 program, and whose monthly salary as a state employee was higher
18 than the sum of his or her military pay and allowances and the
19 maximum allowable benefit under the federally sponsored income
20 protection program, the state employee shall receive the amount
21 payable under paragraph (1) of subdivision (b), but that amount
22 shall be reduced by the maximum allowable benefit under the
23 federally sponsored income protection program. For individuals
24 who elected the federally sponsored income protection program,
25 the state shall reimburse for the cost of the insurance premium for
26 the period of time on active duty, not to exceed 365 calendar days.

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

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

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

38 (g) This section does not apply to any state employee entitled
39 to additional compensation or benefits pursuant to Section

1 19775.16 or 19775.17 of this code, or Section 395.08 of the
2 Military and Veterans Code.

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

5 SEC. 90. The heading of Chapter 1 (commencing with Section
6 19815) of Part 2.6 of Division 5 of Title 2 of the Government Code
7 is amended to read:

8
9 CHAPTER 1. DEPARTMENT OF ~~PERSONNEL ADMINISTRATION~~
10 *HUMAN RESOURCES*
11

12 SEC. 91. Section 19815 of the Government Code is amended
13 to read:

14 19815. As used in this part:

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

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

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

20 (d) “Employee” or “state employee,” except where otherwise
21 indicated, means employees subject to the Ralph C. Dills Act
22 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
23 1), supervisory employees as defined in subdivision (g) of Section
24 3513, managerial employees as defined in subdivision (e) of
25 Section 3513, confidential employees as defined in subdivision
26 (f) of Section 3513, employees of the Legislative Counsel Bureau,
27 employees of the Bureau of State Audits, employees of the office
28 of the Inspector General, employees of the Public Employment
29 Relations Board, conciliators employed by the State Conciliation
30 Service within the Department of Industrial Relations, employees
31 of the Department of ~~Personnel Administration~~ *Human Resources*,
32 professional employees of the Department of Finance engaged in
33 technical or analytical state budget preparation other than audit
34 staff, intermittent athletic inspectors who are employees of the
35 State Athletic Commission, professional employees in the
36 Personnel/Payroll Services Division of the Controller’s office and
37 all employees of the executive branch of government who are not
38 elected to office.

39 SEC. 92. Section 19815.2 of the Government Code is repealed.

1 19815.2. ~~There is hereby created the Department of Personnel~~
2 ~~Administration, for the purposes of managing the nonmerit aspects~~
3 ~~of the state's personnel system.~~

4 SEC. 93. Section 19815.2 is added to the Government Code,
5 to read:

6 19815.2. (a) The Department of Human Resources (CalHR)
7 is hereby created following reorganization of state department,
8 agencies, and boards in an effort to better serve the human
9 resources and personnel needs of the state.

10 (b) Subject to Article VII of the California Constitution, the
11 Department of Human Resources succeeds to and is vested with
12 the duties, purposes, responsibilities, and jurisdiction exercised by
13 the State Personnel Board as its designee with respect to the State
14 Personnel Board's administrative and ministerial functions.

15 SEC. 94. Section 19815.41 of the Government Code is amended
16 to read:

17 19815.41. (a) Notwithstanding subdivision (e) of Section
18 19815.4, this section shall apply to state employees in State
19 Bargaining Unit 5, 6, or 8.

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

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

28 (d) If the provisions of this section are in conflict with the
29 provisions of a memorandum of understanding reached pursuant
30 to Section 3517.5, the memorandum of understanding shall be
31 controlling without further legislative action, except that if the
32 provisions of a memorandum of understanding require the
33 expenditure of funds, the provisions shall not become effective
34 unless approved by the Legislature in the annual Budget Act.

35 SEC. 95. Section 19815.8 of the Government Code is amended
36 to read:

37 19815.8. (a) No action or proceeding shall be brought by any
38 person having or claiming to have a cause of action or complaint
39 or ground for issuance of any complaint or legal remedy for wrongs
40 or grievances based on or related to any law administered by the

1 Department of ~~Personnel Administration~~ *Human Resources* unless
2 the action or proceeding is commenced and served within one year
3 after the cause of action or complaint or ground for issuance of
4 any writ or legal remedy first arose. Such a person shall not be
5 compensated for the time subsequent to the date when the cause
6 or ground arose unless the action or proceeding is filed and served
7 within 90 days after the cause or ground arose. Where an appeal
8 is taken from a decision of the department, the cause of action does
9 not arise until the final decision of the department.

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

14 SEC. 96. Section 19816.21 of the Government Code is amended
15 to read:

16 19816.21. (a) Notwithstanding Sections 18717 and 19816.20,
17 effective July 1, 2004, the following officers and employees, who
18 are in the following classifications or positions on or after July 1,
19 2004, shall be state safety members of the Public Employees'
20 Retirement System:

21 (1) State employees in State Bargaining Unit 7 (Protective
22 Services and Public Services) whose job classifications are subject
23 to state miscellaneous membership in the Public Employees'
24 Retirement System, unless otherwise excluded by a memorandum
25 of understanding.

26 (2) State employees in managerial, supervisory, or confidential
27 positions that are related to the job classifications described in
28 paragraph (1) and that are subject to state miscellaneous
29 membership in the Public Employees' Retirement System, provided
30 that the Department of ~~Personnel Administration~~ *Human Resources*
31 has approved their inclusion.

32 (3) Officers and employees of the executive branch of state
33 government who are not members of the civil service and who are
34 in positions that are related to the job classifications described in
35 paragraph (1) and that are subject to state miscellaneous
36 membership in the Public Employees' Retirement System, provided
37 that the Department of ~~Personnel Administration~~ *Human Resources*
38 has approved their inclusion.

39 (b) The department shall notify the Public Employees'
40 Retirement System of the classes or positions that become subject

1 to state safety membership under this section, as prescribed in
2 Section 20405.1.

3 SEC. 97. Section 19816.22 of the Government Code is amended
4 to read:

5 19816.22. (a) It is the intent of the Legislature in providing
6 funds for the Human Resources Modernization Project, within the
7 Department of ~~Personnel Administration's~~ *Human Resources's*
8 budget, to provide every state agency with the tools necessary to
9 recruit and retain its personnel. The Human Resources
10 Modernization Project integrates the competencies, skills, and
11 abilities of each employee across all human resource programs.
12 State agencies will use the services developed by the Human
13 Resources Modernization Project to recruit, assess, select, and
14 develop their personnel, as well as to plan for the future, with
15 performance management and succession applications.

16 (b) Authority is hereby granted, to the extent otherwise permitted
17 by law, to the Department of ~~Personnel Administration~~ *Human*
18 *Resources* to assess special funds, bond funds, and
19 nongovernmental cost funds in sufficient amounts to support the
20 cost of the Human Resources Modernization Project described in
21 subdivision (a). The Director of Finance shall determine the amount
22 of the total assessment for each fund periodically. Upon order of
23 the Director of the Department of Finance, the moneys authorized
24 pursuant to this act shall be transferred by the Controller, as needed,
25 from each fund for a total amount not to exceed the amounts
26 authorized in the annual Budget Act.

27 SEC. 98. Section 19819.5 of the Government Code is amended
28 to read:

29 19819.5. There is in the Department of ~~Personnel~~
30 ~~Administration~~ *Human Resources*, the Division of Labor Relations.

31 SEC. 99. Section 19822.6 of the Government Code is amended
32 to read:

33 19822.6. There is hereby established a Child Care Fund to
34 which funds shall be allocated from the amount appropriated in
35 the annual Budget Act for employee compensation. The Child
36 Care Fund shall be used to encourage development of child care
37 programs for dependent children of state employees. These
38 programs may include financial assistance to aid in the
39 development of child care centers administered by either nonprofit

1 corporations formed by state employees or other child care
2 providers.

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

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

7 The amount to be allocated and expended annually, from the
8 funds available for compensation increases, shall be determined
9 by the department. Notwithstanding Section 13340, the Child Care
10 Fund shall be available for expenditure without regard to fiscal
11 years through June 30, 1991, unless otherwise extended by statute
12 enacted prior to that date.

13 SEC. 100. Section 19827.3 of the Government Code is amended
14 to read:

15 19827.3. In order for the state to recruit skilled firefighters for
16 the California Department of Forestry and Fire Protection, it is the
17 policy of the state to consider prevailing salaries and benefits prior
18 to making salary recommendations. In order to provide
19 comparability in pay, the Department of ~~Personnel Administration~~
20 *Human Resources* shall take into consideration the salary and
21 benefits of other jurisdictions employing 75 or more full-time
22 firefighters who work in California.

23 SEC. 101. Section 19829.5 of the Government Code is amended
24 to read:

25 19829.5. (a) The Department of ~~Personnel Administration~~
26 *Human Resources* shall provide a memorandum of understanding
27 pursuant to Section 3517.5 to the Legislative Analyst who shall
28 have 10 calendar days from the date the tentative agreement is
29 received to issue a fiscal analysis to the Legislature. The Legislative
30 Analyst may prioritize the preparation of a fiscal analysis or report
31 under this subdivision among other workload, including the
32 submission of multiple memoranda of understanding. The
33 memorandum of understanding shall not be subject to legislative
34 determination until either the Legislative Analyst has presented a
35 fiscal analysis of the memorandum of understanding or until 10
36 calendar days has elapsed since the memorandum was received
37 by the Legislative Analyst.

38 (b) Each memorandum of understanding submitted by the
39 department to the Legislative Analyst shall include the
40 department's analysis of costs and savings.

1 SEC. 102. Section 19829.6 of the Government Code is amended
2 to read:

3 19829.6. The Department of ~~Personnel Administration~~ *Human*
4 *Resources* shall post, in a clear and conspicuous manner on the
5 department's Web site, each memorandum of understanding that
6 has been submitted to the Legislature for determination pursuant
7 to Section 3517.5 and that has been ratified by the affected union
8 membership. The memorandum of understanding of the agreement
9 reached between the Governor and the recognized employee
10 organization shall be posted on the department's Web site in its
11 entirety, with a declaration that the memorandum has been
12 submitted to the office of the Legislative Analyst and the
13 Legislature, including the date of that submission. The department
14 shall include on its Web site posting a summary of the
15 memorandum of understanding that is the same summary provided
16 to the Legislature by the department.

17 SEC. 103. Section 19844.7 of the Government Code is amended
18 to read:

19 19844.7. (a) Pursuant to regulations adopted by the Department
20 of ~~Personnel Administration~~ *Human Resources*, and subject to the
21 collective bargaining agreement between the state and the
22 employee's exclusive representative, a state employee who has
23 been appointed as a member of a precinct board and takes time
24 off from state employment to serve as a member of that precinct
25 board on election day shall receive payment of his or her regular
26 wages or salary for that election day, without forfeiting any
27 compensation received for his or her service as a precinct board
28 member. As used in this section, "state employee" does not include
29 any officer or employee appointed or employed by the Legislature,
30 or any officer, deputy, or employee selected or appointed by an
31 elected state officer.

32 (b) The eligibility of a state employee to receive time off for
33 the purposes of subdivision (a) shall be subject to approval of the
34 employee's manager or supervisor and pursuant to the terms of
35 the collective bargaining agreement, when applicable.

36 (c) The Department of ~~Personnel Administration~~ *Human*
37 *Resources* shall adopt regulations to implement this section. The
38 regulations shall include, among other things, consideration of
39 such items as the impact of the employee's absence on state
40 services and operations and the documentation necessary for a

1 state employee to establish that he or she has taken time off from
2 state employment to serve as a member of a precinct board and is
3 therefore eligible to receive his or her regular wages or salary as
4 provided in subdivision (a). The regulations required by this section
5 shall be drafted and adopted as soon as practicable.

6 SEC. 104. Section 19849.11 of the Government Code is
7 amended to read:

8 19849.11. The Department of ~~Personnel Administration~~ *Human*
9 *Resources*, subject to such conditions as it may establish, subject
10 to existing statutes governing health benefits and group term life
11 insurance offered through the Public Employees' Retirement
12 System, and subject to all other applicable provisions of state law,
13 may enter into contracts for the purchase of employee benefits
14 with respect to managerial and confidential employees as defined
15 by subdivisions (e) and (f) of Section 3513, and employees
16 excluded from the definition of state employee in subdivision (c)
17 of Section 3513, and officers or employees of the executive branch
18 of government who are not members of the civil service, and
19 supervisory employees as defined in subdivision (g) of Section
20 3513. Benefits shall include, but not be limited to, group life
21 insurance, group disability insurance, long-term disability
22 insurance, group automobile liability and physical damage
23 insurance, and homeowners' and renters' insurance.

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

26 If it is determined that a self-insured long-term disability
27 insurance program will be established, the department shall provide
28 its cost analysis to the Joint Legislative Budget Committee at least
29 30 days prior to initiating the establishment of the program.

30 SEC. 105. Section 19849.13 of the Government Code is
31 amended to read:

32 19849.13. Notwithstanding Sections 19839, 19858.1, 19858.3,
33 19858.4, 19859, and 19859.3, the Department of ~~Personnel~~
34 ~~Administration~~ *Human Resources* may provide for vacation, sick
35 leave, annual leave, and bereavement leave benefits, including the
36 lump-sum payment of any amount of accumulated leave, with
37 respect to each state officer and employee who either is excluded
38 from the definition of state employee in subdivision (c) of Section
39 3513, or is a nonelected officer or employee of the executive branch
40 of government who is not a member of the civil service.

1 SEC. 106. Section 19849.14 of the Government Code is
2 amended to read:

3 19849.14. Effective July 1, 1987, there is hereby established
4 in the State Treasury the Nonrepresented State Employee
5 Long-Term Disability Insurance Fund for the purpose of funding
6 nonrepresented state employee long-term disability insurance
7 benefits. Premiums derived from contributions by the employer
8 or employee shall be credited to the fund. Income of whatever
9 nature, earned on the Nonrepresented State Employee Long-Term
10 Disability Insurance Fund during any fiscal year, shall be credited
11 to the fund. Moneys in this fund are continuously appropriated
12 without regard to fiscal year, notwithstanding Section 13340 of
13 the Government Code. The fund shall be used by the Department
14 of ~~Personnel Administration~~ *Human Resources* to pay long-term
15 disability claims and administrative costs.

16 SEC. 107. Section 19849.16 of the Government Code is
17 amended to read:

18 19849.16. Notwithstanding Section 18000, the Department of
19 ~~Personnel Administration~~ *Human Resources* may provide by rule
20 for the accumulation and use of paid leave, including a lump-sum
21 payment for accumulated leave, with respect to nonelected
22 members of state boards and commissions whose annual salaries
23 are fixed by law. Any rules adopted pursuant to this section shall
24 provide for the reduction of the salary fixed by law of those
25 nonelected members of state boards and commissions when their
26 absences exceed their paid leave. The Department of ~~Personnel~~
27 ~~Administration~~ *Human Resources* shall not provide paid leave
28 benefits greater than the maximum benefits provided the employees
29 designated as managerial by the Department of ~~Personnel~~
30 ~~Administration~~ *Human Resources*. Rules adopted pursuant to this
31 section shall take effect after July 1, 1991.

32 SEC. 108. Section 19853 of the Government Code is amended
33 to read:

34 19853. (a) All state employees shall be entitled to the following
35 holidays: January 1, the third Monday in January, the third Monday
36 in February, March 31, the last Monday in May, July 4, the first
37 Monday in September, November 11, Thanksgiving Day, the day
38 after Thanksgiving, December 25, the day chosen by an employee
39 pursuant to Section 19854, and every day appointed by the
40 Governor of this state for a public fast, thanksgiving, or holiday.

1 (b) If a day listed in this subdivision falls on a Sunday, the
2 following Monday shall be deemed to be the holiday in lieu of the
3 day observed. If November 11 falls upon a Saturday, the preceding
4 Friday shall be deemed to be the holiday in lieu of the day
5 observed.

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

10 (d) For the purpose of computing the number of hours worked,
11 time when an employee is excused from work because of holidays,
12 sick leave, vacation, annual leave, compensating time off, or any
13 other leave shall not be considered as time worked by the employee
14 for the purpose of computing cash compensation for overtime or
15 compensating time off for overtime.

16 (e) Any state employee, as defined in subdivision (c) of Section
17 3513, may elect to receive eight hours of holiday credit for the
18 fourth Friday in September, known as “Native American Day,” in
19 lieu of receiving eight hours of personal holiday credit in
20 accordance with Section 19854.

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

24 (g) If subdivision (a), (c), or (d) is in conflict with the provisions
25 of a memorandum of understanding executed or amended pursuant
26 to Section 3517.5 on or after February 1, 2009, or the date that the
27 act adding this section takes effect, whichever is later, the
28 memorandum of understanding shall be controlling without further
29 legislative action, except that if those provisions of the
30 memorandum of understanding require the expenditure of funds,
31 the provisions shall not become effective unless approved by the
32 Legislature in the annual Budget Act.

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

36 SEC. 109. Section 19853.1 of the Government Code is amended
37 to read:

38 19853.1. (a) Notwithstanding Section 19853, this section shall
39 apply to state employees in State Bargaining Unit 5.

1 (b) Except as provided in subdivision (c), all employees shall
2 be entitled to the following holidays: January 1, the third Monday
3 in January, the third Monday in February, March 31, the last
4 Monday in May, July 4, the first Monday in September, November
5 11, the day after Thanksgiving, December 25, and every day
6 appointed by the Governor of this state for a public fast,
7 thanksgiving, or holiday.

8 If a day listed in this subdivision falls on a Sunday, the following
9 Monday shall be deemed to be the holiday in lieu of the day
10 observed. If November 11 falls upon a Saturday, the preceding
11 Friday shall be deemed to be the holiday in lieu of the day
12 observed. Any employee who may be required to work on any of
13 the holidays included in this section and who does work on any
14 of these holidays shall be entitled to be paid compensation or given
15 compensating time off for that work in accordance with his or her
16 classification's assigned workweek group.

17 (c) If the provisions of subdivision (b) are in conflict with the
18 provisions of a memorandum of understanding reached pursuant
19 to Section 3517.5, the memorandum of understanding shall be
20 controlling without further legislative action, except that if the
21 provisions of a memorandum of understanding require the
22 expenditure of funds, the provisions shall not become effective
23 unless approved by the Legislature in the annual Budget Act.

24 (d) Any employee who either is excluded from the definition
25 of state employee in subdivision (c) of Section 3513, or is a
26 nonelected officer or employee of the executive branch of
27 government who is not a member of the civil service, is entitled
28 to the following holidays, with pay, in addition to any official state
29 holiday appointed by the Governor:

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

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

36 (3) When a holiday, other than a personal holiday, falls on a
37 Saturday, an employee shall, regardless of whether he or she works
38 on the holiday, accrue only an additional eight hours of personal
39 holiday credit per fiscal year for the holiday. The holiday credit

1 shall be accrued on the actual date of the holiday and shall be used
2 within the same fiscal year.

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

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

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

12 (e) Any employee, as defined in subdivision (c) of Section 3513,
13 may elect to use eight hours of vacation, annual leave, or
14 compensating time off consistent with departmental operational
15 needs and collective bargaining agreements for the fourth Friday
16 in September, known as “Native American Day.”

17 (f) This section shall become effective with regard to the March
18 31 holiday only when the Department of ~~Personnel Administration~~
19 ~~Human Resources~~ notifies the Legislature that the language
20 contained in this section has been agreed to by all exclusive
21 representatives, and the Department of ~~Personnel Administration~~
22 ~~Human Resources~~ authorizes this holiday to be applied to
23 employees designated as excluded from the Ralph C. Dills Act
24 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
25 1), and the necessary statutes are amended to reflect this change.

26 SEC. 110. Section 19867 of the Government Code is amended
27 to read:

28 19867. (a) The Legislature finds and declares that the interests
29 of the state would be served by the Department of ~~Personnel~~
30 ~~Administration~~ *Human Resources* meeting and conferring with
31 the exclusive representatives of the various bargaining units to
32 discuss the establishment of long-term care benefits for state
33 employees.

34 (b) If long-term care insurance plans are not available to state
35 employees within one year following the date on which any
36 long-term care plan is first offered for enrollment by the Board of
37 Administration of the Public Employees’ Retirement System, state
38 employees may enroll in the long-term care insurance plans offered
39 by the Board of Administration of the Public Employees’
40 Retirement System.

1 (c) If subdivision (b) is in conflict with a memorandum of
2 understanding entered into pursuant to Section 3517.5, the
3 memorandum of understanding shall prevail and control without
4 further legislative action, except that if the prevailing provisions
5 of a memorandum of understanding require the expenditure of
6 funds, these provisions may not become effective unless approved
7 by the Legislature in the annual Budget Act.

8 (d) The Department of ~~Personnel Administration~~ *Human*
9 *Resources* may enter into contracts with the Board of
10 Administration of the Public Employees' Retirement System to
11 allow active eligible state employees, and their spouses and parents,
12 to enroll in any long-term care insurance plans offered by the Board
13 of Administration.

14 SEC. 111. Section 19999.1 of the Government Code is amended
15 to read:

16 19999.1. The Department of ~~Personnel Administration~~ *Human*
17 *Resources*, in conjunction with the Board of Administration of the
18 Public Employees' Retirement System, shall develop legislation
19 which will implement a two-tiered retirement system.

20 SEC. 112. Section 19999.3 of the Government Code is amended
21 to read:

22 19999.3. (a) The Legislature finds and declares that this chapter
23 is intended to provide an alternate retirement program for new
24 state employees who are members of the Public Employees'
25 Retirement System pursuant to Section 20281.5 and who, during
26 the 24 months of employment following the date they qualify for
27 membership in the system pursuant to that section, do not make
28 contributions into the defined benefit retirement program.

29 (b) The Legislature hereby authorizes the development of a
30 retirement program under the Deferred Compensation Plan, the
31 tax-deferred Savings Plan, or any other acceptable defined
32 contribution plan.

33 (c) The state employees described in subdivision (a) who are
34 employed in positions that are subject to the federal system, as
35 defined in Section 20033, shall contribute to the retirement program
36 5 percent of compensation, as set forth in Part 3 (commencing with
37 Section 20000), in excess of five hundred thirteen dollars (\$513)
38 per month paid to that member for service rendered. The state
39 employer shall pick up the contribution, as authorized by Section
40 414(h) of the Internal Revenue Code, and shall deduct the

1 contribution from the employee's compensation. The contributions
2 required by this subdivision shall cease when the state employee
3 begins making contributions to the defined benefit retirement
4 program.

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

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

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

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

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

39 SEC. 113. Section 19999.21 of the Government Code is
40 amended to read:

1 19999.21. The Department of ~~Personnel Administration~~ *Human*
2 *Resources* shall administer the retirement program established by
3 this chapter. The department shall provide by rule for the regulation
4 of the retirement program and the method by which the benefit
5 payments would be made to eligible recipients. The department
6 shall by rule establish the level of employee deferrals to the plan,
7 cessation of, or transfer of membership to the Public Employees'
8 Retirement System upon qualification, continued participation in
9 the plan, and other provisions necessary for the implementation
10 of this retirement program. The department may assess each state
11 agency a fee for the costs associated with administration of this
12 program.

13 The regulations shall not be subject to the review and approval
14 of the Office of Administrative Law, pursuant to Chapter 3.5
15 (commencing with Section 11340) of Part 1 of Division 3 of Title
16 2. The regulations shall become effective immediately upon filing
17 with the Secretary of State.

18 SEC. 114. Section 19999.31 of the Government Code is
19 amended to read:

20 19999.31. The Department of ~~Personnel Administration~~ *Human*
21 *Resources* shall administer the retirement program established by
22 this chapter. The department shall provide the method by which
23 benefit payments shall be made to eligible recipients. The
24 department shall establish the program, the transfer of contributions
25 to the Public Employees' Retirement System upon qualification
26 and election by the member, continued participation in the program,
27 and other provisions necessary for the implementation of the
28 retirement program. The department may assess each state agency
29 a fee for the costs associated with administration of this program.

30 SEC. 115. Section 20068 of the Government Code is amended
31 to read:

32 20068. (a) "State safety service" means service rendered as a
33 state safety member only while receiving compensation for that
34 service, except as provided in Article 4 (commencing with Section
35 20990) of Chapter 11. It also includes service rendered in an
36 employment in which persons have since become state safety
37 members and service rendered prior to April 1, 1973, and falling
38 within the definition of warden, forestry, and law enforcement
39 service under this chapter prior to April 1, 1973. "State safety
40 service" pursuant to this subdivision does not include service as

1 an investigator prior to April 1, 1973, within the Department of
2 Justice of persons who prior to April 1, 1973, were classed as
3 miscellaneous members.

4 (b) “State safety service” with respect to a member who becomes
5 a state safety member pursuant to Section 20405 shall also include
6 service prior to the date on which he or she becomes a state safety
7 member as an officer or employee of the ~~Board of Prison Terms,~~
8 ~~Department of Corrections, Prison Industry Authority, or the~~
9 ~~Department of the Youth Authority and Rehabilitation.~~

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

14 (d) “State safety service,” with respect to a member who
15 becomes a state safety member pursuant to Sections 20414 and
16 20415, shall also include service prior to September 22, 1982, as
17 an officer or employee of the Department of Parks and Recreation
18 or the Military Department.

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

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

23 (g) “State safety service,” with respect to a member who
24 becomes a state safety member pursuant to subdivision (b) of
25 Section 20405.1, shall also include service rendered in an
26 employment in which persons have since become state safety
27 members, as determined by the Department of ~~Personnel~~
28 ~~Administration~~ *Human Resources* pursuant to that section.

29 SEC. 116. Section 20090 of the Government Code is amended
30 to read:

31 20090. The Board of Administration of the Public Employees’
32 Retirement System is continued in existence. It consists of:

33 (a) One member of the State Personnel Board, selected by and
34 serving at the pleasure of the State Personnel Board.

35 (b) The Director of the ~~Department of Personnel Administration~~
36 *Human Resources*.

37 (c) The Controller.

38 (d) The ~~State~~ Treasurer.

39 (e) An official of a life insurer and an elected official of a
40 contracting agency, appointed by the Governor.

1 (f) One person representing the public, appointed jointly by the
2 Speaker of the Assembly and the Senate Committee on Rules.

3 (g) Six members elected under the supervision of the board as
4 follows:

5 (1) Two members elected by the members of this system from
6 the membership thereof.

7 (2) A member elected by the active state members of this system
8 from the state membership thereof.

9 (3) A member elected by and from the active local members of
10 this system who are employees of a school district or a county
11 superintendent of schools.

12 (4) A member elected by and from the active local members of
13 this system other than those who are employees of a school district
14 or a county superintendent of schools.

15 (5) A member elected by and from the retired members of this
16 system.

17 SEC. 117. Section 20090.1 of the Government Code is amended
18 to read:

19 20090.1. (a) Notwithstanding any other provision of law to
20 the contrary, the member of the board who is an elected official
21 of a contracting agency appointed by the Governor, pursuant to
22 subdivision (e) of Section 20090, may designate a deputy, who is
23 employed under the official's authority, to act in his or her place
24 and stead on the board or any of its committees. The deputy, while
25 sitting on the board or any of its committees, may exercise the
26 same powers that the elected official could exercise if he or she
27 were personally present. The elected official shall be responsible
28 for the acts of the deputy acting under this designation.

29 (b) Notwithstanding any other provision of law to the contrary,
30 the Director of ~~the Department of Personnel Administration~~ *Human*
31 *Resources* may designate a deputy, who is employed under the
32 director's authority, to act in his or her place and stead on the board
33 or any of its committees. The deputy, while sitting on the board
34 or any of its committees, may exercise the same powers that the
35 director could exercise if he or she were personally present. The
36 director shall be responsible for the acts of the deputy acting under
37 this designation.

38 SEC. 118. Section 20398 of the Government Code is amended
39 to read:

40 20398. "State peace officer/firefighter member" also includes:

1 (a) (1) State officers and employees designated as peace officers
2 as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and
3 830.5 of the Penal Code, or a firefighter whose principal duties
4 consist of active firefighting/fire suppression, who is either
5 excluded from the definition of state employee in subdivision (c)
6 of Section 3513 or is a nonelected officer or employee of the
7 executive branch of government who is not a member of the civil
8 service, if the majority of his or her duties consists of one of the
9 following:

10 (A) Responsibility for the direct supervision of state peace
11 officer/firefighter personnel specified in Sections 20391, 20392,
12 20393, and 20395.

13 (B) Conducting investigations or audits of investigatory practices
14 and other audits of, or in, the Department of Corrections and
15 Rehabilitation.

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

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

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

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

36 (d) “State peace officer/firefighter member” shall include
37 individuals hired prior to April 1, 2011, or the first day of the first
38 pay period following the enactment of the act that added this
39 subdivision if that act is enacted after April 1, 2011, who do not
40 meet the criteria in subdivision (a) if those individuals have been

1 continuously employed in positions in the Office of the Inspector
 2 General that were deemed to come within the “state peace
 3 officer/firefighter member” classification pursuant to this section
 4 prior to April 1, 2011, or prior to the first day of the first pay period
 5 following the enactment of the act that added this subdivision if
 6 that act is enacted after April 1, 2011.

7 (e) The Department of ~~Personnel Administration~~ *Human*
 8 *Resources* shall annually determine which classes meet the
 9 conditions described in this section and are not classes specified
 10 in Sections 20391, 20392, 20393, and 20395, and report its findings
 11 to the Legislature and to this system, to be effective July 1 of each
 12 year. An agency or department shall not designate a classification
 13 as a “state peace officer/firefighter member” classification pursuant
 14 to this section without prior approval from the Department of
 15 ~~Personnel Administration~~ *Human Resources*.

16 (f) Members who are reclassified pursuant to this section may
 17 file an irrevocable election to remain subject to their prior
 18 retirement formula and the corresponding rate of contributions.
 19 The Secretary of the Department of Corrections and Rehabilitation
 20 may, upon appointment to that office on or after January 1, 1999,
 21 file an irrevocable election to be subject to the industrial formula
 22 and the corresponding rate of contributions. The elections shall be
 23 filed within 90 days of notification by the board. Members who
 24 so elect shall be subject to the reduced benefit factors specified in
 25 Section 21353 or 21354.1, as applicable, only for the service
 26 included in the federal system.

27 SEC. 119. Section 20405 of the Government Code is amended
 28 to read:

29 20405. (a) “State safety member” shall also include officers
 30 and employees of the ~~Board of Prison Terms~~, the Department of
 31 Corrections, the Department of the Youth Authority, or the Prison
 32 ~~Industry Authority~~ *and Rehabilitation* in the following
 33 classifications:

34

35 Classification	
36 Code	Classification
37 0683	Assistant Dairy Operator
38 2156	Assistant Food Manager (Correctional Facility)
39 4302	Assistant General Manager, Operations
40 2080	Assistant Seamer (Correctional Facility)

1	Classification	
2	Code	Classification
3	5447	Assistant Warden, Psychiatric Services,
4		Correctional Facility
5	6868	Automobile Mechanic (Correctional Facility)
6	6394	Automotive Equipment Operator I (Correctional
7		Facility)
8	6392	Automotive Equipment Operator II (Correctional
9		Facility)
10	6893	Automotive Pool Manager I (Correctional Facility)
11	2224	Baker I (Correctional Facility)
12	2221	Baker II (Correctional Facility)
13	2086	Barber (Correctional Facility)
14	2084	Barbershop Manager (Correctional Facility)
15	6216	Building Maintenance Worker (Correctional
16		Facility)
17	2245	Butcher–Meat Cutter II (Correctional Facility)
18	6483	Carpenter I (Correctional Facility)
19	6474	Carpenter II (Correctional Facility)
20	6471	Carpenter III (Correctional Facility)
21	2015	Chief Assistant General Manager, Prison Industries
22	4110	Chief, Day Labor Programs (Correctional Facility)
23	9344	Chief Dentist, Correctional Facility
24	2578	Chief Deputy, Clinical Services, Correctional
25		Facility
26	6699	Chief Engineer I (Correctional Facility)
27	7547	Chief Medical Officer, Correctional Facility
28	6754	Chief of Plant Operation I (Correctional Facility)
29	6751	Chief of Plant Operation II (Correctional Facility)
30	6748	Chief of Plant Operation III (Correctional
31		Facility)
32	9267	Chief Physician and Surgeon, Correctional Facility
33	7612	Chief Psychiatrist, Correctional Facility
34	9859	Chief Psychologist, Correctional Facility
35	7146	Chief, Quality Assurance, Prison Industries
36	9279	Clinical Dietician, Correctional Facility
37	9293	Clinical Laboratory Technologist, Correctional
38		Facility
39	4132	Construction Supervisor (Correctional Facility)
40	4107	Construction Supervisor I (Correctional Facility)

1	Classification	
2	Code	Classification
3	4108	Construction Supervisor II (Correctional Facility)
4	4109	Construction Supervisor III (Correctional Facility)
5	2187	Cook I (Correctional Facility)
6	2186	Cook II (Correctional Facility)
7	7208	Correctional Business Manager I, Department of
8		Corrections
9	4744	Correctional Business Manager II, Department of
10		Corrections
11	4910	Correctional Health Services Administrator I,
12		Correctional Facility
13	4912	Correctional Health Services Administrator II,
14		Correctional Facility
15	6304	Correctional Plant Manager I, Department of
16		Corrections
17	6305	Correctional Plant Manager II, Department of
18		Corrections
19	6303	Correctional Plant Supervisor, Department of
20		Corrections
21	9296	Dental Assistant, Correctional Facility
22	9298	Dental Hygienist, Correctional Facility
23	9299	Dental Laboratory Technician, Correctional
24		Facility
25	9268	Dentist, Correctional Facility
26	7200	Dry Cleaning Plant Supervisor
27	6544	Electrician I (Correctional Facility)
28	6538	Electrician II (Correctional Facility)
29	6534	Electrician III (Correctional Facility)
30	6916	Electronics Technician (Correctional Facility)
31	6865	Equipment Maintenance Supervisor (Correctional
32		Facility)
33	2153	Food Administrator I (Correctional Facility)
34	2147	Food Administrator II (Correctional Facility)
35	2150	Food Manager (Correctional Facility)
36	2196	Food Service Worker I (Correctional Facility)
37	2195	Food Service Worker II (Correctional Facility)
38	6955	Fusion Welder (Correctional Facility)
39	6628	Glazier (Correctional Facility)
40	0743	Groundskeeper (Correctional Facility)

1	Classification	
2	Code	Classification
3	6826	Heavy Equipment Mechanic (Correctional
4		Facility)
5	6379	Heavy Truck Driver (Correctional Facility)
6	9307	Hospital Aid, Correctional Facility
7	7218	Industrial Supervisor, Prison Industries (Bindery)
8	0648	Industrial Supervisor, Prison Industries (Crop
9		Farm)
10	0682	Industrial Supervisor, Prison Industries (Dairy)
11	7204	Industrial Supervisor, Prison Industries (Dental
12		Laboratory)
13	7198	Industrial Supervisor, Prison Industries (Fabric
14		Products)
15	7211	Industrial Supervisor, Prison Industries (Knit
16		Goods Finishing)
17	7210	Industrial Supervisor, Prison Industries
18		(Knitting Mill)
19	2109	Industrial Supervisor, Prison Industries (Laundry)
20	7215	Industrial Supervisor, Prison Industries
21		(Maintenance and Repair)
22	7197	Industrial Supervisor, Prison Industries (Mattress
23		and Bedding)
24	7191	Industrial Supervisor, Prison Industries (Metal
25		Fabrication)
26	7216	Industrial Supervisor, Prison Industries (Printing)
27	7207	Industrial Supervisor, Prison Industries (Shoe
28		Manufacturing)
29	7206	Industrial Supervisor, Prison Industries (Shoes
30		and Boots, Lasting to Packing)
31	7321	Industrial Supervisor, Prison Industries
32		(Silkscreen)
33	7192	Industrial Supervisor, Prison Industries (Tool
34		and Die)
35	7179	Industrial Supervisor, Prison Industries
36		(Upholstery)
37	7178	Industrial Supervisor, Prison Industries (Wood
38		Products)
39	2006	Janitor (Correctional Facility)
40	2005	Janitor Supervisor I (Correctional Facility)

1	Classification	
2	Code	Classification
3	2004	Janitor Supervisor II (Correctional Facility)
4	2000	Janitor Supervisor III (Correctional Facility)
5	9265	Laboratory Assistant, Correctional Facility
6	2727	Language, Speech and Hearing Specialist
7	2114	Laundry Supervisor I (Correctional Facility)
8	2111	Laundry Supervisor II (Correctional Facility)
9	2117	Laundry Worker (Correctional Facility)
10	6867	Lead Automobile Mechanic (Correctional Facility)
11	0720	Lead Groundskeeper (Correctional Facility)
12	0718	Lead Groundskeeper I (Correctional Facility)
13	2952	Librarian (Correctional Facility)
14	6643	Locksmith I (Correctional Facility)
15	6801	Machinist (Correctional Facility)
16	6941	Maintenance Mechanic (Correctional Facility)
17	6617	Mason (Correctional Facility)
18	1508	Materials and Stores Supervisor I (Correctional
19		Facility)
20	1505	Materials and Stores Supervisor II (Correctional
21		Facility)
22	8217	Medical Technical Assistant, Correctional
23		Facility
24	9273	Nurse Anesthetist, Correctional
25		Facility
26	9353	Nurse Instructor, Correctional Facility
27	9278	Nurse Practitioner, Correctional Facility
28	9280	Occupational Therapist, Correctional Facility
29	7971	Optometrist, Correctional Facility
30	6528	Painter I (Correctional Facility)
31	6524	Painter II (Correctional Facility)
32	6521	Painter III (Correctional Facility)
33	7199	Pest Control Technician (Correctional
34		Facility)
35	9281	Physical Therapist I, Correctional Facility
36	9342	Physical Therapist II, Correctional Facility
37	9269	Physician and Surgeon, Correctional Facility
38	6550	Plumber I (Correctional Facility)
39	6594	Plumber II (Correctional Facility)
40	6545	Plumber III (Correctional Facility)

1	Classification	
2	Code	Classification
3	7972	Podiatrist (Correctional Facility)
4	1575	Prison Canteen Manager I
5	1576	Prison Canteen Manager II
6	7158	Prison Industries Administrator
7	7157	Prison Industries Manager (General)
8	7164	Prison Industries Manager (Metal Products)
9	7165	Prison Industries Manager (Textile Products)
10	7163	Prison Industries Manager (Wood Products)
11	0679	Prison Industries Superintendent I (Agriculture)
12	0617	Prison Industries Superintendent II (Agriculture)
13	7217	Prison Industries Superintendent II (Bindery)
14	7109	Prison Industries Superintendent I (Coffee
15		Roasting and Grinding)
16	7203	Prison Industries Superintendent I (Dental
17		Laboratory)
18	7202	Prison Industries Superintendent II (Dental
19		Laboratory)
20	7170	Prison Industries Superintendent II (Detergent)
21	7350	Prison Industries Superintendent I (Egg
22		Production)
23	7194	Prison Industries Superintendent I (Fabric
24		Products)
25	7195	Prison Industries Superintendent II (Fabric
26		Products)
27	7351	Prison Industries Superintendent I (Fiberglass
28		Products)
29	7352	Prison Industries Superintendent I (Furniture
30		Refurbishing)
31	7209	Prison Industries Superintendent II (Knitting Mill)
32	2108	Prison Industries Superintendent II (Laundry)
33	7154	Prison Industries Superintendent II (Maintenance
34		and Repair)
35	7196	Prison Industries Superintendent II (Mattress and
36		Bedding)
37	7189	Prison Industries Superintendent I (Metal
38		Products)
39	7190	Prison Industries Superintendent II (Metal
40		Products)

1	Classification	
2	Code	Classification
3	7214	Prison Industries Superintendent II (Printing)
4	7205	Prison Industries Superintendent II (Shoe
5		Manufacturing)
6	7320	Prison Industries Superintendent I (Silkscreen)
7	7319	Prison Industries Superintendent II (Silkscreen)
8	7175	Prison Industries Superintendent I (Wood
9		Products)
10	7172	Prison Industries Superintendent II (Wood
11		Products)
12	4760	Procurement and Services Officer I (Correctional
13		Facility)
14	4761	Procurement and Services Officer II (Correctional
15		Facility)
16	7162	Product Engineering Technician, Prison Industries
17	7156	Production Manager I, Prison Industries
18	1793	Property Controller I (Correctional Facility)
19	1794	Property Controller II (Correctional Facility)
20	9282	Psychiatric Social Worker, Correctional Facility
21	9283	Psychologist—Clinical, Correctional
22		Facility
23	9284	Psychology Associate, Correctional Facility
24	9354	Psychology Internship Director, Correctional
25		Facility
26	9285	Psychometrist, Correctional Facility
27	9274	Public Health Nurse I, Correctional Facility
28	9345	Public Health Nurse II, Correctional Facility
29	7145	Quality Assurance Manager, Prison Industries
30	3080	Quality Control Technician, Prison Industries
31		(Cleaning Products)
32	9315	Radiologic Technologist, Correctional Facility
33	9286	Recreation Therapist, Correctional Facility
34	6715	Refrigeration Engineer (Correctional Facility)
35	9275	Registered Nurse, Correctional Facility
36	2734	Resource Specialist, Special Education
37	9316	Respiratory Care Practitioner, Correctional
38		Facility
39	9854	School Psychologist
40	2077	Seamer (Correctional Facility)

1	Classification	
2	Code	Classification
3	9348	Senior Clinical Laboratory Technologist,
4		Correctional Facility
5	9266	Senior Laboratory Assistant, Correctional Facility
6	2945	Senior Librarian (Correctional Facility)
7	8215	Senior Medical Technical Assistant
8	9346	Senior Occupational Therapist, Correctional
9		Facility
10	9270	Senior Psychiatrist, Correctional Facility
11		(Specialist)
12	9271	Senior Psychiatrist, Correctional Facility
13		(Supervisor)
14	9289	Senior Psychologist, Correctional Facility
15	9287	Senior Psychologist, Correctional Facility
16		(Specialist)
17	9288	Senior Psychologist, Correctional Facility
18		(Supervisor)
19	9350	Senior Radiologic Technologist, Correctional
20		Facility (Specialist)
21	9351	Senior Radiologic Technologist, Correctional
22		Facility (Supervisor)
23	7562	Sheet Metal Worker (Correctional Facility)
24	6211	Skilled Laborer (Correctional Facility)
25	9911	Social Worker, Youth Authority
26	9272	Staff Psychiatrist, Correctional Facility
27	9290	Staff Psychologist-Clinical, Correctional Facility
28	6713	Stationary Engineer (Correctional Facility)
29	6718	Stationary Engineer Apprentice (Four-Year
30		Program) (Correctional Facility)
31	6557	Steamfitter Supervisor (Correctional Facility)
32	3082	Substitute Academic Teacher (Correctional
33		Facility)
34	9349	Supervising Clinical Laboratory Technologist,
35		Correctional Facility
36	2183	Supervising Cook I (Correctional Facility)
37	2182	Supervising Cook II (Correctional Facility)
38	0716	Supervising Groundskeeper II (Correctional
39		Facility)
40	2044	Supervising Housekeeper I (Correctional Facility)

1	Classification	
2	Code	Classification
3	2940	Supervising Librarian (Correctional Facility)
4	9276	Supervising Psychiatric Nurse, Correctional
5		Facility
6	9291	Supervising Psychiatric Social Worker I,
7		Correctional Facility
8	9292	Supervising Psychiatric Social Worker II,
9		Correctional Facility
10	9317	Supervising Registered Nurse I, Correctional
11		Facility
12	9318	Supervising Registered Nurse II, Correctional
13		Facility
14	9319	Supervising Registered Nurse III, Correctional
15		Facility
16	9910	Supervising Social Worker I, Youth Authority
17	9908	Supervising Social Worker II, Youth Authority
18	2305	Supervisor of Academic Instruction (Correctional
19		Facility)
20	6763	Supervisor of Building Trades (Correctional
21		Facility)
22	2384	Supervisor of Commercial Diver Training
23	2303	Supervisor of Correctional Education Programs
24	2370	Supervisor of Vocational Instruction
25	9277	Surgical Nurse I, Correctional Facility
26	9329	Surgical Nurse II, Correctional Facility
27	3073	Teacher (Adaptive Physical Education)
28		(Correctional Facility)
29	2286	Teacher (Cerebral Palsied Children)
30		(Correctional Facility)
31	2287	Teacher (Elementary-Multiple Subjects)
32		(Correctional Facility)
33	2288	Teacher (Emotionally/Learning Handicapped)
34		(Correctional Facility)
35	3075	Teacher (English Language Development)
36		(Correctional Facility)
37	2297	Teacher (Ethnic Studies) (Correctional Facility)
38	2289	Teacher (Family Life Education) (Correctional
39		Facility)

1	Classification	
2	Code	Classification
3	2373	Teacher (Hearing Impaired) (Correctional Facility)
4		
5	2284	Teacher (High School-Arts and Crafts) (Correctional Facility)
6		
7	2285	Teacher (High School-Business Education) (Correctional Facility)
8		
9	3074	Teacher (High School-English/Language Arts) (Correctional Facility)
10		
11	3076	Teacher (High School-Foreign Language) (Correctional Facility)
12		
13	2290	Teacher (High School-General Education) (Correctional Facility)
14		
15	2291	Teacher (High School-Home Economics) (Correctional Facility)
16		
17	3077	Teacher (High School-Mathematics) (Correctional Facility)
18		
19	2294	Teacher (High School-Music) (Correctional Facility)
20		
21	2295	Teacher (High School-Physical Education) (Correctional Facility)
22		
23	3078	Teacher (High School-Science) (Correctional Facility)
24		
25	3079	Teacher (High School-Social Science) (Correctional Facility)
26		
27	2298	Teacher (Librarian) (Correctional Facility)
28	2292	Teacher (Mentally Retarded Children) (Correctional Facility)
29		
30	2371	Teacher (Speech Development and Correction) (Correctional Facility)
31		
32	6400	Teaching Assistant (Correctional Facility)
33	7201	Tobacco Factory Superintendent
34	7560	Tractor Operator-Laborer (Correctional Facility)
35	6382	Truck Driver (Correctional Facility)
36	6772	Utility Shops Supervisor (Correctional Facility)
37	2387	Vocational Instructor (Airframe Mechanics) (Correctional Facility)
38		
39	2853	Vocational Instructor (Animal Husbandry) (Correctional Facility)
40		

1	Classification	
2	Code	Classification
3	2396	Vocational Instructor (Auto Body and Fender
4		Repair) (Correctional Facility)
5	2398	Vocational Instructor (Auto Mechanics)
6		(Correctional Facility)
7	2399	Vocational Instructor (Baking) (Correctional
8		Facility)
9	2400	Vocational Instructor (Bookbinding) (Correctional
10		Facility)
11	2854	Vocational Instructor (Building Maintenance)
12		(Correctional Facility)
13	2417	Vocational Instructor (Carpentry)
14		(Correctional Facility)
15	2419	Vocational Instructor (Commercial Diver
16		Training) (Correctional Facility)
17	2855	Vocational Instructor (Computer and Related
18		Technologies) (Correctional Facility)
19	2420	Vocational Instructor (Cosmetology) (Correctional
20		Facility)
21	2422	Vocational Instructor (Culinary Arts)
22		(Correctional Facility)
23	2869	Vocational Instructor (Dental Technology)
24		(Correctional Facility)
25	2856	Vocational Instructor (Diesel Mechanics)
26		(Correctional Facility)
27	2423	Vocational Instructor (Dog Grooming and
28		Handling) (Correctional Facility)
29	2425	Vocational Instructor (Drycleaning Works)
30		(Correctional Facility)
31	2857	Vocational Instructor (Drywall Installer/Taper)
32		(Correctional Facility)
33	2426	Vocational Instructor (Electrical Work)
34		(Correctional Facility)
35	2428	Vocational Instructor (Electronics) (Correctional
36		Facility)
37	2688	Vocational Instructor (Eyewear Manufacturing)
38		(Correctional Facility)
39	2429	Vocational Instructor (Fire Science) (Correctional
40		Facility)

1	Classification	
2	Code	Classification
3	2858	Vocational Instructor (Floor Cover Layer)
4		(Correctional Facility)
5	2431	Vocational Instructor (Furniture Refinishing and
6		Repair) (Correctional Facility)
7	2432	Vocational Instructor (Garment Making)
8		(Correctional Facility)
9	2433	Vocational Instructor (Heavy Equipment Repair)
10		(Correctional Facility)
11	2597	Vocational Instructor (Household Appliance
12		Repair) (Correctional Facility)
13	2598	Vocational Instructor (Industrial Arts)
14		(Correctional Facility)
15	2599	Vocational Instructor (Instrument Repair)
16		(Correctional Facility)
17	2600	Vocational Instructor (Janitorial Service)
18		(Correctional Facility)
19	2601	Vocational Instructor (Landscape Gardening)
20		(Correctional Facility)
21	2611	Vocational Instructor (Laundry Work)
22		(Correctional Facility)
23	2614	Vocational Instructor (Machine Shop
24		Practice) (Correctional Facility)
25	2615	Vocational Instructor (Masonry) (Correctional
26		Facility)
27	2619	Vocational Instructor (Meat Cutting)
28		(Correctional Facility)
29	2627	Vocational Instructor (Mechanical Drawing)
30		(Correctional Facility)
31	2628	Vocational Instructor (Merchandising)
32		(Correctional Facility)
33	2630	Vocational Instructor (Mill and Cabinet Work)
34		(Correctional Facility)
35	2674	Vocational Instructor (Office Machine Repair)
36		(Correctional Facility)
37	2849	Vocational Instructor (Office Services and Related
38		Technologies) (Correctional Facility)
39	2640	Vocational Instructor (Offset Printing)
40		(Correctional Facility)

1	Classification	
2	Code	Classification
3	2644	Vocational Instructor (Painting) (Correctional Facility)
4		
5	2645	Vocational Instructor (Plastering) (Correctional Facility)
6		
7	2661	Vocational Instructor (Plumbing) (Correctional Facility)
8		
9	2665	Vocational Instructor (Powerplant Mechanics) (Correctional Facility)
10		
11	2666	Vocational Instructor (Printing) (Correctional Facility)
12		
13	2667	Vocational Instructor (Radiologic Technology) (Correctional Facility)
14		
15	2668	Vocational Instructor (Refrigeration and Air-conditioning Repair) (Correctional Facility)
16		
17	2850	Vocational Instructor (Roofer) (Correctional Facility)
18		
19	2669	Vocational Instructor (Sewing Machine Repair) (Correctional Facility)
20		
21	2670	Vocational Instructor (Sheet Metal Work) (Correctional Facility)
22		
23	2671	Vocational Instructor (Shoemaking) (Correctional Facility)
24		
25	2672	Vocational Instructor (Silk Screening Process) (Correctional Facility)
26		
27	2851	Vocational Instructor (Small Engine Repair) (Correctional Facility)
28		
29	2673	Vocational Instructor (Storekeeping and Warehousing) (Correctional Facility)
30		
31	5415	Vocational Instructor (Telemarketing/Customer Service) (Correctional Facility)
32		
33	2675	Vocational Instructor (Upholstering) (Correctional Facility)
34		
35	2676	Vocational Instructor (Vocational Nursing) (Correctional Facility)
36		
37	2677	Vocational Instructor (Welding) (Correctional Facility)
38		
39	1504	Warehouse Manager I (Correctional Facility)
40	1502	Warehouse Manager II (Correctional Facility)

1	Classification	
2	Code	Classification
3	6221	Warehouse Worker (Correctional Facility)
4	6724	Water and Sewage Plant Supervisor
5		(Correctional Facility)
6	2311	Youth Authority Teacher
7		

8 (b) In addition, “state safety member” shall also include officers
 9 and employees of the Department of Corrections, ~~the Department~~
 10 ~~of the Youth Authority, or the Prison Industry Authority and~~
 11 *Rehabilitation* in any classification of Vocational Instructor,
 12 Industrial Supervisor, Industrial Superintendent, Assistant
 13 Industrial Superintendent, or Production Manager II (Prison
 14 Industries) that is established on or after January 1, 1984, if the
 15 Department of ~~Personnel Administration~~ *Human Resources* and
 16 the State Personnel Board approve the inclusion of the
 17 classification.

18 (c) “State safety member” shall also include officers and
 19 employees in parenthetical specialty classes when the core class
 20 has already been expressly included in the state safety membership
 21 category if the Department of ~~Personnel Administration~~ *Human*
 22 *Resources* and the State Personnel Board approve the inclusion of
 23 the classifications. The inclusion shall not be effective until notice
 24 of the inclusion has been received by the board.

25 (d) Any of these officers or employees in employment on the
 26 operative date of an amendment to this section and who becomes
 27 a state safety member as a result of that amendment, may elect by
 28 a writing filed with the board prior to 90 days after notification by
 29 the board, to be restored to his or her previous status as a state
 30 industrial member. Upon the filing of the election the member
 31 shall cease to be a state safety member, and his or her rights and
 32 obligations shall be restored prospectively and retroactively to the
 33 operative date of that amendment.

34 SEC. 120. Section 20405.1 of the Government Code is amended
 35 to read:

36 20405.1. Notwithstanding Section 20405, this section shall
 37 apply to state employees in state bargaining units that have agreed
 38 to these provisions in a memorandum of understanding between
 39 the state employer and the recognized employee organization, as
 40 defined in Section 3513, state employees who are excluded from

1 the definition of “state employee” by subdivision (c) of Section
2 3513, and officers or employees of the executive branch of state
3 government who are not members of the civil service.

4 (a) On and after the effective date of this section, state safety
5 members shall also include officers and employees whose
6 classifications or positions are found to meet the state safety criteria
7 prescribed in Section 19816.20, provided the Department of
8 ~~Personnel Administration~~ *Human Resources* agrees to their
9 inclusion, and officers and employees whose classifications or
10 positions have been designated as subject to state safety
11 membership pursuant to Section 19816.21. For employees covered
12 by a collective bargaining agreement, the effective date of safety
13 membership shall be the date on which the department and the
14 employees’ exclusive representative reach agreement by
15 memorandum of understanding pursuant to Section 3517.5 or any
16 later date specified in the memorandum of understanding. For
17 employees not covered by a collective bargaining agreement, the
18 Department of ~~Personnel Administration~~ *Human Resources* shall
19 determine the effective date of safety membership.

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

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

27 (d) Any person designated as a state safety member pursuant
28 to this section may elect, within 90 days of notification by the
29 board, to remain subject to the miscellaneous or industrial service
30 retirement benefit and contribution rate by filing an irrevocable
31 election with the board. A member who so elects shall be subject
32 to the reduced benefit factors specified in Section 21076, 21353,
33 or 21354.1, as applicable, only for service also included in the
34 federal system.

35 SEC. 121. Section 20405.2 of the Government Code is amended
36 to read:

37 20405.2. A member who made the election to remain under
38 the miscellaneous or industrial retirement benefit, as provided in
39 Section 20405.1, may elect to be subject to the state safety formula
40 within 90 days of notification by the board. The election, which

1 shall be provided by the board on and after January 1, 2000, shall
2 be filed with the board. Past service that would have been credited
3 as a safety member, but for the member's election to remain under
4 the miscellaneous or industrial formula, shall be credited under
5 the safety formula. This section shall apply to state employees in
6 state bargaining units that have agreed to this provision in a
7 memorandum of understanding, or authorized by the Director of
8 ~~the Department of Personnel Administration~~ *Human Resources*
9 for classifications of state employees that are excluded from the
10 definition of state employee by paragraph (c) of Section 3513 ~~of~~
11 ~~the Government Code.~~

12 SEC. 122. Section 20405.3 of the Government Code is amended
13 to read:

14 20405.3. (a) A member who is an employee of the Department
15 of Corrections *and Rehabilitation*, who made the election to remain
16 under the state industrial membership classification, as provided
17 in subdivision (d) of Section 20405, may elect to be subject to state
18 safety membership within 90 days of notification by the board, if
19 the employee is in any of the following classifications:

- 20 (1) Dentist, Correctional Facility.
- 21 (2) Physician and Surgeon, Correctional Facility.
- 22 (3) Staff Psychiatrist, Correctional Facility.
- 23 (4) Podiatrist, Correctional Facility.

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

29 (c) This section shall apply to state employees in State
30 Bargaining Unit 16 and, if authorized by the Director of ~~the~~
31 ~~Department of Personnel Administration~~ *Human Resources*, state
32 employees that are excluded from the definition of "state
33 employee" by paragraph (c) of Section 3513.

34 SEC. 123. Section 20407 of the Government Code is amended
35 to read:

36 20407. "State safety member" also includes officers and
37 employees with the State Department of Mental Health and the
38 Department of Corrections *and Rehabilitation* in the following
39 classifications:

1	Classification	
2	Code	Classification Title
3	8254	Prelicensed Psychiatric Technician
4		(forensic facility)
5	8253	Psychiatric Technician
6		(forensic facility)
7	8252	Senior Psychiatric Technician
8		(forensic facility)
9	8212	Nurse Practitioner
10		(forensic facility)
11	8160	Health Services Specialist
12		(forensic facility)
13	7601	Program Director-Medical
14		(forensic facility)

15
 16 “State safety member” also includes an officer or employee of
 17 the State Department of Mental Health at Patton State Hospital or
 18 Atascadero State Hospital, the State Department of Mental Health
 19 Psychiatric Program of California Medical Facility at Vacaville,
 20 or any other state hospital that is deemed a forensic facility, who
 21 either is excluded from the definition of state employee in
 22 subdivision (c) of Section 3513 or is a nonelected officer or
 23 employee of the executive branch of government who is not a
 24 member of the civil service. An officer or employee may be a state
 25 safety member under this paragraph only if the person has
 26 responsibility for the direct supervision of state safety personnel
 27 specified in the classifications listed in this section and if the State
 28 Personnel Board determines that these officers and employees
 29 meet the state safety membership criteria established pursuant to
 30 Section 18717. The Department of ~~Personnel Administration~~
 31 *Human Resources* shall determine which classes meet the above
 32 conditions and report its findings to the Public Employees’
 33 Retirement System, whereupon the change in membership
 34 categories shall take effect.

35 Any person so designated pursuant to this section may elect,
 36 within 90 days of notification by the board, to remain subject to
 37 the miscellaneous service retirement benefit and contribution rate
 38 by filing an irrevocable notice of election with the board. A
 39 member who so elects shall be subject to the reduced benefit factors

1 specified in Section 21353 or 21354.1, as applicable, only for
2 service also included in the federal system.

3 SEC. 124. Section 20408 of the Government Code is amended
4 to read:

5 20408. "State safety member" also includes officers and
6 employees with the *State* Department of Mental Health or the
7 Department of Forestry and Fire Protection in the following
8 classifications:

10 Classification		Classification Title
11 Code		
12 2860	Audio Visual Assistant (Correctional	
	Facility)	
14 2861	Audio Visual Specialist (Correctional	
	Facility)	
16 8094	Registered Nurse (Forensic Facility)	

17
18 "State safety member" also includes an officer or employee of
19 the *State* Department of Mental Health at Patton State Hospital or
20 Atascadero State Hospital, who either is excluded from the
21 definition of state employee in subdivision (c) of Section 3513, or
22 is a nonelected officer or employee of the executive branch of
23 government who is not a member of the civil service. An officer
24 or employee may be a state safety member under this paragraph
25 only if the person has responsibility for the supervision of state
26 safety personnel specified in the classifications listed in this section
27 and if the State Personnel Board determines that these officers and
28 employees meet the state safety membership criteria established
29 pursuant to Section 18717. The Department of ~~Personnel~~
30 ~~Administration~~ *Human Resources* shall determine which classes
31 meet the above conditions and report its findings to this system,
32 whereupon the change in membership categories shall take effect.

33 SEC. 125. Section 20632 of the Government Code is amended
34 to read:

35 20632. For state employees in classifications designated by
36 the Director of ~~the Department of Personnel Administration~~ *Human*
37 *Resources* who are also excluded from, or otherwise not subject
38 to, collective bargaining, and for employees in bargaining units
39 for which a memorandum of understanding has been agreed to by
40 the state employer and the recognized employee organization to

1 become subject to this section, compensation for uniforms shall
2 not constitute “compensation” for the purposes of the computation
3 of retirement contributions by employees and the state or for the
4 purposes of the calculation of retirement benefits.

5 SEC. 126. Section 20636 of the Government Code is amended
6 to read:

7 20636. (a) “Compensation earnable” by a member means the
8 payrate and special compensation of the member, as defined by
9 subdivisions (b), (c), and (g), and as limited by Section 21752.5.

10 (b) (1) “Payrate” means the normal monthly rate of pay or base
11 pay of the member paid in cash to similarly situated members of
12 the same group or class of employment for services rendered on
13 a full-time basis during normal working hours, pursuant to publicly
14 available pay schedules. “Payrate,” for a member who is not in a
15 group or class, means the monthly rate of pay or base pay of the
16 member, paid in cash and pursuant to publicly available pay
17 schedules, for services rendered on a full-time basis during normal
18 working hours, subject to the limitations of paragraph (2) of
19 subdivision (e).

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

22 (A) Participation in a deferred compensation plan.

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

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

29 (D) Participation in a flexible benefits program.

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

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

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

39 (2) Special compensation shall be limited to that which is
40 received by a member pursuant to a labor policy or agreement or

1 as otherwise required by state or federal law, to similarly situated
2 members of a group or class of employment that is in addition to
3 payrate. If an individual is not part of a group or class, special
4 compensation shall be limited to that which the board determines
5 is received by similarly situated members in the closest related
6 group or class that is in addition to payrate, subject to the
7 limitations of paragraph (2) of subdivision (e).

8 (3) Special compensation shall be for services rendered during
9 normal working hours and, when reported to the board, the
10 employer shall identify the pay period in which the special
11 compensation was earned.

12 (4) Special compensation may include the full monetary value
13 of normal contributions paid to the board by the employer, on
14 behalf of the member and pursuant to Section 20691, if the
15 employer's labor policy or agreement specifically provides for the
16 inclusion of the normal contribution payment in compensation
17 earnable.

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

23 (6) The board shall promulgate regulations that delineate more
24 specifically and exclusively what constitutes "special
25 compensation" as used in this section. A uniform allowance, the
26 monetary value of employer-provided uniforms, holiday pay, and
27 premium pay for hours worked within the normally scheduled or
28 regular working hours that are in excess of the statutory maximum
29 workweek or work period applicable to the employee under Section
30 201 et seq. of Title 29 of the United States Code shall be included
31 as special compensation and appropriately defined in those
32 regulations.

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

34 (A) Final settlement pay.

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

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

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

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

9 (2) Increases in compensation earnable granted to an employee
10 who is not in a group or class shall be limited during the final
11 compensation period applicable to the employees, as well as the
12 two years immediately preceding the final compensation period,
13 to the average increase in compensation earnable during the same
14 period reported by the employer for all employees who are in the
15 same membership classification, except as may otherwise be
16 determined pursuant to regulations adopted by the board that
17 establish reasonable standards for granting exceptions.

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

24 (g) (1) Notwithstanding subdivision (a), “compensation
25 earnable” for state members means the average monthly
26 compensation, as determined by the board, upon the basis of the
27 average time put in by members in the same group or class of
28 employment and at the same rate of pay, and is composed of the
29 payrate and special compensation of the member. The computation
30 for an absence of a member shall be based on the compensation
31 earnable by him or her at the beginning of the absence and for time
32 prior to entering state service shall be based on the compensation
33 earnable by him or her in the position first held by him or her in
34 that state service.

35 (2) Notwithstanding subdivision (b), “payrate” for state members
36 means the average monthly remuneration paid in cash out of funds
37 paid by the employer to similarly situated members of the same
38 group or class of employment, in payment for the member’s
39 services or for time during which the member is excused from

- 1 work because of holidays, sick leave, vacation, compensating time
2 off, or leave of absence. “Payrate” for state members shall include:
- 3 (A) An amount deducted from a member’s salary for any of the
4 following:
- 5 (i) Participation in a deferred compensation plan established
6 pursuant to Chapter 4 (commencing with Section 19993) of Part
7 2.6.
- 8 (ii) Payment for participation in a retirement plan that meets
9 the requirements of Section 401(k) of Title 26 of the United States
10 Code.
- 11 (iii) Payment into a money purchase pension plan and trust that
12 meets the requirements of Section 401(a) of Title 26 of the United
13 States Code.
- 14 (iv) Participation in a flexible benefits program.
- 15 (B) A payment in cash by the member’s employer to one other
16 than an employee for the purpose of purchasing an annuity contract
17 for a member under an annuity plan that meets the requirements
18 of Section 403(b) of Title 26 of the United States Code.
- 19 (C) Employer “pick up” of member contributions that meets
20 the requirements of Section 414(h)(2) of Title 26 of the United
21 States Code.
- 22 (D) Disability or workers’ compensation payments to safety
23 members in accordance with Section 4800 of the Labor Code.
- 24 (E) Temporary industrial disability payments pursuant to Article
25 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.
- 26 (F) Other payments the board may determine to be within
27 “payrate.”
- 28 (3) Notwithstanding subdivision (c), “special compensation”
29 for state members shall mean all of the following:
- 30 (A) The monetary value, as determined by the board, of living
31 quarters, board, lodging, fuel, laundry, and other advantages of
32 any nature furnished to a member by his or her employer in
33 payment for the member’s services.
- 34 (B) Compensation for performing normally required duties,
35 such as holiday pay, bonuses (for duties performed on regular work
36 shift), educational incentive pay, maintenance and noncash
37 payments, out-of-class pay, marksmanship pay, hazard pay,
38 motorcycle pay, paramedic pay, emergency medical technician
39 pay, Peace Officer Standards and Training (POST) certificate pay,
40 and split shift differential.

1 (C) Compensation for uniforms, except as provided in Section
2 20632.

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

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

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

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

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

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

21 (E) Employer payments that are to be credited as employee
22 contributions for benefits provided by this system, or employer
23 payments that are to be credited to employee accounts in deferred
24 compensation plans. The amounts deducted from a member’s
25 wages for participation in a deferred compensation plan may not
26 be considered to be “employer payments.”

27 (F) Payments for unused vacation, annual leave, personal leave,
28 sick leave, or compensating time off, whether paid in lump sum
29 or otherwise.

30 (G) Final settlement pay.

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

33 (I) Compensation for additional services outside regular duties,
34 such as standby pay, callback pay, court duty, allowance for
35 automobiles, and bonuses for duties performed after the member’s
36 regular work shift.

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

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

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

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

10 (5) If the provisions of this subdivision, including the board's
11 determinations pursuant to subparagraph (F) of paragraph (2) and
12 subparagraph (D) of paragraph (3), are in conflict with the
13 provisions of a memorandum of understanding reached pursuant
14 to Section 3517.5 or 3560, the memorandum of understanding
15 shall be controlling without further legislative action, except that
16 if the provisions of a memorandum of understanding require the
17 expenditure of funds, those provisions may not become effective
18 unless approved by the Legislature in the annual Budget Act. No
19 memorandum of understanding reached pursuant to Section 3517.5
20 or 3560 may exclude from the definition of either "payrate" or
21 "special compensation" a member's base salary payments or
22 payments for time during which the member is excused from work
23 because of holidays, sick leave, vacation, compensating time off,
24 or leave of absence. If items of compensation earnable are included
25 by memorandum of understanding as "payrate" or "special
26 compensation" for retirement purposes for represented and higher
27 education employees pursuant to this paragraph, the Department
28 of ~~Personnel Administration~~ *Human Resources* or the Trustees of
29 the California State University shall obtain approval from the board
30 for that inclusion.

31 (6) (A) Subparagraph (B) of paragraph (3) prescribes that
32 compensation earnable includes compensation for performing
33 normally required duties, such as holiday pay, bonuses (for duties
34 performed on regular work shift), educational incentive pay,
35 maintenance and noncash payments, out-of-class pay,
36 marksmanship pay, hazard pay, motorcycle pay, paramedic pay,
37 emergency medical technician pay, POST certificate pay, and split
38 shift differential; and includes compensation for uniforms, except
39 as provided in Section 20632; and subparagraph (I) of paragraph
40 (4) excludes from compensation earnable compensation for

1 additional services outside regular duties, such as standby pay,
2 callback pay, court duty, allowance for automobile, and bonuses
3 for duties performed after regular work shift.

4 (B) Notwithstanding subparagraph (A), the Department of
5 ~~Personnel Administration~~ *Human Resources* shall determine which
6 payments and allowances that are paid by the state employer shall
7 be considered compensation for retirement purposes for an
8 employee who either is excluded from the definition of state
9 employee in Section 3513, or is a nonelected officer or employee
10 of the executive branch of government who is not a member of
11 the civil service.

12 (C) Notwithstanding subparagraph (A), the Trustees of the
13 California State University shall determine which payments and
14 allowances that are paid by the trustees shall be considered
15 compensation for retirement purposes for a managerial employee,
16 as defined in Section 3562, or supervisory employee as defined in
17 Section 3580.3.

18 SEC. 127. Section 20672.5 of the Government Code is amended
19 to read:

20 20672.5. Whenever a member's contribution rate is temporarily
21 reduced by statute, a memorandum of understanding, or the
22 Director of the ~~Department of Personnel Administration~~ *Human*
23 *Resources*, those reductions shall be limited to the payment of
24 member contributions during the reduction period and do not apply
25 to the purchase of service credit or the redeposit of member
26 contributions. The purchase of service credit and the redeposit of
27 member contributions shall be subject to the normal rate of
28 contribution for the member in effect immediately prior to the
29 temporary rate reduction.

30 SEC. 128. Section 20677.4 of the Government Code is amended
31 to read:

32 20677.4. (a) (1) The normal rate of contribution for a state
33 miscellaneous or state industrial member whose service is not
34 included in the federal system shall be 6 percent of the
35 compensation in excess of three hundred seventeen dollars (\$317)
36 per month paid to that member for service rendered on or after
37 July 1, 1976.

38 (2) The normal rate of contribution for a state miscellaneous or
39 state industrial member, who has elected to be subject to Section

1 21353.5 and whose service is not included in the federal system,
2 shall be 6 percent of the member's compensation.

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

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

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

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

25 (e) A member who elects to become subject to Section 21354.1,
26 as applicable, shall contribute at the rate specified in paragraph
27 (1) of subdivision (a) or paragraph (1) of subdivision (b), as
28 determined by the member's status with the federal system, and
29 the rate shall be applied from the first of the month following the
30 date of the election. A member who makes the election shall also
31 contribute for service prior to the date the contribution rate was
32 applied, in the manner specified in Section 21073 or 21073.1, as
33 applicable.

34 (f) 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

1 unless and until approved by the Legislature in the annual Budget
2 Act.

3 (g) The Director of ~~the Department of Personnel Administration~~
4 *Human Resources* may establish the normal rate of contribution
5 for a state employee who is excepted from the definition of “state
6 employee” in subdivision (c) of Section 3513, and an officer or
7 employee of the executive branch of state government who is not
8 a member of the civil service. The normal rate of contribution shall
9 be the same for all members identified in this subdivision. The
10 contribution rate shall be effective the beginning of the pay period
11 indicated by the Director of ~~the Department of Personnel~~
12 ~~Administration~~ *Human Resources* but shall be no earlier than the
13 beginning of the pay period following the date the board receives
14 notification.

15 SEC. 129. Section 20683 of the Government Code is amended
16 to read:

17 20683. (a) For each state member subject to Section 21369 or
18 21369.1, the normal rate of contribution shall be 6 percent of
19 compensation in excess of three hundred seventeen dollars (\$317)
20 per month paid to a member whose service is not included in the
21 federal system or in excess of five hundred thirteen dollars (\$513)
22 for one whose service is included in the federal system. If the
23 provisions of this section are in conflict with the provisions of a
24 memorandum of understanding reached pursuant to Section 3517.5,
25 the memorandum of understanding shall be controlling without
26 further legislative action, except that if those provisions of the
27 memorandum of understanding require the expenditure of funds,
28 those provisions shall not become effective unless approved by
29 the Legislature in the annual Budget Act.

30 (b) The Director of ~~the Department of Personnel Administration~~
31 *Human Resources* may establish the normal rate of contribution
32 for a state employee who is excepted from the definition of “state
33 employee” in subdivision (c) of Section 3513, and an officer or
34 employee of the executive branch of state government who is not
35 a member of the civil service. The normal rate of contribution shall
36 be the same for all members identified in this subdivision. The
37 contribution rate shall be effective the beginning of the pay period
38 indicated by the Director of ~~the Department of Personnel~~
39 ~~Administration~~ *Human Resources* but shall be no earlier than the

1 beginning of the pay period following the date the board receives
2 notification.

3 (c) For each local safety member subject to Section 21369, the
4 normal rate of contribution shall be 7 percent of compensation.

5 (d) The normal rate of contribution as established under this
6 section for a local member whose service is included in the federal
7 system and whose retirement allowance is reduced because of that
8 inclusion shall be reduced by one-third as applied to compensation
9 not exceeding four hundred dollars (\$400) per month for service
10 rendered after the date of execution of the modification of the
11 federal-state agreement including those services in the federal
12 system and prior to termination of his or her coverage under the
13 federal system.

14 (e) The operative date of this section with respect to a local
15 safety member shall be the date upon which he or she becomes
16 subject to Section 21369.

17 SEC. 130. Section 20683.1 of the Government Code is amended
18 to read:

19 20683.1. (a) For each state safety member subject to Section
20 21369 or 21369.1 who is represented by State Bargaining Unit 2,
21 the normal rate of contribution shall be 10 percent of compensation
22 in excess of three hundred seventeen dollars (\$317) per month
23 paid to a member whose service is not included in the federal
24 system beginning with the pay period following the operative date
25 of the amendments to this section made by Senate Bill 151 of the
26 2011–12 Regular Session. If the provisions of this section are in
27 conflict with the provisions of a memorandum of understanding
28 reached pursuant to Section 3517.5, the memorandum of
29 understanding shall be controlling without further legislative action,
30 except that if those provisions of the memorandum of
31 understanding require the expenditure of funds, those provisions
32 shall not become effective unless approved by the Legislature in
33 the annual Budget Act.

34 (b) The Director of ~~the Department of Personnel Administration~~
35 *Human Resources* may establish the normal rate of contribution
36 for a state employee who is excepted from the definition of “state
37 employee” in subdivision (c) of Section 3513, and an officer or
38 employee of the executive branch of state government who is not
39 a member of the civil service. The normal rate of contribution shall
40 be the same for all members identified in this subdivision. The

1 contribution rate shall be effective the beginning of the pay period
2 indicated by the Director of ~~the Department of Personnel~~
3 ~~Administration~~ *Human Resources* but shall be no earlier than the
4 beginning of the pay period following the date the board receives
5 notification.

6 SEC. 131. Section 20687 of the Government Code is amended
7 to read:

8 20687. (a) The normal rate of contribution for state peace
9 officer/firefighter members subject to Section 21363, 21363.1,
10 21363.3, 21363.4, or 21363.8 shall be 8 percent of the
11 compensation in excess of two hundred thirty-eight dollars (\$238)
12 per month paid to those members.

13 (b) 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 or pursuant to Chapter 12 (commencing with
16 Section 3560) of Division 4 of Title 1, the memorandum of
17 understanding shall be controlling without further legislative action,
18 except that if those provisions of a memorandum of understanding
19 require the expenditure of funds, those provisions shall not become
20 effective unless approved by the Legislature in the annual Budget
21 Act.

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

34 SEC. 132. Section 20963.1 of the Government Code is amended
35 to read:

36 20963.1. (a) A state member whose effective date of retirement
37 is within four months of separation from employment of the state,
38 shall be credited at his or her retirement with 0.004 year of service
39 for each unused day of educational leave credit, as certified to the
40 board by the employer. The provisions of this section shall be

1 effective for eligible state members who retire directly from state
2 employment on and after January 1, 2000.

3 (b) This section shall apply to eligible state members in state
4 bargaining units that have agreed to this section in a memorandum
5 of understanding, or as authorized by the Director of ~~the~~
6 ~~Department of Personnel Administration~~ *Human Resources* for
7 classifications of state employees that are excluded from the
8 definition of “state employee” by paragraph (c) of Section 3513
9 of the Government Code.

10 SEC. 133. Section 21159 of the Government Code is amended
11 to read:

12 21159. (a) Notwithstanding any other provision of law, a state
13 member shall not be retired for industrial disability for an illness
14 or injury that occurs on or after January 1, 1993, unless the member
15 is incapacitated for the performance of duty in any employment
16 with the state employer and the disability is of permanent or
17 extended and uncertain duration, as determined by the Department
18 of ~~Personnel Administration~~ *Human Resources*. This section shall
19 only apply to state safety, state industrial, and state miscellaneous
20 members employed in any state bargaining units for which a
21 memorandum of understanding has been agreed to by the state
22 employer and the recognized employee organization to become
23 subject to this section. The Director of ~~the Department of Personnel~~
24 ~~Administration~~ *Human Resources* may adopt rules regarding job
25 placement and other related activities necessary for the
26 administration of this section and Section 21195.

27 (b) A state member who, because of the enactment of this section
28 is no longer eligible to retire for industrial disability and accepts
29 alternate employment with the state in which the compensation is
30 less than that received in the position held at the time of the illness
31 or injury, shall, upon certification of the Department of ~~Personnel~~
32 ~~Administration~~ *Human Resources* to the board, become entitled
33 to benefits under the partial disability retirement program set forth
34 in Section 21160.

35 (c) The employee shall have the right of appeal to the
36 Department of ~~Personnel Administration~~ *Human Resources*
37 regarding: (1) the requirement to participate or (2) the exclusion
38 from participating in the program described in this section and
39 Section 21160.

1 (d) For all other disputes relative to this section and Section
2 21160, the employee shall seek administrative remedy from his
3 or her appointing power through the departmental complaint
4 process.

5 (e) The appointing power of the affected employee shall
6 reimburse the Department of ~~Personnel Administration~~ *Human*
7 *Resources* for any costs associated with the administration of this
8 provision.

9 (f) This section shall not apply to any job-related or job-incurred
10 illness or injury that occurs on or after January 1, 2000.

11 SEC. 134. Section 21160 of the Government Code is amended
12 to read:

13 21160. (a) Any state member who is subject to Section 21159
14 and does not qualify for industrial disability retirement under this
15 part, or is reinstated from industrial disability retirement pursuant
16 to Section 21195, and accepts another job in state service, shall be
17 paid a partial disability retirement program benefit payment from
18 this system in an amount, to be calculated by the Department of
19 ~~Personnel Administration~~ *Human Resources* and certified to the
20 board, that, when added to the salary earned by the employee in
21 the current state position, would be equal to the state salary earned
22 by the member at the time of becoming unable to perform the
23 duties of his or her previous position. This supplemental payment
24 shall not result in the member being deemed to be retired.

25 (b) The partial disability retirement program benefit payments
26 made under this section shall be paid for by the state employer in
27 the same manner as all other state retirement benefits are funded.

28 (c) This section shall not apply to any job-related or job-incurred
29 illness or injury that occurs on or after January 1, 2000.

30 SEC. 135. Section 21195 of the Government Code is amended
31 to read:

32 21195. (a) Notwithstanding any other section in Article 6
33 (commencing with Section 21150) or in this article, the Department
34 of ~~Personnel Administration~~ *Human Resources* may reinstate a
35 person who has retired for industrial disability pursuant to Section
36 21410, within 12 months after the effective date of retirement, if
37 it has identified an available position with duties that the employee
38 is able to perform. Upon reinstatement, the person shall become
39 entitled to benefits under the partial disability retirement program
40 pursuant to Section 21160.

1 (b) This section shall not apply to any job-related or job-incurred
2 illness or injury that occurs on or after January 1, 2000.

3 SEC. 136. Section 21223 of the Government Code is amended
4 to read:

5 21223. A retired person may serve without reinstatement from
6 retirement or loss or interruption of benefits provided under this
7 system upon approval of the Director of ~~the Department of~~
8 ~~Personnel Administration~~ *Human Resources* or the governing body
9 of a contracting agency, as the case may be, under employment
10 by any state or contracting agency in which he or she previously
11 served while a member of this system, where by reason of actual
12 litigation, or a proceeding before the California Victim
13 Compensation and Government Claims Board or the governing
14 body of a contracting agency, as the case may be, or where the
15 state or contracting agency desires to perpetuate testimony in
16 connection with any anticipated litigation involving the state or
17 contracting agency, and adverse interests, the services of the person
18 are or may be necessary in preparing for trial or in testifying as to
19 matters within or based upon his or her knowledge acquired while
20 employed. He or she may be paid a per diem and actual and
21 necessary traveling expenses, but he or she shall not be paid at a
22 greater rate of compensation per diem than the rate ordinarily paid
23 other persons by state agencies or the contracting agency for similar
24 services. However, there shall be deducted from the per diem
25 compensation sums equal to the retirement annuity allocable to
26 the days of actual employment under this section.

27 SEC. 137. Section 21251.13 of the Government Code is
28 amended to read:

29 21251.13. (a) Notwithstanding any other provision of law,
30 Sections 21070.5, 21070.6, 21073.1, 21073.7, 21354.1, 21362.2,
31 21363.1, and 21369.1 and the amendments to Sections 21070,
32 21071, 21072, 21073, 21073.5, and 21353.5, enacted during the
33 first year of the 1999–2000 Regular Session:

34 (1) Shall not become operative unless the board adopts a
35 resolution that does both of the following: (A) employs, for the
36 June 30, 1998, valuation, 95 percent of the market value of assets
37 of the state employer as the actuarial value of the assets; and (B)
38 amortizes the June 30, 1998, excess assets over a period of 20
39 years, beginning July 1, 1999.

1 (2) Shall not apply to a state employee, as defined in subdivision
2 (c) of Section 3513, in a bargaining unit unless and until
3 incorporated in a memorandum of understanding, pursuant to
4 Section 3517.5, applicable to that bargaining unit.

5 (3) Shall not apply to excluded employees, as defined in Section
6 3527, unless the Department of ~~Personnel Administration~~ *Human*
7 *Resources* has approved the application of those provisions to
8 those employees. Notwithstanding any provision of law to the
9 contrary, any approval by the Department of ~~Personnel~~
10 ~~Administration~~ *Human Resources* for the application of these
11 provisions to those excluded employees is irrevocable.

12 (b) Notwithstanding anything in a memorandum of
13 understanding to the contrary, (1) the benefits provided under the
14 provisions of those sections described in subdivision (a), as added
15 or amended during the first year of the 1999–2000 Regular Session,
16 shall not terminate upon the expiration or termination of the
17 memorandum of understanding, and (2) the only conditions to the
18 operation of the provisions of those sections described in
19 subdivision (a), as added or amended during the first year of the
20 1999–2000 Regular Session, are contained in this section.

21 (c) Notwithstanding Section 3517.8 or any provision of a
22 memorandum of understanding that has been continued in effect
23 on and after January 15, 2011, pursuant to Section 3517.8 to the
24 contrary, the retirement formulas in Sections 21354.1, 21363.3,
25 21363.4, 21363.8, and 21369.1 shall only apply to state employees
26 who were first employed and subject to those sections before
27 January 15, 2011. Those sections shall not apply to any state
28 employee member first employed on and after January 15, 2011.

29 (d) Upon request by the state employer or other entity, or on its
30 own volition, the board may change the amortization period, or
31 take any other action the board deems necessary or appropriate,
32 to mitigate the impact of unforeseen factors that may cause an
33 increase in the employer contribution by the state. Nothing in this
34 section shall be construed to limit the board’s authority under
35 Section 17 of Article 16 of the California Constitution.

36 SEC. 138. Section 21353 of the Government Code is amended
37 to read:

38 21353. (a) The combined current and prior service pensions
39 for a local miscellaneous member, a school member, a state
40 miscellaneous or state industrial member, or a university member

1 is a pension derived from the contributions of the employer
 2 sufficient, when added to the service retirement annuity that is
 3 derived from the accumulated normal contributions of the member
 4 at the date of retirement, to equal the fraction of one-fiftieth of the
 5 member’s final compensation set forth opposite the member’s age
 6 at retirement, taken to the preceding completed quarter year, in
 7 the following table, multiplied by the number of years of current
 8 and prior service except service in a category of membership other
 9 than that of state or state industrial member, local miscellaneous
 10 member, school member, or a university member, or service
 11 covered under this First Tier retirement formula, with which the
 12 member is entitled to be credited at retirement:

13	14		
15	Age of		Fraction
16	Retirement		
16	50 .....		.546
17	50¼ .....		.554
18	50½ .....		.562
19	50¾ .....		.570
20	51 .....		.578
21	51¼ .....		.586
22	51½ .....		.595
23	51¾ .....		.603
24	52 .....		.612
25	52¼ .....		.621
26	52½ .....		.630
27	52¾ .....		.639
28	53 .....		.648
29	53¼ .....		.658
30	53½ .....		.668
31	53¾ .....		.678
32	54 .....		.688
33	54¼ .....		.698
34	54½ .....		.709
35	54¾ .....		.719
36	55 .....		.730
37	55¼ .....		.741
38	55½ .....		.753
39	55¾ .....		.764
40	56 .....		.776

1	56¼	.....	.788
2	56½	.....	.800
3	56¾	.....	.813
4	57	.....	.825
5	57¼	.....	.839
6	57½	.....	.852
7	57¾	.....	.865
8	58	.....	.879
9	58¼	.....	.893
10	58½	.....	.908
11	58¾	.....	.923
12	59	.....	.937
13	59¼	.....	.953
14	59½	.....	.969
15	59¾	.....	.985
16	60	.....	1.000
17	60¼	.....	1.017
18	60½	.....	1.034
19	60¾	.....	1.050
20	61	.....	1.067
21	61¼	.....	1.084
22	61½	.....	1.101
23	61¾	.....	1.119
24	62	.....	1.136
25	62¼	.....	1.154
26	62½	.....	1.173
27	62¾	.....	1.191
28	63 and over	.....	1.209

29
30 (b) The fractions specified in the above table shall be reduced
31 by one-third as applied to that part of final compensation that does
32 not exceed four hundred dollars (\$400) per month for all service
33 of a member any of whose service has been included in the federal
34 system. This reduction shall not apply to a member employed by
35 a contracting agency that enters into a contract after July 1, 1971,
36 and elects not to be subject to this paragraph or with respect to
37 service rendered after the termination of coverage under the federal
38 system with respect to the coverage group to which the member
39 belongs.

1 (c) The improved retirement allowance provided by this section
2 is granted subject to future reduction prior to a member's
3 retirement, by offset of federal system benefits or otherwise, as
4 the Legislature may from time to time deem appropriate because
5 of changes in the federal system benefits.

6 (d) With the exception of state miscellaneous members for
7 service rendered for the California State University or the
8 legislative or judicial branch of government, this section shall
9 apply to state miscellaneous and state industrial members who are
10 not employed by the state on or after January 1, 2000.

11 (e) (1) This section shall apply to a state miscellaneous or
12 industrial member who is employed by the state for the first time
13 and becomes a state miscellaneous or industrial member of the
14 system on or after the first day of the pay period following the
15 effective date of the act adding this subdivision, and is represented
16 by State Bargaining Unit 12, 16, 18, or 19. With respect to related
17 state miscellaneous or industrial members in managerial,
18 supervisory, or confidential positions and officers or employees
19 of the executive branch of state government who are not members
20 of the civil service, the Director of ~~the Department of Personnel~~
21 ~~Administration~~ *Human Resources* may exercise his or her
22 discretion whether to approve their status in writing to the board.

23 (2) This subdivision does not apply to:

24 (A) Former state employees previously employed before the
25 first day of the pay period following the effective date of this
26 subdivision, who return to state employment on or after the first
27 day of the pay period following the effective date of this
28 subdivision.

29 (B) State employees hired prior to the first day of the pay period
30 following the effective date of this subdivision, who were subject
31 to Section 20281.5 during the first 24 months of state employment.

32 (C) State employees hired prior to the first day of the pay period
33 following the effective date of this subdivision, who become
34 subject to representation by State Bargaining Unit 12, 16, 18, or
35 19 on or after the first day of the pay period following the effective
36 date of the act adding this subdivision.

37 (D) State employees on an approved leave of absence employed
38 before the first day of the pay period following the effective date
39 of this subdivision, who return to active employment on or after

1 the first day of the pay period following the effective date of the
2 act adding this subdivision.

3 (f) (1) This section shall apply to a state miscellaneous or
4 industrial member who is employed by the state for the first time
5 and becomes a state miscellaneous or industrial member of the
6 system on or after October 31, 2010, and is represented by State
7 Bargaining Unit 5 or 8. With respect to related state miscellaneous
8 or industrial members in managerial, supervisory, or confidential
9 positions and officers or employees of the executive branch of
10 state government who are not members of the civil service, the
11 Director of ~~the Department of Personnel Administration~~ *Human*
12 *Resources* may exercise his or her discretion whether to approve
13 their status in writing to the board.

14 (2) This subdivision does not apply to:

15 (A) Former state employees previously employed before October
16 31, 2010, who return to state employment on or after October 31,
17 2010.

18 (B) State employees hired prior to October 31, 2010, who were
19 subject to Section 20281.5 during the first 24 months of state
20 employment.

21 (C) State employees hired prior to October 31, 2010, who
22 become subject to representation by State Bargaining Unit 5 or 8
23 on or after October 31, 2010.

24 (D) State employees on an approved leave of absence employed
25 before October 1, 2010, who return to active employment on or
26 after October 31, 2010.

27 (g) (1) Notwithstanding Section 3517.8 or any provision of an
28 expired memorandum of understanding, this section shall also
29 apply to a state miscellaneous or industrial member who is
30 employed by the state, the Legislature, the judicial branch, or the
31 California State University for the first time and becomes a member
32 of the system on or after January 15, 2011.

33 (2) If this subdivision is in conflict with a memorandum of
34 understanding that is current and in effect on January 15, 2011,
35 the memorandum of understanding shall be controlling while it
36 remains in effect. Upon expiration of the memorandum of
37 understanding that is in effect and current on January 15, 2011,
38 this section shall be controlling and may not be superseded by a
39 subsequent memorandum of understanding.

40 (3) This subdivision does not apply to:

1 (A) Former state, legislative, judicial branch, or university
2 employees previously employed before January 15, 2011, who
3 return to employment on or after January 15, 2011, and who were
4 not previously subject to this section.

5 (B) State employees hired prior to January 15, 2011, who were
6 subject to Section 20281.5 during the first 24 months of state
7 employment, and who were not previously subject to this section.

8 (C) State, legislative, judicial branch, or university employees
9 on an approved leave of absence employed before January 15,
10 2011, who return to active employment on or after January 15,
11 2011, and who were not previously subject to this section.

12 SEC. 139. Section 21354.1 of the Government Code is amended
13 to read:

14 21354.1. (a) The combined current and prior service pensions
15 for school members, state miscellaneous or state industrial
16 members, or university members who are subject to the provisions
17 of this section is a pension derived from the contributions of the
18 employer sufficient, when added to the service retirement annuity
19 that is derived from the accumulated normal contributions of the
20 member at the date of retirement, to equal the fraction of
21 one-fiftieth of the member’s final compensation set forth opposite
22 the member’s age at retirement, taken to the preceding completed
23 quarter year, in the following table, multiplied by the number of
24 years of current and prior service, except service in a category of
25 membership other than that of a school member, state
26 miscellaneous or state industrial member, or university member
27 or service covered under this retirement formula with which the
28 member is entitled to be credited at retirement:

30 Age at 31 retirement	30 Fraction
32 50	0.550
33 50¼	0.573
34 50½	0.595
35 50¾	0.618
36 51	0.640
37 51¼	0.663
38 51½	0.685
39 51¾	0.708
40 52	0.730

1	52¼	0.753
2	52½	0.775
3	52¾	0.798
4	53	0.820
5	53¼	0.843
6	53½	0.865
7	53¾	0.888
8	54	0.910
9	54¼	0.933
10	54½	0.955
11	54¾	0.978
12	55	1.000
13	55¼	1.008
14	55½	1.016
15	55¾	1.024
16	56	1.032
17	56¼	1.040
18	56½	1.048
19	56¾	1.055
20	57	1.063
21	57¼	1.071
22	57½	1.079
23	57¾	1.086
24	58	1.094
25	58¼	1.102
26	58½	1.110
27	58¾	1.118
28	59	1.125
29	59¼	1.134
30	59½	1.141
31	59¾	1.149
32	60	1.157
33	60¼	1.165
34	60½	1.173
35	60¾	1.180
36	61	1.188
37	61¼	1.196
38	61½	1.203
39	61¾	1.211
40	62	1.219

1	62¼	1.227
2	62½	1.235
3	62¾	1.243
4	63 and over	1.250

5

6 (b) The fraction specified in the above table shall be reduced
7 by one-third as applied to that part of final compensation that does
8 not exceed four hundred dollars (\$400) per month for all service
9 of a member any of whose service has been included in the federal
10 system. This subdivision shall not apply to school members whose
11 service is included in the federal system with respect to service
12 performed on or after January 1, 2001.

13 (c) This section shall supersede Section 21353 for all school
14 members, all university members, and all state miscellaneous
15 members, with respect to service rendered for the California State
16 University or the legislative or judicial branch of government, who
17 retire on or after January 1, 2000.

18 (d) This section shall also supersede Section 21353 for state
19 miscellaneous or state industrial members, for service not subject
20 to subdivision (c), who are employed by the state on or after
21 January 1, 2000, and who do not elect under Section 21070.5 to
22 be subject to Second Tier benefits.

23 (e) Operation and application of this section are subject to the
24 limitations set forth in Section 21251.13.

25 (f) Notwithstanding any other provision of this section, this
26 section shall not apply to a state miscellaneous or industrial
27 member who is employed by the state for the first time and
28 becomes a state miscellaneous or industrial member of the system
29 on or after the first day of the pay period following the effective
30 date of the act adding this subdivision, and is represented by State
31 Bargaining Unit 12, 16, 18, or 19. With respect to related state
32 miscellaneous or industrial members in managerial, supervisory,
33 or 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 *Human Resources* may exercise his or her discretion whether to
37 approve their status in writing to the board.

38 (g) Notwithstanding any other provision of this section, this
39 section shall not apply to a state miscellaneous or industrial
40 member who is employed by the state for the first time and

1 becomes a state miscellaneous or industrial member of the system
2 on or after October 31, 2010, and is represented by State
3 Bargaining Unit 5 or 8. With respect to related state miscellaneous
4 or industrial members in managerial, supervisory, or confidential
5 positions and officers or employees of the executive branch of
6 state government who are not members of the civil service, the
7 Director of ~~the Department of Personnel Administration~~ *Human*
8 *Resources* may exercise his or her discretion whether to approve
9 their status in writing to the board.

10 (h) (1) Notwithstanding Section 3517.8 or any provision of an
11 expired memorandum of understanding, or any other provision of
12 this section, this section shall not apply to a state miscellaneous
13 or industrial member who is employed by the state, the Legislature,
14 the judicial branch, or the California State University for the first
15 time and becomes a member of the system on or after January 15,
16 2011.

17 (2) If this subdivision is in conflict with a memorandum of
18 understanding that is current and in effect on January 15, 2011,
19 the memorandum of understanding shall be controlling while it
20 remains in effect. Upon expiration of the memorandum of
21 understanding that is in effect and current on January 15, 2011,
22 this section shall be controlling and may not be superseded by a
23 subsequent memorandum of understanding.

24 SEC. 140. Section 21362.2 of the Government Code is amended
25 to read:

26 21362.2. (a) Upon attaining the age of 50 years or more, the
27 combined current and prior service pension for state patrol
28 members and for local safety members with respect to local safety
29 service rendered to a contracting agency that is subject to the
30 provisions of this section is a pension derived from the
31 contributions of the employer sufficient when added to the service
32 retirement annuity that is derived from the accumulated normal
33 contributions of the member at the date of his or her retirement to
34 equal 3 percent of his or her final compensation at retirement,
35 multiplied by the number of years of patrol service or local safety
36 service subject to this section with which he or she is credited at
37 retirement.

38 (b) In no event shall the current service pension and the
39 combined current and prior service pensions under this section for
40 all service to all employers exceed an amount that, when added to

1 the service retirement annuity related to that service, equals 85
2 percent of final compensation. For state patrol members with
3 respect to service for all state employers under this section, the
4 benefit shall not exceed 90 percent of final compensation. If the
5 pension relates to service to more than one employer and would
6 otherwise exceed that maximum, the pension payable with respect
7 to each employer shall be reduced in the same proportion as the
8 allowance based on service to that employer bears to the total
9 allowance computed as though there were no limit, so that the total
10 of the pensions shall equal the maximum. Where a state or local
11 member has service under this section with both state and local
12 agency employers, the higher maximum shall apply and the
13 additional benefit shall be funded by increasing the member's
14 pension payable with respect to the employer for whom the member
15 performed the service subject to the higher maximum.

16 (c) For patrol members employed by the state on or after January
17 1, 2000, this section shall supersede Section 21362.

18 (d) This section shall not apply to state safety or state peace
19 officer/firefighter members.

20 (e) This section shall not apply to any contracting agency nor
21 its employees unless and until the agency elects to be subject to
22 the provisions of this section by amendment to its contract made
23 in the manner prescribed for approval of contracts or, in the case
24 of contracts made after the date this section becomes operative,
25 by express provision in the contract making the contracting agency
26 subject to this section. The operative date of this section for a local
27 safety member shall be the effective date of the amendment to his
28 or her employer's contract electing to be subject to this section.

29 (f) This section shall supersede Section 21362, 21363, 21363.1,
30 21366, 21368, 21369, or 21370, whichever is then applicable, with
31 respect to local safety members who retire after the date this section
32 becomes applicable to their respective employers.

33 (g) The Legislature reserves, with respect to any member subject
34 to this section, the right to provide for the adjustment of industrial
35 disability retirement allowances because of earnings of a retired
36 person and modification of the conditions and qualifications
37 required for retirement for disability as it may find appropriate
38 because of the earlier ages of service retirement made possible by
39 the benefits under this section.

1 (h) Operation and application of this section is subject to the
2 limitations set forth in Section 21251.13.

3 (i) Notwithstanding any other provision of this section, this
4 section shall not apply to a state patrol member who is employed
5 by the state for the first time and becomes a state patrol member
6 of the system on or after October 31, 2010, and is represented by
7 State Bargaining Unit 5. With respect to related state patrol
8 members in managerial, supervisory, or confidential positions and
9 officers or employees of the executive branch of state government
10 who are not members of the civil service, the Director of ~~the~~
11 ~~Department of Personnel Administration~~ *Human Resources* may
12 exercise his or her discretion whether to approve their status in
13 writing to the board.

14 SEC. 141. Section 21363 of the Government Code is amended
15 to read:

16 21363. (a) The combined current and prior service pensions
17 for state peace officer/firefighter members subject to this section
18 with respect to state peace officer/firefighter service and the
19 combined current and prior service pensions for local safety
20 members with respect to local safety service rendered to a
21 contracting agency that is subject to this section is a pension
22 derived from the contributions of the employer sufficient when
23 added to the service retirement annuity that is derived from the
24 accumulated normal contributions of the state peace
25 officer/firefighter or local safety member at the date of his or her
26 retirement to equal the fraction of one-fiftieth of his or her final
27 compensation set forth opposite his or her age at retirement taken
28 to the preceding completed quarter year, in the following table,
29 multiplied by the number of years of state peace officer/firefighter
30 service or local safety service subject to this section with which
31 he or she is credited at retirement:

32

33

34

35

36

37

38

39

40

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625

1	Age at	
2	Retirement	Fraction
3	51 1/2.....	1.0750
4	51 3/4.....	1.0875
5	52	1.1000
6	52 1/4.....	1.1125
7	52 1/2.....	1.1250
8	52 3/4.....	1.1375
9	53	1.1500
10	53 1/4.....	1.1625
11	53 1/2.....	1.1750
12	53 3/4.....	1.1875
13	54	1.2000
14	54 1/4.....	1.2125
15	54 1/2.....	1.2250
16	54 3/4.....	1.2375
17	55 and over.....	1.2500

18

19 (b) (1) In no event shall the current service pension and the
 20 combined current and prior service pensions under this section for
 21 all service to all employers exceed an amount that, when added to
 22 the service retirement annuity related to that service, equals 75
 23 percent of final compensation.

24 (2) For state members, with respect to service for all state
 25 employers under this section, the benefit shall not exceed:

26 (A) Eighty percent of final compensation for state members
 27 who retire on or after January 1, 1995.

28 (B) Eighty-five percent of final compensation for state peace
 29 officer/firefighter members in State Bargaining Units 6 and 8 who
 30 retire on or after January 1, 1999, and prior to January 1, 2000.

31 (C) Ninety percent of final compensation for state peace
 32 officer/firefighter members who retire on or after January 1, 2000.

33 (3) For local safety members who retire on or after January 1,
 34 2000, the benefit shall not exceed 85 percent of final compensation.
 35 If the pension relates to service to more than one employer, or this
 36 section and Section 21369, and would otherwise exceed that
 37 maximum, the pension payable with respect to each section or
 38 employer shall be reduced in the same proportion as the allowance
 39 bears to the total allowance computed as though there were no
 40 limit, so that the total of the pensions shall equal the maximum.

1 Where a state or local member retiring on or after January 1, 1995,
2 has service under this section with both state and local agency
3 employers, the higher maximum shall apply and the additional
4 benefit, if any, shall be funded by increasing the member's pension
5 payable with respect to the employer for whom the member
6 performed the service subject to the higher maximum.

7 (c) 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 (d) This section may be applied to related supervisory classes
15 or confidential positions for the respective bargaining units
16 specified in this section.

17 (e) (1) This section shall be operative with respect to state peace
18 officer/firefighter members in Corrections Bargaining Unit No. 6,
19 Protective Services and Public Safety Bargaining Unit No. 7, or
20 Firefighters Bargaining Unit No. 8, in accordance with a
21 memorandum of understanding reached between the state and the
22 exclusive bargaining agent in the respective unit pursuant to
23 Chapter 10.3 (commencing with Section 3512) of Division 4 of
24 Title 1.

25 (2) This section also shall be operative with respect to the state
26 peace officer/firefighter members employed by a California State
27 University police department who are in Public Safety Unit No. 8
28 in accordance with a memorandum of understanding reached
29 between the Trustees of the California State University and the
30 recognized employee organization pursuant to Chapter 12
31 (commencing with Section 3560) of Division 4 of Title 1.

32 (3) This section shall also be operative with respect to a "state
33 peace officer/firefighter member" defined in subdivision (a) of
34 Section 20396 if authorized by, and in accordance with, a
35 memorandum of understanding reached between the Trustees of
36 the California State University and the recognized employee
37 organization pursuant to Chapter 12 (commencing with Section
38 3560) of Division 4 of Title 1.

39 (4) Nothing in this section or in any other provision of law
40 affected by Chapter 1320 of the Statutes of 1984 or Chapter 234

1 of the Statutes of 1986 shall be construed as authorizing any future
2 negotiation with respect to whether or not any bargaining unit
3 specified in this section whose memorandum of understanding
4 was previously approved by the Legislature pursuant to law and
5 this section, shall continue to remain within the state peace
6 officer/firefighter membership category.

7 (5) The operative date of this section with respect to members
8 in each of the bargaining units specified in this section shall be as
9 provided for in the memorandum of understanding.

10 (6) With the exception of state peace officer/firefighter members
11 for service rendered for the California State University or the
12 legislative or judicial branch of government, this section shall
13 apply to state peace officer/firefighter members who are not
14 employed by the state on or after January 1, 2000.

15 (f) This section shall be known as, and may be cited as, the State
16 Peace Officers' and Fire Fighters' Retirement Act.

17 (g) The Legislature reserves the right to subsequently modify
18 or amend this part in order to completely effectuate the intent and
19 purposes of this section and the right to not provide any new
20 comparable advantages if disadvantages to employees result from
21 any modification or amendment.

22 (h) This section shall not apply to a contracting agency nor its
23 employees until, first, it is agreed to in a written memorandum of
24 understanding entered into by an employer and representatives of
25 employees and, second, the contracting agency elects to be subject
26 to it by amendment to its contract made in the manner prescribed
27 for approval of contracts or in the case of a new contract, by
28 express provision of the contract. The operative date of this section
29 with respect to a local safety member shall be the effective date
30 of the amendment to his or her employer's contract electing to be
31 subject to this section. However, this section shall not apply to any
32 local safety member in the employ of an employer not subject to
33 this section on January 1, 2000.

34 (i) Notwithstanding Section 3517.8 or any provision of an
35 expired memorandum of understanding, this section shall apply
36 to a state peace officer/firefighter member who is employed by
37 the state for the first time and becomes a state peace
38 officer/firefighter member of the system on or after January 15,
39 2011, and is represented by State Bargaining Unit 6 or 7. With
40 respect to related state peace officer/firefighter members in

1 managerial, supervisory, or confidential positions and officers or
2 employees of the executive branch of state government who are
3 not members of the civil service, the Director of the ~~Department~~
4 ~~of Personnel Administration~~ *Human Resources* may exercise his
5 or her discretion whether to approve their status in writing to the
6 board.

7 (j) (1) This section shall also apply to a state peace
8 officer/firefighter member who is employed by the California State
9 University or judicial branch of government or the Legislature for
10 the first time and becomes a state peace officer/firefighter member
11 on or after January 15, 2011.

12 (2) If this subdivision is in conflict with a memorandum of
13 understanding that is current and in effect on January 15, 2011,
14 the memorandum of understanding shall be controlling while it
15 remains in effect. Upon expiration of the memorandum of
16 understanding that is in effect and current on January 15, 2011,
17 this section shall be controlling and may not be superseded by a
18 subsequent memorandum of understanding.

19 (k) Subdivisions (i) and (j) do not apply to:

20 (1) Former state, legislative, judicial branch, or California State
21 University employees employed before January 15, 2011, who
22 return to state or university employment on or after January 15,
23 2011, and who were not previously subject to this section.

24 (2) State employees hired prior to January 15, 2011, who were
25 subject to Section 20281.5 during the first 24 months of state
26 employment and who were not previously subject to this section.

27 (3) State employees hired prior to January 15, 2011, who become
28 subject to representation by State Bargaining Unit 6 or 7 on or
29 after January 15, 2011, and who were not previously subject to
30 this section.

31 (4) State, legislative, judicial branch, or California State
32 University employees on an approved leave of absence before
33 January 15, 2011, who return to active employment on or after
34 January 15, 2011, and who were not previously subject to this
35 section.

36 SEC. 142. Section 21363.1 of the Government Code is amended
37 to read:

38 21363.1. (a) The combined current and prior service pensions
39 for state peace officer/firefighter members subject to this section
40 with respect to state peace officer/firefighter service, and for local

1 safety members with respect to local safety service rendered to a
 2 contracting agency that is subject to this section, is a pension
 3 derived from the contributions of the employer sufficient when
 4 added to the service retirement annuity that is derived from the
 5 accumulated normal contributions of the state peace
 6 officer/firefighter member or local safety member at the date of
 7 his or her retirement to equal the fraction of 3 percent 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 peace
 11 officer/firefighter service or local safety service subject to this
 12 section with which he or she is credited at retirement:

13	14	15	16
	Age at		Fraction
	Retirement		
16	50 .....		.800
17	50 ¹ / ₄ .....		.810
18	50 ¹ / ₂ .....		.820
19	50 ³ / ₄ .....		.830
20	51 .....		.840
21	51 ¹ / ₄ .....		.850
22	51 ¹ / ₂ .....		.860
23	51 ³ / ₄ .....		.870
24	52 .....		.880
25	52 ¹ / ₄ .....		.890
26	52 ¹ / ₂ .....		.900
27	52 ³ / ₄ .....		.910
28	53 .....		.920
29	53 ¹ / ₄ .....		.930
30	53 ¹ / ₂ .....		.940
31	53 ³ / ₄ .....		.950
32	54 .....		.960
33	54 ¹ / ₄ .....		.970
34	54 ¹ / ₂ .....		.980
35	54 ³ / ₄ .....		.990
36	55 and over		1.000

37
 38 (b) In no event shall the current service pension and the
 39 combined current and prior service pensions under this section for
 40 all service to all employers exceed an amount that, when added to

1 the service retirement annuity related to that service, equals 85
2 percent of final compensation. For state peace officer/firefighter
3 members with respect to service for all state employers under this
4 section, the benefit shall not exceed 90 percent of final
5 compensation. If the pension relates to service to more than one
6 employer and would otherwise exceed that maximum, the pension
7 payable with respect to each employer shall be reduced in the same
8 proportion as the allowance based on service to that employer
9 bears to the total allowance computed as though there were no
10 limit, so that the total of the pensions shall equal the maximum.
11 Where a state or local member has service under this section with
12 both state and local agency employers, the higher maximum shall
13 apply and the additional benefit shall be funded by increasing the
14 member's pension payable with respect to the employer for whom
15 the member performed the service subject to the higher maximum.

16 (c) This section shall supersede Section 21363 for state peace
17 officer/firefighter members with respect to service rendered for
18 the California State University or the legislative or judicial branch
19 of government.

20 (d) This section shall also supersede Section 21363 for state
21 peace officer/firefighter members, for service not subject to
22 subdivision (c), who are employed by the state on or after January
23 1, 2000.

24 (e) This section shall not apply to any contracting agency nor
25 its employees unless and until the agency elects to be subject to
26 the provisions of this section by amendment to its contract made
27 in the manner prescribed for approval of contracts or, in the case
28 of contracts made after the date this section becomes operative,
29 by express provision in the contract making the contracting agency
30 subject to this section. The operative date of this section for a local
31 safety member shall be the effective date of the amendment to his
32 or her employer's contract electing to be subject to this section.

33 (f) This section shall supersede Section 21363, 21366, 21368,
34 21369, or 21370, whichever is then applicable, with respect to
35 local safety members who retire after the date this section becomes
36 applicable to their respective employers.

37 (g) The Legislature reserves, with respect to any member subject
38 to this section, the right to provide for the adjustment of industrial
39 disability retirement allowances because of earnings of a retired
40 person and modification of the conditions and qualifications

1 required for retirement for disability as it may find appropriate
2 because of the earlier age of service retirement made possible by
3 the benefits under this section.

4 (h) The Legislature reserves the right to subsequently modify
5 or amend this part in order to completely effectuate the intent and
6 purposes of this section and the right to not provide any new
7 comparable advantages if disadvantages to employees result from
8 any modification or amendment.

9 (i) Operation and application of this section are subject to the
10 limitations set forth in Section 21251.13.

11 (j) This section shall apply to a state patrol member who is
12 employed by the state for the first time and becomes a state patrol
13 member of the system on or after October 31, 2010, and is
14 represented by State Bargaining Unit 5. With respect to related
15 state patrol members in managerial, supervisory, or confidential
16 positions and officers or employees of the executive branch of
17 state government who are not members of the civil service, the
18 Director of ~~the Department of Personnel Administration~~ *Human*
19 *Resources* may exercise his or her discretion whether to approve
20 their status in writing to the board.

21 (k) This section shall apply to a state peace officer/firefighter
22 member who is employed by the state for the first time and
23 becomes a state peace officer/firefighter member of the system on
24 or after October 31, 2010, and is represented by State Bargaining
25 Unit 8. With respect to related state peace officer/firefighter
26 members in managerial, supervisory, or confidential positions and
27 officers or employees of the executive branch of state government
28 who are not members of the civil service, the Director of ~~the~~
29 ~~Department of Personnel Administration~~ *Human Resources* may
30 exercise his or her discretion whether to approve their status in
31 writing to the board.

32 (l) Subdivisions (j) and (k) do not apply to:

33 (1) Former state employees previously employed before October
34 31, 2010, who return to state employment on or after October 31,
35 2010.

36 (2) State employees hired prior to October 31, 2010, who were
37 subject to Section 20281.5 during the first 24 months of state
38 employment.

1 (3) State employees hired prior to October 31, 2010, who
2 become subject to representation by State Bargaining Unit 5 or 8
3 on or after October 31, 2010.

4 (4) State employees on an approved leave of absence employed
5 before October 31, 2010, who return to active employment on or
6 after October 31, 2010.

7 (m) (1) Notwithstanding any other provision of this section,
8 this section shall not apply to a peace officer/firefighter member
9 who is employed for the first time by the California State
10 University or the legislative or judicial branch and becomes a state
11 peace officer/firefighter member of the system on or after January
12 15, 2011.

13 (2) If this subdivision is in conflict with a memorandum of
14 understanding that is current and in effect on January 15, 2011,
15 the memorandum of understanding shall be controlling while it
16 remains in effect. Upon expiration of the memorandum of
17 understanding that is in effect and current on January 15, 2011,
18 this section shall be controlling and may not be superseded by a
19 subsequent memorandum of understanding.

20 (n) Notwithstanding Section 3517.8, or any provision of an
21 expired memorandum of understanding, or any other provision of
22 this section, this section shall not apply to those peace
23 officer/firefighter members in state Bargaining Units 6 and 7 first
24 employed by the state on or after January 15, 2011.

25 SEC. 143. Section 21363.4 of the Government Code is amended
26 to read:

27 21363.4. (a) Upon attaining the age of 50 years or more, the
28 combined current and prior service pension for a state peace
29 officer/firefighter member described in subdivision (c) who retires
30 or dies on or after January 1, 2006, is a pension derived from the
31 contributions of the employer sufficient when added to the service
32 retirement annuity that is derived from the accumulated normal
33 contributions of the member at the date of his or her retirement to
34 equal 3 percent of his or her final compensation at retirement,
35 multiplied by the number of years of state peace officer/firefighter
36 service, as defined in subdivision (d), subject to this section with
37 which he or she is credited at retirement.

38 (b) For state peace officer/firefighter members, with respect to
39 service for all state employers under this section, the current service
40 pension and the combined current and prior service pension under

1 this section shall not exceed an amount that, when added to the
2 service retirement annuity related to that service, equals 90 percent
3 of final compensation. If the pension relates to service to more
4 than one employer and would otherwise exceed that maximum,
5 the pension payable with respect to each employer shall be reduced
6 in the same proportion as the allowance based on service to that
7 employer bears to the total allowance computed as though there
8 were no limit, so that the total of the pensions shall equal the
9 maximum.

10 (c) For purposes of this section, “state peace officer/firefighter
11 member” means state peace officer/firefighter members under this
12 part who, on or after January 1, 2006, are employed by the state
13 and are members of State Bargaining Unit 6 or State Bargaining
14 Unit 8, and may include state peace officer/firefighter members
15 in related managerial, supervisory, or confidential positions and
16 officers or employees of the executive branch of state government
17 who are not members of the civil service, provided the Department
18 of ~~Personnel Administration~~ *Human Resources* has approved their
19 inclusion in writing to the board.

20 (d) For purposes of this section, “state peace officer/firefighter
21 service” means service performed by a state peace
22 officer/firefighter member while a member of State Bargaining
23 Unit 6 or State Bargaining Unit 8, and may include state peace
24 officer/firefighter service in related managerial, supervisory, or
25 confidential positions or as officers or employees of the executive
26 branch of state government who are not members of the civil
27 service, provided the Department of ~~Personnel Administration~~
28 *Human Resources* has approved their inclusion in writing to the
29 board.

30 (e) This section shall supersede Section 21363 or 21363.1,
31 whichever is applicable, with respect to state peace
32 officer/firefighter members and service as defined herein.

33 (f) The Legislature reserves, with respect to any member subject
34 to this section, the right to provide for the adjustment of industrial
35 disability retirement allowances because of earnings of a retired
36 person and modification of the conditions and qualifications
37 required for retirement for disability as it may find appropriate
38 because of the earlier ages of service retirement made possible by
39 the benefits under this section.

1 (g) Notwithstanding any other provision of this section, this
2 section shall not apply to a state peace officer/firefighter member
3 who is employed by the state for the first time and becomes a state
4 peace officer/firefighter member of the system on or after October
5 31, 2010, and is represented by State Bargaining Unit 8. With
6 respect to related state peace officer/firefighter members in
7 managerial, supervisory, or confidential positions and officers or
8 employees of the executive branch of state government who are
9 not members of the civil service, the Director of ~~the Department~~
10 ~~of Personnel Administration~~ *Human Resources* may exercise his
11 or her discretion whether to approve their status in writing to the
12 board.

13 (h) Notwithstanding Section 3517.8, or any provision of an
14 expired memorandum of understanding, or any other provision of
15 this section, this section shall not apply to a state peace
16 officer/firefighter member who is employed by the state for the
17 first time and becomes a state peace officer/firefighter member of
18 the system on or after January 15, 2011, and is represented by State
19 Bargaining Unit 6. With respect to related state peace
20 officer/firefighter members in managerial, supervisory, or
21 confidential positions and officers or employees of the executive
22 branch of state government who are not members of the civil
23 service, the Director of ~~the Department of Personnel Administration~~
24 *Human Resources* may exercise his or her discretion whether to
25 approve their status in writing to the board.

26 SEC. 144. Section 21363.8 of the Government Code is amended
27 to read:

28 21363.8. (a) Upon attaining the age of 50 years or more, the
29 combined current and prior service pension for a state peace
30 officer/firefighter member described in subdivision (c) who retires
31 or dies on or after January 1, 2004, is a pension derived from the
32 contributions of the employer sufficient when added to the service
33 retirement annuity that is derived from the accumulated normal
34 contributions of the member at the date of his or her retirement to
35 equal 3 percent of his or her final compensation at retirement,
36 multiplied by the number of years of state peace officer/firefighter
37 service, as defined in subdivision (d), subject to this section with
38 which he or she is credited at retirement.

39 (b) For state peace officer/firefighter members, with respect to
40 service for all state employers under this section, the current service

1 pension and the combined current and prior service pension under
2 this section may not exceed an amount that, when added to the
3 service retirement annuity related to that service, equals 90 percent
4 of final compensation. If the pension relates to service to more
5 than one employer and would otherwise exceed that maximum,
6 the pension payable with respect to each employer shall be reduced
7 in the same proportion as the allowance based on service to that
8 employer bears to the total allowance computed as though there
9 were no limit, so that the total of the pensions shall equal the
10 maximum.

11 (c) (1) This section shall apply to state peace officer/firefighter
12 members under this part who, on or after January 1, 2004, are
13 employed by the state and are members of State Bargaining Unit
14 7.

15 (2) This section may also apply to state peace officer/firefighter
16 members in managerial, supervisory, or confidential positions that
17 are related to the members described in paragraph (1) and to
18 officers or employees of the executive branch of state government
19 who are not members of the civil service and who are in positions
20 that are related to the members described in paragraph (1), if the
21 Department of ~~Personnel Administration~~ *Human Resources* has
22 approved their inclusion in writing to the board.

23 (d) (1) For purposes of this section, “state peace
24 officer/firefighter service” means service performed by a state
25 peace officer/firefighter member while a member of State
26 Bargaining Unit 7.

27 (2) That service may include state peace officer/firefighter
28 service in managerial, supervisory, or confidential positions that
29 are related to the members described in paragraph (1) or as officers
30 or employees of the executive branch of state government who are
31 not members of the civil service and who are in positions that are
32 related to the members described in paragraph (1), provided the
33 Department of ~~Personnel Administration~~ *Human Resources* has
34 approved their inclusion in writing to the board.

35 (e) This section shall supersede Section 21363 or 21363.1,
36 whichever is applicable, with respect to state peace
37 officer/firefighter members subject to this section and state peace
38 officer/firefighter service as defined herein.

39 (f) The Legislature reserves, with respect to any member subject
40 to this section, the right to provide for the adjustment of industrial

1 disability retirement allowances because of earnings of a retired
2 person and modification of the conditions and qualifications
3 required for retirement for disability as it may find appropriate
4 because of the earlier ages of service retirement made possible by
5 the benefits under this section.

6 (g) Notwithstanding Section 3517.8, or any provision of an
7 expired memorandum of understanding, or any other provision of
8 this section, this section shall not apply to a state peace
9 officer/firefighter member who is employed by the state for the
10 first time and becomes a state peace officer/firefighter member of
11 the system on or after January 15, 2011, and is represented by State
12 Bargaining Unit 7. With respect to related state peace
13 officer/firefighter members in managerial, supervisory, or
14 confidential positions and officers or employees of the executive
15 branch of state government who are not members of the civil
16 service, the Director of the ~~Department of Personnel Administration~~
17 *Human Resources* may exercise his or her discretion whether to
18 approve their status in writing to the board.

19 SEC. 145. Section 21369 of the Government Code is amended
20 to read:

21 21369. (a) The combined prior and current service pension
22 for a state safety member, and a local safety member with respect
23 to service to a contracting agency subject to this section, upon
24 retirement after attaining the age of 55 years, is a pension derived
25 from contributions of an employer sufficient, when added to that
26 portion of the service retirement annuity that is derived from the
27 accumulated normal contributions of the member at the date of
28 his or her retirement, to equal one-fiftieth of his or her final
29 compensation multiplied by the number of years of state safety,
30 police, fire, or county peace officer service that is credited to him
31 or her as a state safety member or a local safety member subject
32 to this section at retirement. Notwithstanding the preceding
33 sentence, this section shall apply to the current and prior service
34 pension for any other state safety member based on service to
35 which it would have applied had the member, on July 1, 1971,
36 been in employment described in Section 20403 or 20404.

37 (b) Upon retirement for service prior to attaining the age of 55
38 years, the percentage of final compensation payable for each year
39 of credited service that is subject to this section shall be the product

1 of 2 percent multiplied by the factor set forth in the following table
2 for his or her actual age at retirement:

3		The percent for each year of 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		
27		
28		

29 (c) In no event shall the total pension for all service under this
30 section exceed an amount that, when added to the service retirement
31 annuity related to that service, equals 75 percent of final
32 compensation. For state members who retire on or after January
33 1, 1995, and with respect to service for all state employers under
34 this section, the benefit shall not exceed 80 percent of final
35 compensation. For local members who retire on or after January
36 1, 2000, the benefit shall not exceed 85 percent of final
37 compensation. If the pension relates to service to more than one
38 employer and would otherwise exceed that maximum, the pension
39 payable with respect to each employer shall be reduced in the same
40 proportion as the allowance based on service to that employer

1 bears to the total allowance computed as though there were no
2 limit, so that the total of those pensions shall equal the maximum.
3 Where a state or local member retiring on or after January 1, 1995,
4 has service under this section with both state and local agency
5 employers, the higher maximum shall apply and the additional
6 benefit shall be funded by increasing the member's pension payable
7 with respect to the employer for whom the member performed the
8 service subject to the higher maximum.

9 (d) This section shall not apply to a person whose effective date
10 of retirement is prior to July 1, 1971.

11 (e) The Legislature reserves, with respect to any member subject
12 to this section, the right to provide for the adjustment of industrial
13 disability retirement allowances because of earnings of a retired
14 person and modification of the conditions and qualifications
15 required for retirement for disability as it may find appropriate
16 because of the earlier age of service retirement made possible by
17 the benefits under this section.

18 (f) The percentage of final compensation provided in this section
19 shall be reduced by one-third as applied to that part of the
20 member's final compensation that does not exceed four hundred
21 dollars (\$400) per month for service after the effective date of
22 coverage of a member under the federal system. This subdivision
23 shall not apply to a member who retires after the date upon which
24 coverage under the federal system of persons in his or her
25 employment terminates. It shall not apply to a local safety member
26 employed by a contracting agency electing to be subject to this
27 section after March 7, 1973, unless the agency elects to be subject
28 to this paragraph by amendment to its contract or by appropriate
29 provision of a contract entered into after this provision is effective
30 and as to any member, the reduction in the percentage of final
31 compensation shall apply to all local safety service to the agency,
32 if any of the local safety service has been included in the federal
33 system.

34 (g) With the exception of state safety members for service
35 rendered for the California State University, this section shall apply
36 to state safety members who are not employed by the state on or
37 after January 1, 2000.

38 (h) This section shall not apply to a contracting agency nor its
39 employees until the agency elects to be subject to it by amendment
40 to its contract made in the manner prescribed for approval of

1 contracts or in the case of a new contract, by express provision of
2 the contract. The operative date of this section with respect to a
3 local safety member shall be the effective date of the amendment
4 to his or her employer's contract electing to be subject to this
5 section.

6 (i) (1) Notwithstanding Section 3517.8 or any provision of an
7 expired memorandum of understanding, this section shall also
8 apply to a state safety member who is employed by the state or
9 the California State University for the first time and becomes a
10 state safety member of the system on or after January 15, 2011.
11 With respect to related state safety members in managerial,
12 supervisory, or confidential positions and officers or employees
13 of the executive branch of state government who are not members
14 of the civil service, the Director of ~~the Department of Personnel~~
15 ~~Administration~~ *Human Resources* may exercise his or her
16 discretion whether to approve their status in writing to the board.

17 (2) If this subdivision is in conflict with a memorandum of
18 understanding that is current and in effect on January 15, 2011,
19 the memorandum of understanding shall be controlling while it
20 remains in effect. Upon expiration of the memorandum of
21 understanding that is in effect and current on January 15, 2011,
22 this section shall be controlling and may not be superseded by a
23 subsequent memorandum of understanding.

24 (j) This section does not apply to:

25 (1) Former state or California State University employees
26 employed before January 15, 2011, who return to state or university
27 employment on or after January 15, 2011, and who were not
28 previously subject to this section.

29 (2) State employees hired prior to January 15, 2011, who were
30 subject to Section 20281.5 during the first 24 months of state
31 employment, and who were not previously subject to this section.

32 (3) State or California State University employees on an
33 approved leave of absence before January 15, 2011, who return to
34 active employment on or after January 15, 2011, and who were
35 not previously subject to this section.

36 (4) State employees who are subject to Section 21369.2 so long
37 as their memorandum of understanding is in effect. Upon expiration
38 of the memorandum of understanding, notwithstanding Section
39 3517.8, this section shall be controlling and may not be superseded
40 by a subsequent memorandum of understanding.

1 SEC. 146. Section 21369.1 of the Government Code is amended
2 to read:

3 21369.1. (a) The combined current and prior service pensions
4 for state safety members subject to this section with respect to state
5 safety service that is subject to this section is a pension derived
6 from the contributions of the employer sufficient when added to
7 the service retirement annuity that is derived from the accumulated
8 normal contributions of the state safety member at the date of his
9 or her retirement to equal the fraction of one-fiftieth of his or her
10 final compensation set forth opposite his or her age at retirement
11 taken to the preceding completed quarter year, in the following
12 table, multiplied by the number of years of state safety service
13 subject to this section with which he or she is credited at retirement.
14

15 Age at	16 Retirement	16 Fraction
17 50		0.8500
18 50¼		0.8625
19 50½		0.8750
20 50¾		0.8875
21 51		0.9000
22 51¼		0.9125
23 51½		0.9250
24 51¾		0.9375
25 52		0.9500
26 52¼		0.9625
27 52½		0.9750
28 52¾		0.9875
29 53		1.0000
30 53¼		1.0320
31 53½		1.0630
32 53¾		1.0940
33 54		1.1250
34 54¼		1.1570
35 54½		1.1880
36 54¾		1.2190
37 55 and over		1.2500

38
39 (b) For state safety members with respect to service for all state
40 employers under this section, the benefit shall not exceed 80

1 percent of final compensation. If the pension relates to service to
2 more than one employer, and would otherwise exceed that
3 maximum, the pension payable with respect to each employer shall
4 be reduced in the same proportion as the allowance based on
5 service to that employer bears to the total allowance computed as
6 though there were no limit, so that the total of the pensions shall
7 equal the maximum.

8 (c) This section shall supersede Section 21369 for state safety
9 members with respect to service rendered for the California State
10 University.

11 (d) This section shall also supersede Section 21369 for state
12 safety members, for service not subject to subdivision (c), who are
13 employed by the state on or after January 1, 2000.

14 (e) The Legislature reserves, with respect to any member subject
15 to this section, the right to provide for the adjustment of industrial
16 disability retirement allowances because of earnings of a retired
17 person and modification of the conditions and qualifications
18 required for retirement for disability as it may find appropriate
19 because of the earlier age of service retirement made possible by
20 the benefits under this section.

21 (f) The Legislature reserves the right to subsequently modify
22 or amend this part in order to completely effectuate the intent and
23 purposes of this section and the right to not provide any new
24 comparable advantages if disadvantages to employees result from
25 any modification or amendment.

26 (g) Operation and application of this section are subject to the
27 limitations set forth in Section 21251.13.

28 (h) Notwithstanding any other provision of this section, this
29 section shall not apply to a state safety member who is employed
30 by the state for the first time and becomes a state safety member
31 of the system on or after the first day of the pay period following
32 the effective date of the act adding this subdivision, and is
33 represented by State Bargaining Unit 12, 16, 18, or 19. With respect
34 to related state safety members in managerial, supervisory, or
35 confidential positions and officers or employees of the executive
36 branch of state government who are not members of the civil
37 service, the Director of the ~~Department of Personnel Administration~~
38 *Human Resources* may exercise his or her discretion whether to
39 approve their status in writing to the board.

1 (i) (1) Notwithstanding Section 3517.8, or any provision of an
 2 expired memorandum of understanding, or any other provision of
 3 this section, this section shall not apply to a state safety member
 4 who is employed by the state or the California State University
 5 for the first time and becomes a state safety member of the system
 6 on or after January 15, 2011. With respect to related state safety
 7 members in managerial, supervisory, or confidential positions and
 8 officers or employees of the executive branch of state government
 9 who are not members of the civil service, the Director of ~~the~~
 10 ~~Department of Personnel Administration~~ *Human Resources* may
 11 exercise his or her discretion whether to approve their status in
 12 writing to the board.

13 (2) If this subdivision is in conflict with a memorandum of
 14 understanding that is current and in effect on January 15, 2011,
 15 the memorandum of understanding shall be controlling while it
 16 remains in effect. Upon expiration of the memorandum of
 17 understanding that is in effect and current on January 15, 2011,
 18 this section shall be controlling and may not be superseded by a
 19 subsequent memorandum of understanding.

20 SEC. 147. Section 21369.2 of the Government Code, as
 21 amended by Section 128 of Chapter 296 of the Statutes of 2011,
 22 is repealed.

23 ~~21369.2. (a) The combined prior and current service pension~~
 24 ~~for a state safety member, upon retirement after attaining the age~~
 25 ~~of 55 years, is a pension derived from contributions of an employer~~
 26 ~~sufficient, when added to that portion of the service retirement~~
 27 ~~annuity that is derived from the accumulated normal contributions~~
 28 ~~of the member at the date of his or her retirement, to equal~~
 29 ~~one-fiftieth of his or her final compensation multiplied by the~~
 30 ~~number of years of state safety service, that is credited to him or~~
 31 ~~her as a state safety member subject to this section at retirement.~~

32 (b) ~~Upon retirement for service prior to attaining the age of 55~~
 33 ~~years, the percentage of final compensation payable for each year~~
 34 ~~of credited service that is subject to this section shall be the product~~
 35 ~~of 2 percent multiplied by the factor set forth in the following table~~
 36 ~~for his or her actual age at retirement:~~

37		
38	— Age at	
39	— Retirement	Fraction
40	— 50	0.713

1	— 50¼	0.725
2	— 50½	0.737
3	— 50¾	0.749
4	— 51	0.761
5	— 51¼	0.775
6	— 51½	0.788
7	— 51¾	0.801
8	— 52	0.814
9	— 52¼	0.828
10	— 52½	0.843
11	— 52¾	0.857
12	— 53	0.871
13	— 53¼	0.886
14	— 53½	0.902
15	— 53¾	0.917
16	— 54	0.933
17	— 54¼	0.950
18	— 54½	0.966
19	— 54¾	0.983
20	— 55	1.0000
21	— 55¼	1.0125
22	— 55½	1.0250
23	— 55¾	1.0375
24	— 56	1.0500
25	— 56¼	1.0625
26	— 56½	1.0750
27	— 56¾	1.0875
28	— 57	1.1000
29	— 57¼	1.1125
30	— 57½	1.1250
31	— 57¾	1.1375
32	— 58	1.1500
33	— 58¼	1.1625
34	— 58½	1.1750
35	— 58¾	1.1875
36	— 59	1.2000
37	— 59¼	1.2125
38	— 59½	1.2250
39	— 59¾	1.2375
40	— 60 and over	1.2500

1 ~~(e) In no event shall the total pension for all service under this~~
2 ~~section exceed an amount that, when added to the service retirement~~
3 ~~annuity related to that service, equals 80 percent of final~~
4 ~~compensation. If the pension relates to service to more than one~~
5 ~~employer and would otherwise exceed that maximum, the pension~~
6 ~~payable with respect to each employer shall be reduced in the same~~
7 ~~proportion as the allowance based on service to that employer~~
8 ~~bears to the total allowance computed as though there were no~~
9 ~~limit, so that the total of those pensions shall equal the maximum.~~
10 ~~Where a state member has service under this section with both~~
11 ~~state and local agency employers, the higher maximum shall apply~~
12 ~~and the additional benefit shall be funded by increasing the~~
13 ~~member's pension payable with respect to the employer for whom~~
14 ~~the member performed the service subject to the higher maximum.~~

15 ~~(d) The Legislature reserves, with respect to any member subject~~
16 ~~to this section, the right to provide for the adjustment of industrial~~
17 ~~disability retirement allowances because of earnings of a retired~~
18 ~~person and modification of the conditions and qualifications~~
19 ~~required for retirement for disability as it may find appropriate~~
20 ~~because of the earlier age of service retirement made possible by~~
21 ~~the benefits under this section.~~

22 ~~(e) This section shall apply to a state safety member who is~~
23 ~~employed by the state for the first time and becomes a state safety~~
24 ~~member of the system on or after the first day of the pay period~~
25 ~~following the effective date of this section, and is represented by~~
26 ~~State Bargaining Unit 12, 16, 18, or 19. With respect to related~~
27 ~~state safety members in managerial, supervisory, or confidential~~
28 ~~positions and officers or employees of the executive branch of~~
29 ~~state government who are not members of the civil service, the~~
30 ~~Director of the Department of Personnel Administration may~~
31 ~~exercise his or her discretion whether to approve their status in~~
32 ~~writing to the board.~~

33 ~~(f) This section does not apply to:~~

34 ~~(1) Former state employees previously employed before the~~
35 ~~first day of the pay period following the effective date of this~~
36 ~~subdivision, who return to state employment on or after the first~~
37 ~~day of the pay period following the effective date of this~~
38 ~~subdivision.~~

1 ~~(2) State employees hired prior to the first day of the pay period~~
2 ~~following the effective date of this subdivision, who were subject~~
3 ~~to Section 20281.5 during the first 24 months of state employment.~~

4 ~~(3) State employees hired prior to the first day of the pay period~~
5 ~~following the effective date of this subdivision, who become~~
6 ~~subject to representation by State Bargaining Unit 12, 16, 18, or~~
7 ~~19 on or after the first day of the pay period following the effective~~
8 ~~date of this subdivision.~~

9 ~~(4) State employees on an approved leave of absence employed~~
10 ~~before the first day of the pay period following the effective date~~
11 ~~of this subdivision, who return to active employment on or after~~
12 ~~the first day of the pay period following the effective date of this~~
13 ~~subdivision.~~

14 SEC. 148. Section 21369.2 of the Government Code, as
15 amended by Section 129 of Chapter 296 of the Statutes of 2011,
16 is amended to read:

17 21369.2. (a) The combined prior and current service pension
18 for a state safety member, upon retirement after attaining the age
19 of 55 years, is a pension derived from contributions of an employer
20 sufficient, when added to that portion of the service retirement
21 annuity that is derived from the accumulated normal contributions
22 of the member at the date of his or her retirement, to equal
23 one-fiftieth of his or her final compensation multiplied by the
24 number of years of state safety service, that is credited to him or
25 her as a state safety member subject to this section at retirement.

26 (b) Upon retirement for service prior to attaining the age of 55
27 years, the percentage of final compensation payable for each year
28 of credited service that is subject to this section shall be the product
29 of 2 percent multiplied by the factor set forth in the following table
30 for his or her actual age at retirement:

31	32 Age at	
33	Retirement	Fraction
34	50	0.713
35	50 $\frac{1}{4}$	0.725
36	50 $\frac{1}{2}$	0.737
37	50 $\frac{3}{4}$	0.749
38	51	0.761
39	51 $\frac{1}{4}$	0.775
40	51 $\frac{1}{2}$	0.788

1	51¾.....	0.801
2	52	0.814
3	52¼.....	0.828
4	52½.....	0.843
5	52¾.....	0.857
6	53	0.871
7	53¼.....	0.886
8	53½.....	0.902
9	53¾.....	0.917
10	54	0.933
11	54¼.....	0.950
12	54½.....	0.966
13	54¾.....	0.983
14	55	1.0000
15	55¼.....	1.0125
16	55½.....	1.0250
17	55¾.....	1.0375
18	56	1.0500
19	56¼.....	1.0625
20	56½.....	1.0750
21	56¾.....	1.0875
22	57	1.1000
23	57¼.....	1.1125
24	57½.....	1.1250
25	57¾.....	1.1375
26	58	1.1500
27	58¼.....	1.1625
28	58½.....	1.1750
29	58¾.....	1.1875
30	59	1.2000
31	59¼.....	1.2125
32	59½.....	1.2250
33	59¾.....	1.2375
34	60 and over	1.2500

35
36 (c) In no event shall the total pension for all service under this
37 section exceed an amount that, when added to the service retirement
38 annuity related to that service, equals 80 percent of final
39 compensation. If the pension relates to service to more than one
40 employer and would otherwise exceed that maximum, the pension

1 payable with respect to each employer shall be reduced in the same
2 proportion as the allowance based on service to that employer
3 bears to the total allowance computed as though there were no
4 limit, so that the total of those pensions shall equal the maximum.
5 Where a state member has service under this section with both
6 state and local agency employers, the higher maximum shall apply
7 and the additional benefit shall be funded by increasing the
8 member's pension payable with respect to the employer for whom
9 the member performed the service subject to the higher maximum.

10 (d) The Legislature reserves, with respect to any member subject
11 to this section, the right to provide for the adjustment of industrial
12 disability retirement allowances because of earnings of a retired
13 person and modification of the conditions and qualifications
14 required for retirement for disability as it may find appropriate
15 because of the earlier age of service retirement made possible by
16 the benefits under this section.

17 (e) This section shall apply to a state safety member who is
18 employed by the state for the first time and becomes a state safety
19 member of the system on or after the first day of the pay period
20 following the effective date of this section, and is represented by
21 State Bargaining Unit 12, 16, 18, or 19. With respect to related
22 state safety members in managerial, supervisory, or confidential
23 positions and officers or employees of the executive branch of
24 state government who are not members of the civil service, the
25 Director of the ~~Department of Personnel Administration~~ *Human*
26 *Resources* may exercise his or her discretion whether to approve
27 their status in writing to the board.

28 (f) This section does not apply to:

29 (1) Former state employees previously employed before the
30 first day of the pay period following the effective date of this
31 subdivision, who return to state employment on or after the first
32 day of the pay period following the effective date of this
33 subdivision.

34 (2) State employees hired prior to the first day of the pay period
35 following the effective date of this subdivision, who were subject
36 to Section 20281.5 during the first 24 months of state employment.

37 (3) State employees hired prior to the first day of the pay period
38 following the effective date of this subdivision, who become
39 subject to representation by State Bargaining Unit 12, 16, 18, or

1 19 on or after the first day of the pay period following the effective
2 date of this subdivision.

3 (4) State employees on an approved leave of absence employed
4 before the first day of the pay period following the effective date
5 of this subdivision, who return to active employment on or after
6 the first day of the pay period following the effective date of this
7 subdivision.

8 SEC. 149. Section 21410 of the Government Code is amended
9 to read:

10 21410. Notwithstanding Sections 21406, 21407, 21408, 21409,
11 and 21411, any state member who becomes subject to Section
12 21159 on or after January 1, 1993, and retires for industrial
13 disability because of incapacity for the performance of duties in
14 any employment with the state employer, as determined by the
15 Department of ~~Personnel Administration~~ *Human Resources*, shall
16 receive a disability retirement allowance of 60 percent of the
17 member's final compensation plus an annuity purchased with the
18 member's accumulated additional contributions, if any, or, if
19 qualified for service retirement, the member shall receive the
20 service retirement allowance if the allowance, after deducting the
21 annuity, is greater.

22 Benefits payable under this section are payable solely to state
23 members employed in state bargaining units subject to Section
24 21159.

25 SEC. 150. Section 21465 of the Government Code is amended
26 to read:

27 21465. (a) Optional settlement 5 consists of a partial
28 distribution of the actuarial present value of the portion, as
29 specified in this section, of the member's unmodified monthly
30 allowance, as prescribed in Section 21362, 21362.2, 21363,
31 21363.1, 21363.4, or 21423, when a service retirement allowance
32 is payable. The actuarial present value shall be based upon the
33 investment return and postretirement mortality assumptions adopted
34 by the board for that purpose. The member may elect to receive
35 the actuarial present value of no less than 20 percent and no more
36 than 50 percent of his or her unmodified allowance. The member
37 may elect to receive the remaining portion of the unmodified
38 allowance, not distributed as a lump-sum payment, under one of
39 the settlements specified in this article for the remainder of his or
40 her lifetime and thereafter to his or her designated beneficiary,

1 unless this amount is solely limited to the survivor continuance
2 portion. The portion of the unmodified allowance equivalent to
3 the survivor continuance pursuant to Section 21624 may not be
4 distributed as a lump-sum payment. The benefits provided under
5 this section may not exceed the benefits that would have otherwise
6 been provided under any other section in this article.

7 (b) This section shall only apply to the following members who
8 retire on or after January 1, 1999:

9 (1) State peace officer/firefighter members in State Bargaining
10 Unit 6.

11 (2) State peace officer/firefighter members in State Bargaining
12 Unit 8 and state patrol members in State Bargaining Unit 5, if a
13 memorandum of understanding has been agreed upon by the state
14 and the recognized employee organization to become subject to
15 this section.

16 (3) This section shall also apply to state peace officer/firefighter
17 members and state patrol members in related supervisory and
18 confidential positions, if the Department of ~~Personnel~~
19 ~~Administration~~ *Human Resources* has approved their inclusion.

20 SEC. 151. Section 21672 of the Government Code is amended
21 to read:

22 21672. A tax-preferred retirement savings program may include
23 one or more of the following components:

24 (a) Investment fund options for participants, as part of the
25 deferred compensation program administered for state employees
26 by the Department of ~~Personnel Administration~~ *Human Resources*.

27 (b) Investment fund options for other participants.

28 (c) Annuity contracts on behalf of all participants.

29 (d) Asset management, administrative, or related services.

30 SEC. 152. Section 21674 of the Government Code is amended
31 to read:

32 21674. (a) Investment fund options under subdivision (a) of
33 Section 21672 shall be provided through a written interagency
34 agreement between the board and the Department of ~~Personnel~~
35 ~~Administration~~ *Human Resources*.

36 (b) Except for investments made pursuant to subdivision (a),
37 participating employers shall enter into a written contractual
38 agreement with the board.

39 (c) Participants shall enter into contractual agreements that are
40 required to effectuate participation in a tax-preferred retirement

1 savings program, including employees participating under a
2 program described in subdivision (a) or (b) of Section 21671, or
3 any other program that provides for the deferral of compensation
4 program or written salary reduction agreements with their
5 employers, for the purpose of making deferrals or for annuity
6 contracts.

7 SEC. 153. Section 22808 of the Government Code is amended
8 to read:

9 22808. An employee enrolled in a health benefit plan under
10 this part shall be entitled to have his or her coverage and the
11 coverage of any family members continued for the duration of a
12 leave of absence, upon his or her application and upon assuming
13 payments of the contributions otherwise required of the employer,
14 if any of the following apply:

15 (a) A leave of absence is granted to the employee without pay
16 under the State Civil Service Act and the rules or regulations of
17 the Department of ~~Personnel Administration~~ *Human Resources*,
18 or other comparable leave.

19 (b) The employee is laid off and has not yet obtained other
20 employment, for a period of up to one year.

21 (c) The employee is employed by the California State University
22 and is granted a leave of absence for more than half-time.

23 SEC. 154. Section 22811 of the Government Code is amended
24 to read:

25 22811. Notwithstanding any other provision of this part, a
26 former Member of the Legislature who has served six or more
27 years as a Member of the Legislature may elect, within 60 days
28 after permanent separation from state service, to enroll or continue
29 enrollment in a health benefit plan and dental care plan provided
30 to annuitants. Upon that election, the former member shall pay the
31 total premiums related to that coverage and an additional 2 percent
32 thereof for the administrative costs incurred by the board and the
33 Department of ~~Personnel Administration~~ *Human Resources* in
34 administering this section.

35 The health and dental benefits shall be provided without
36 discrimination as to premium rates or benefits coverage. A person
37 who subsequently terminates his or her coverage under this section
38 may not reenroll pursuant to this section.

39 SEC. 155. Section 22814 of the Government Code is amended
40 to read:

1 22814. (a) A judge who retires pursuant to Chapter 11
2 (commencing with Section 75000) of Title 8, but is not yet
3 receiving a pension, may continue his or her coverage and the
4 coverage of any family members for the duration of the leave of
5 absence, upon his or her application and upon assuming payment
6 of the contributions otherwise required of the employer.

7 (b) (1) A judge who leaves judicial office pursuant to
8 subdivision (b) of Section 75521 and has not attained 65 years of
9 age may continue his or her coverage and the coverage of any
10 family members upon assuming payment of the contributions
11 otherwise required of the employer. The judge shall also pay an
12 additional 2 percent of the premium amount to cover administrative
13 expenses incurred by the system or the Department of ~~Personnel~~
14 ~~Administration~~ *Human Resources*.

15 (2) An election to continue coverage under this subdivision shall
16 be made within 60 days of permanent separation. A retired judge
17 who cancels that coverage may not reenroll.

18 (3) Upon attaining 65 years of age, a retired judge who has
19 continuous and uninterrupted coverage pursuant to this subdivision
20 shall be entitled to the applicable employer contribution.

21 SEC. 156. Section 22815 of the Government Code is amended
22 to read:

23 22815. (a) The following persons are eligible for enrollment
24 as provided in this section:

25 (1) A Member of the Legislature or an elective officer of the
26 state whose office is provided by the California Constitution who
27 meets all of the following conditions:

28 (A) Has at least eight years of credited service.

29 (B) Permanently separates from state service on or after January
30 1, 1988, and more than 10 years before his or her minimum age
31 for service retirement, or is an inactive member of the Legislators'
32 Retirement System pursuant to Section 9355.2.

33 (C) Elects to remain a member of a state retirement system
34 supported in whole or in part by state funds, other than the
35 University of California Retirement System.

36 (2) An exempt employee who meets all of the following
37 conditions:

38 (A) Has at least 10 years of credited state service that includes
39 at least two years of credited service while an exempt employee.

1 (B) Permanently separates from state service on or after January
2 1, 1988, and more than 10 years before his or her minimum age
3 for service retirement.

4 (C) Elects to remain a member of a state retirement system
5 supported in whole or in part by state funds, other than the
6 University of California Retirement System.

7 (b) During the period he or she is not yet receiving a retirement
8 allowance, a person described by subdivision (a) may continue
9 enrollment in a health benefit plan or dental care plan without
10 discrimination as to premium rates or benefit coverage, upon
11 assuming payment of the contributions otherwise required of the
12 former employer on account of his or her enrollment and the
13 employee contribution. The person shall also pay an additional 2
14 percent of the premium amount to cover administrative expenses
15 incurred by the system or the Department of ~~Personnel~~
16 ~~Administration~~ *Human Resources*. An election to continue
17 coverage under this section shall be made within 60 days of
18 permanent separation.

19 (c) A person who receives coverage pursuant to this subdivision,
20 and subsequently terminates that coverage, may not be allowed to
21 reenroll and may not enroll as an annuitant pursuant to subdivision
22 (d).

23 (d) Upon retirement and receipt of a retirement allowance, a
24 person described in subdivision (b) may elect to continue
25 enrollment in a health benefit plan or dental care plan without
26 discrimination as to premium rates or benefit coverage, at which
27 time the state shall assume payment of the employer contribution
28 and the person shall thereafter be deemed an annuitant.

29 (e) The board has no duty to locate or notify any person who
30 may be eligible to enroll pursuant to this section.

31 SEC. 157. Section 22816 of the Government Code is amended
32 to read:

33 22816. (a) A person who meets all of the criteria of an
34 annuitant, as defined in subdivision (f) or (g) of Section 22760,
35 other than the condition of receiving a retirement allowance under
36 a retirement system supported in whole or in part by state funds,
37 may continue enrollment in a health benefit plan or dental care
38 plan provided to annuitants without discrimination as to premium
39 rates or benefits coverage, upon assuming payment of the
40 contributions otherwise required of the former employer on account

1 of his or her enrollment and the employee contribution. The person
2 shall also pay an additional 2 percent of the premium amount to
3 cover administrative expenses incurred by the system or the
4 Department of ~~Personnel Administration~~ *Human Resources*. An
5 election to continue coverage under this section shall be made
6 within 60 days of permanent separation.

7 (b) A person who receives coverage pursuant to this subdivision
8 who subsequently terminates that coverage may not reenroll.
9 However, termination under this subdivision does not affect an
10 annuitant's rights under Section 22817. The benefits authorized
11 by Section 22817 and this section are separate and distinct benefits.

12 (c) The board has no duty to locate or notify any person who
13 may be eligible to enroll pursuant to this section.

14 SEC. 158. Section 22850 of the Government Code is amended
15 to read:

16 22850. (a) The board may, without compliance with any
17 provision of law relating to competitive bidding, enter into
18 contracts with carriers offering health benefit plans or with entities
19 offering services relating to the administration of health benefit
20 plans.

21 (b) The board may contract with carriers for health benefit plans
22 or approve health benefit plans offered by employee organizations,
23 provided that the carriers have operated successfully in the hospital
24 and medical care fields prior to the contracting for or approval
25 thereof. The plans may include hospital benefits, surgical benefits,
26 inpatient medical benefits, outpatient benefits, obstetrical benefits,
27 and benefits offered by a bona fide church, sect, denomination, or
28 organization whose principles include healing entirely by prayer
29 or spiritual means.

30 (c) Notwithstanding any other provision of this part, the board
31 may contract with health benefit plans offering unique or
32 specialized health services.

33 (d) The board may administer self-funded or minimum premium
34 health benefit plans.

35 (e) The board may contract for or implement employee cost
36 containment and cost reduction incentive programs that involve
37 the employee, the annuitant, and family members as active
38 participants, along with the carrier and the provider, in a joint effort
39 toward containing and reducing the cost of providing medical and
40 hospital health care services to public employees. In developing

1 these plans, the board, in cooperation with the Department of
2 ~~Personnel Administration~~ *Human Resources*, may request proposals
3 from carriers and certified public employee representatives.

4 (f) Notwithstanding any other provision of this part, the board
5 may do any of the following:

6 (1) Contract for, or approve, health benefit plans that charge a
7 contracting agency and its employees and annuitants rates based
8 on regional variations in the costs of health care services.

9 (2) Contract for, or approve, health benefit plans exclusively
10 for the employees and annuitants of contracting agencies. State
11 employees and annuitants may not enroll in these plans. The board
12 may offer health benefit plans exclusively for employees and
13 annuitants of contracting agencies in addition to or in lieu of other
14 health benefit plans offered under this part. The governing body
15 of a contracting agency may elect, upon filing a resolution with
16 the board, to provide those health benefit plans to its employees
17 and annuitants. The resolution shall be subject to mutual agreement
18 between the contracting agency and the recognized employee
19 organization, if any.

20 (g) The board shall approve any employee association health
21 benefit plan that was approved by the board in the 1987–88 contract
22 year or prior, provided the plan continues to meet the minimum
23 standards prescribed by the board. The trustees of an employee
24 association health benefit plan are responsible for providing health
25 benefit plan administration and services to its enrollees.
26 Notwithstanding any other provision of this part, the California
27 Correctional Peace Officer Association Health Benefits Trust may
28 offer different health benefit plan designs with varying premiums
29 in different areas of the state.

30 (h) Irrespective of any other provision of law, the sponsors of
31 a health benefit plan approved under this section may reinsure the
32 operation of the plan with an admitted insurer authorized to write
33 disability insurance, if the premium includes the entire prepayment
34 fee.

35 SEC. 159. Section 22865 of the Government Code is amended
36 to read:

37 22865. Prior to the approval of proposed benefits and premium
38 readjustments authorized under Section 22864, the board shall
39 notify the Legislature, the Trustees of the California State

1 University, and the Department of ~~Personnel Administration~~
2 *Human Resources* of the proposed changes in writing.

3 SEC. 160. 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 *Human Resources* subject to the appropriation of funds by the
10 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. 161. Section 22944.3 of the Government Code is amended
17 to read:

18 22944.3. (a) Any amount that would otherwise be used to
19 permanently increase compensation pursuant to Section 19827,
20 effective on July 1, 2009, and on July 1, 2010, shall instead be
21 used to permanently prefund postemployment health care benefits
22 for patrol members. The amount used to prefund benefits relative
23 to any increases under the survey methodology effective July 1,
24 2010, shall not exceed 2 percent. The state shall take credit for
25 these prefunding contributions in the survey methodology
26 established in Section 19827 in the same manner as it would for
27 an increase to the base salary for patrol members.

28 (b) Patrol members shall contribute an additional 0.5 percent
29 of base pay toward prefunding retiree health benefit obligations
30 effective on the first day of the pay period following the effective
31 date of the act adding this section and the ratification of the
32 addendum by the members of State Bargaining Unit 5. This
33 contribution shall not reduce the base salary of patrol members
34 under the survey methodology established by Section 19827.

35 (c) Effective July 1, 2012, the state shall contribute toward
36 prefunding retiree health benefits, on a prospective basis, an
37 amount at least equal to the combined contribution rate established
38 pursuant to subdivisions (a) and (b). These contributions may be
39 used in the survey methodology established by Section 19827 if
40 mutually agreed in a memorandum of understanding.

1 (d) Contributions paid pursuant to this section shall be used
2 exclusively for the cost of providing postemployment health care
3 to eligible enrolled patrol member annuitants and their eligible
4 enrolled dependents, beneficiaries, and survivors.

5 (e) Contributions paid pursuant to this section shall not be
6 refundable under any circumstances to a patrol member or his or
7 her beneficiary or survivor.

8 (f) Any amount used to prefund postemployment health care
9 for patrol members pursuant to subdivision (a) shall not be included
10 in any calculation for benefits using final compensation.

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

18 (h) For purposes of this section, “patrol member” has the same
19 meaning as in Section 20390. This section shall not apply to an
20 employee of a county.

21 (i) ~~The Director of the Department of Personnel Administration~~
22 *Human Resources* may exercise his or her discretion to apply the
23 provisions of this section to patrol members who are excepted
24 from the definition of “state employee” in subdivision (c) of
25 Section 3513, and an officer or employee of the executive branch
26 of state government who is not a member of the civil service.

27 SEC. 162. Section 22953 of the Government Code is amended
28 to read:

29 22953. (a) The state, through the Department of ~~Personnel~~
30 ~~Administration~~ *Human Resources*, the Trustees of the California
31 State University, or the Regents of the University of California
32 may contract, upon negotiations with employee organizations,
33 with carriers for dental care plans for employees, annuitants, and
34 eligible family members, provided the carriers have operated
35 successfully in the area of dental care benefits for a reasonable
36 period or have a contract to provide a health benefit plan pursuant
37 to Section 22850. The dental care plans may include a portion of
38 the monthly premium to be paid by the employee or annuitant.
39 Dental care plans provided under this authority may be self-funded
40 by the employer if it is determined to be cost-effective.

1 (b) An employee or annuitant may enroll in a dental care plan
2 provided by a carrier that also provides a health benefit plan
3 pursuant to Section 22850 if the employee or annuitant is also
4 enrolled in the health benefit plan provided by that carrier.
5 However, nothing in this section may be construed to require an
6 employee or annuitant to enroll in a dental care plan and a health
7 benefit plan provided by the same carrier.

8 (c) No contract for a dental care plan may be entered into unless
9 funds are appropriated by the Legislature in a subsequently enacted
10 statute. If a dental care plan is self-funded, funds used for that plan
11 shall be considered continuously appropriated, notwithstanding
12 Section 13340.

13 SEC. 163. Section 22954 of the Government Code is amended
14 to read:

15 22954. Funds appropriated for self-funded dental care plans
16 for state employees, other than employees of the California State
17 University, shall be maintained in the State Employees' Dental
18 Care Fund which is hereby created in the State Treasury. Moneys
19 in this fund shall be used by the Department of ~~Personnel~~
20 ~~Administration~~ *Human Resources* to pay dental claims and other
21 administrative costs. Income earned on the moneys in the State
22 Employees' Dental Care Fund shall be credited to the fund. Moneys
23 in this fund are continuously appropriated in accordance with this
24 section and Section 22953.

25 SEC. 164. Section 22959 of the Government Code is amended
26 to read:

27 22959. The Department of ~~Personnel Administration~~ *Human*
28 *Resources* shall administer the benefits provided by this part for
29 civil service employees and annuitants. The Trustees of the
30 California State University shall administer the benefits provided
31 by this part for employees and annuitants of the California State
32 University.

33 SEC. 165. Section 22959.2 of the Government Code is amended
34 to read:

35 22959.2. The Vision Care Program for State Annuitants shall
36 be administered by the Department of ~~Personnel Administration~~
37 *Human Resources*.

38 SEC. 166. Section 22959.4 of the Government Code is amended
39 to read:

1 22959.4. (a) An annuitant who retires from the state may enroll
2 in a vision care plan offered under this part, if any of the following
3 apply:

4 (1) The annuitant was enrolled in a health benefit plan, a dental
5 care plan, or vision care plan at the time of separation for
6 retirement, and retired within 120 days of the date of separation.

7 (2) The annuitant was not enrolled in a health benefit plan, a
8 dental care plan, or vision care plan at the time of separation for
9 retirement, but was eligible for enrollment as an employee at the
10 time of separation for retirement, and retired within 120 days of
11 the date of separation.

12 (3) The annuitant is part of the Legislators' Retirement System
13 receiving an allowance pursuant to Article 6 (commencing with
14 Section 9359) of Chapter 3.5 of Part 1 of Division 2.

15 (b) The Department of ~~Personnel Administration~~ *Human*
16 *Resources* has no duty to locate or notify any annuitant who may
17 be eligible to enroll, or to provide names or addresses to any
18 person, agency, or entity for the purpose of notifying those
19 annuitants.

20 SEC. 167. Section 22959.6 of the Government Code is amended
21 to read:

22 22959.6. (a) The Department of ~~Personnel Administration~~
23 *Human Resources* may contract with one or more vision care plans
24 for annuitants and eligible family members, provided the carrier
25 or carriers have operated successfully in the area of vision care
26 benefits for a reasonable period, as determined by the Department
27 of ~~Personnel Administration~~ *Human Resources*.

28 (b) The Department of ~~Personnel Administration~~ *Human*
29 *Resources*, as the program administrator, has full administrative
30 authority over this program and associated funds and shall require
31 the monthly premium to be paid by the annuitant for the vision
32 care plan. The premium to be paid by the annuitant shall be
33 deducted from his or her monthly allowance. If there are
34 insufficient funds in an annuitant's allowance to pay the premium,
35 the plan provider shall directly bill the annuitant. A vision care
36 plan or plans provided under this authority shall be funded by the
37 annuitants' premium. All premiums received from annuitants shall
38 be deposited in the Vision Care Program for State Annuitants Fund,
39 which is hereby created in the State Treasury. Any income earned
40 on the moneys in the Vision Care Program for State Annuitants

1 Fund shall be credited to the fund. Notwithstanding Section 13340,
2 moneys in the fund are continuously appropriated for the purposes
3 specified in subdivision (d).

4 (c) An annuitant may enroll in a vision care plan provided by
5 a carrier that also provides a health benefit plan pursuant to Section
6 22850 if the employee or annuitant is also enrolled in the health
7 benefit plan provided by that carrier. However, nothing in this
8 section may be construed to require an annuitant to enroll in a
9 vision care plan and a health benefit plan provided by the same
10 carrier. An annuitant enrolled in this program shall only enroll into
11 a vision plan or vision plans contracted for by the Department of
12 ~~Personnel Administration~~ *Human Resources*.

13 (d) No contract for a vision care plan may be entered into unless
14 the Department of ~~Personnel Administration~~ *Human Resources*
15 determines it is reasonable to do so. Notwithstanding any other
16 provision of law, any premium moneys paid into this program by
17 annuitants for the purposes of the annuitant vision care plan that
18 is contracted for shall be used for the cost of providing vision care
19 benefits to eligible, enrolled annuitants and their eligible and
20 enrolled dependents, the payment of claims for those vision
21 benefits, and the cost of administration of the vision care plan or
22 plans under this vision care program, those costs being determined
23 by the Department of ~~Personnel Administration~~ *Human Resources*.

24 (e) If the Director of ~~the Department of Personnel~~
25 ~~Administration~~ *Human Resources* determines that it is not
26 economically feasible to continue this program anytime after its
27 commencement, the director may, upon written notice to enrollees
28 and to the contracting plan or plans, terminate this program within
29 a reasonable time. The notice of termination to the plan or plans
30 shall be determined by the Department of ~~Personnel Administration~~
31 *Human Resources*. The notice to enrollees of the termination of
32 the program shall commence no later than three months prior to
33 the actual date of termination of the program.

34 (f) Premium rates for this program shall be determined by the
35 Department of ~~Personnel Administration~~ *Human Resources* in
36 conjunction with the contracted plan or plans and shall be
37 considered separate and apart from active employee premium rates.

38 (g) The director shall report to the Legislature, prior to the end
39 of the second quarter of the third plan year, on the continued

1 economic sustainability of the Vision Care Program for State
2 Annuitants.

3 SEC. 168. Section 22960 of the Government Code is amended
4 to read:

5 22960. (a) The State Peace Officers' and Firefighters' Defined
6 Contribution Plan is hereby established for state peace officer and
7 firefighter members in Bargaining Unit 6 who have become subject
8 to this part by memorandum of understanding, as provided by
9 Section 3517.5.

10 (b) The plan may also be provided to state peace officers or
11 firefighters who are either excluded from the definition of state
12 employee in subdivision (c) of Section 3513, or are nonelected
13 officers or employees of the executive branch of government and
14 are not members of the civil service, and who supervise employees
15 in a bargaining unit that is subject to this part, provided that the
16 Department of ~~Personnel Administration~~ *Human Resources* has
17 approved their inclusion for coverage under this part.

18 SEC. 169. Section 22960.35 of the Government Code is
19 amended to read:

20 22960.35. (a) Except as provided in this part, the plan shall
21 be administered by the board in conformity with its powers and
22 duties for administration of the system as set forth in Part 3
23 (commencing with Section 20000). The board shall, to the extent
24 that it determines feasible, follow the procedures set forth in Article
25 7 (commencing with Section 20220) of Chapter 2 of Part 3.

26 (b) The board may retain a third-party administrator to perform
27 recordkeeping, customer service or other plan administration
28 services.

29 (c) The board shall notify the Department of ~~Personnel~~
30 ~~Administration~~ *Human Resources* when it is prepared to implement
31 the plan.

32 SEC. 170. Section 22960.60 of the Government Code is
33 amended to read:

34 22960.60. (a) Employer and employee contribution rates may
35 be determined by the terms of the memorandum of understanding
36 applicable to each plan participant and the employer in accordance
37 with the requirements of this section.

38 (b) Through the Department of ~~Personnel Administration~~ *Human*
39 *Resources*, the employer shall provide the board with a true and
40 correct copy of each memorandum of understanding applicable to

1 plan participants. The board may prescribe procedures for the
2 orderly transmittal and receipt of these documents.

3 (c) Except as provided in subdivision (e), after receipt of an
4 applicable memorandum of understanding that sets forth an
5 employer contribution rate and any employee contribution rate,
6 the board shall, in accordance with Section 22960.36, amend the
7 plan to provide for the employer contribution rate and any
8 employee contribution rate set forth in the memorandum of
9 understanding.

10 (d) The employer contribution rate and any employee
11 contribution rate for state peace officers and firefighters who have
12 become subject to this part pursuant to the provisions of subdivision
13 (b) of Section 22960 shall be the contribution rate or rates set forth
14 in the memorandum of understanding for state peace officers and
15 firefighter members in Bargaining Unit 6.

16 (e) The board may refuse to amend the plan under this section
17 if, in the board's considered judgment, the proposed amendment
18 would violate any applicable provision of Title 26 of the United
19 States Code.

20 (f) The initial employer contribution rate shall be prescribed in
21 the memorandum of understanding. In the event an MOU expires
22 and no new memorandums of understanding takes effect, the last
23 memorandums of understanding in place shall control.

24 SEC. 171. Section 22960.100 of the Government Code is
25 amended to read:

26 22960.100. (a) Notwithstanding any other provision of law,
27 the plan established by this part shall also apply to state peace
28 officer and firefighter members in State Bargaining Unit 8 who
29 have become subject to this part by a memorandum of
30 understanding, as provided in Section 3517.5.

31 (b) The plan may also be provided to state peace officers or
32 firefighters who are either excluded from the definition of state
33 employee in subdivision (c) of Section 3513, or are nonelected
34 officers or employees of the executive branch of government and
35 are not members of the civil service, and who supervise employees
36 in a bargaining unit that is subject to this part, provided that the
37 Department of ~~Personnel Administration~~ *Human Resources* has
38 approved their inclusion for coverage under this part.

39 SEC. 172. Section 68203 of the Government Code is amended
40 to read:

1 68203. (a) On July 1, 1980, and on July 1 of each year
2 thereafter, the salary of each justice and judge named in Sections
3 68200 to 68202, inclusive, and 68203.1 shall be increased by the
4 amount that is produced by multiplying the then current salary of
5 each justice or judge by the average percentage salary increase for
6 the current fiscal year for California State employees; provided,
7 that in any fiscal year in which the Legislature places a dollar
8 limitation on salary increases for state employees the same
9 limitation shall apply to judges in the same manner applicable to
10 state employees in comparable wage categories.

11 (b) For the purposes of this section, salary increases for state
12 employees shall be those increases as reported by the Department
13 of ~~Personnel Administration~~ *Human Resources*.

14 (c) The salary increase for judges and justices made on July 1,
15 1980, for the 1980–81 fiscal year, shall in no case exceed 5 percent.

16 (d) On January 1, 2001, the salary of the justices and judges
17 named in Sections 68200 to 68202, inclusive, shall be increased
18 by the amount that is produced by multiplying the salary of each
19 justice and judge as of December 31, 2000, by 8½ percent.

20 (e) On January 1, 2007, the salary of the justices and judges
21 identified in Sections 68200 to 68202, inclusive, and 68203.1 shall
22 also be increased by the amount that is produced by multiplying
23 the salary of each justice and judge as of December 31, 2006, by
24 8.5 percent.

25 SEC. 173. Section 77601 of the Government Code is amended
26 to read:

27 77601. The task force shall be comprised of the following
28 members:

29 (a) Four representatives of trial courts, appointed by the Chief
30 Justice, representing two urban, one suburban, and one rural courts.

31 (b) Four representatives of counties, appointed by the Governor
32 from a list of nominees submitted by the California State
33 Association of Counties, representing urban, suburban, and rural
34 counties.

35 (c) Three representatives appointed by the Senate Rules
36 Committee, at least two of whom shall represent trial court
37 employee organizations.

38 (d) Three representatives appointed by the Speaker of the
39 Assembly, at least two of whom shall represent trial court employee
40 organizations.

1 (e) The Director of the ~~Department of Personnel Administration~~
2 *Human Resources* or his or her representative.

3 (f) The Chief Executive Officer of PERS or his or her
4 representative.

5 (g) The Director of Finance or his or her representative.

6 (h) The Chief Justice shall designate a justice of the court of
7 appeal as nonvoting chairperson.

8 SEC. 174. Section 77602 of the Government Code is amended
9 to read:

10 77602. The Judicial Council shall provide staff support for the
11 task force and shall develop guidelines for procedures and practices
12 for the task force, which shall include input from and approval of
13 the task force. The ~~Department of Personnel Administration~~ *Human*
14 *Resources*, the Department of Finance, and the Legislative Analyst
15 shall provide additional support, at the request of the Judicial
16 Council. The California State Association of Counties is
17 encouraged to provide additional staff support.

18 SEC. 175. Section 100503 of the Government Code is amended
19 to read:

20 100503. In addition to meeting the minimum requirements of
21 Section 1311 of the federal act, the board shall do all of the
22 following:

23 (a) Determine the criteria and process for eligibility, enrollment,
24 and disenrollment of enrollees and potential enrollees in the
25 Exchange and coordinate that process with the state and local
26 government entities administering other health care coverage
27 programs, including the State Department of Health Care Services,
28 the Managed Risk Medical Insurance Board, and California
29 counties, in order to ensure consistent eligibility and enrollment
30 processes and seamless transitions between coverage.

31 (b) Develop processes to coordinate with the county entities
32 that administer eligibility for the Medi-Cal program and the entity
33 that determines eligibility for the Healthy Families Program,
34 including, but not limited to, processes for case transfer, referral,
35 and enrollment in the Exchange of individuals applying for
36 assistance to those entities, if allowed or required by federal law.

37 (c) Determine the minimum requirements a carrier must meet
38 to be considered for participation in the Exchange, and the
39 standards and criteria for selecting qualified health plans to be
40 offered through the Exchange that are in the best interests of

1 qualified individuals and qualified small employers. The board
2 shall consistently and uniformly apply these requirements,
3 standards, and criteria to all carriers. In the course of selectively
4 contracting for health care coverage offered to qualified individuals
5 and qualified small employers through the Exchange, the board
6 shall seek to contract with carriers so as to provide health care
7 coverage choices that offer the optimal combination of choice,
8 value, quality, and service.

9 (d) Provide, in each region of the state, a choice of qualified
10 health plans at each of the five levels of coverage contained in
11 subdivisions (d) and (e) of Section 1302 of the federal act.

12 (e) Require, as a condition of participation in the Exchange,
13 carriers to fairly and affirmatively offer, market, and sell in the
14 Exchange at least one product within each of the five levels of
15 coverage contained in subdivisions (d) and (e) of Section 1302 of
16 the federal act. The board may require carriers to offer additional
17 products within each of those five levels of coverage. This
18 subdivision shall not apply to a carrier that solely offers
19 supplemental coverage in the Exchange under paragraph (10) of
20 subdivision (a) of Section 100504.

21 (f) (1) Require, as a condition of participation in the Exchange,
22 carriers that sell any products outside the Exchange to do both of
23 the following:

24 (A) Fairly and affirmatively offer, market, and sell all products
25 made available to individuals in the Exchange to individuals
26 purchasing coverage outside the Exchange.

27 (B) Fairly and affirmatively offer, market, and sell all products
28 made available to small employers in the Exchange to small
29 employers purchasing coverage outside the Exchange.

30 (2) For purposes of this subdivision, “product” does not include
31 contracts entered into pursuant to Part 6.2 (commencing with
32 Section 12693) of Division 2 of the Insurance Code between the
33 Managed Risk Medical Insurance Board and carriers for enrolled
34 Healthy Families beneficiaries or contracts entered into pursuant
35 to Chapter 7 (commencing with Section 14000) of, or Chapter 8
36 (commencing with Section 14200) of, Part 3 of Division 9 of the
37 Welfare and Institutions Code between the State Department of
38 Health Care Services and carriers for enrolled Medi-Cal
39 beneficiaries.

- 1 (g) Determine when an enrollee's coverage commences and the
2 extent and scope of coverage.
- 3 (h) Provide for the processing of applications and the enrollment
4 and disenrollment of enrollees.
- 5 (i) Determine and approve cost-sharing provisions for qualified
6 health plans.
- 7 (j) Establish uniform billing and payment policies for qualified
8 health plans offered in the Exchange to ensure consistent
9 enrollment and disenrollment activities for individuals enrolled in
10 the Exchange.
- 11 (k) Undertake activities necessary to market and publicize the
12 availability of health care coverage and federal subsidies through
13 the Exchange. The board shall also undertake outreach and
14 enrollment activities that seek to assist enrollees and potential
15 enrollees with enrolling and reenrolling in the Exchange in the
16 least burdensome manner, including populations that may
17 experience barriers to enrollment, such as the disabled and those
18 with limited English language proficiency.
- 19 (l) Select and set performance standards and compensation for
20 navigators selected under subdivision (l) of Section 100502.
- 21 (m) Employ necessary staff.
- 22 (1) The board shall hire a chief fiscal officer, a chief operations
23 officer, a director for the SHOP Exchange, a director of Health
24 Plan Contracting, a chief technology and information officer, a
25 general counsel, and other key executive positions, as determined
26 by the board, who shall be exempt from civil service.
- 27 (2) (A) The board shall set the salaries for the exempt positions
28 described in paragraph (1) and subdivision (i) of Section 100500
29 in amounts that are reasonably necessary to attract and retain
30 individuals of superior qualifications. The salaries shall be
31 published by the board in the board's annual budget. The board's
32 annual budget shall be posted on the Internet Web site of the
33 Exchange. To determine the compensation for these positions, the
34 board shall cause to be conducted, through the use of independent
35 outside advisors, salary surveys of both of the following:
- 36 (i) Other state and federal health insurance exchanges that are
37 most comparable to the Exchange.
- 38 (ii) Other relevant labor pools.
- 39 (B) The salaries established by the board under subparagraph
40 (A) shall not exceed the highest comparable salary for a position

1 of that type, as determined by the surveys conducted pursuant to
2 subparagraph (A).

3 (C) The Department of ~~Personnel Administration~~ *Human*
4 *Resources* shall review the methodology used in the surveys
5 conducted pursuant to subparagraph (A).

6 (3) The positions described in paragraph (1) and subdivision (i)
7 of Section 100500 shall not be subject to otherwise applicable
8 provisions of the Government Code or the Public Contract Code
9 and, for those purposes, the Exchange shall not be considered a
10 state agency or public entity.

11 (n) Assess a charge on the qualified health plans offered by
12 carriers that is reasonable and necessary to support the
13 development, operations, and prudent cash management of the
14 Exchange. This charge shall not affect the requirement under
15 Section 1301 of the federal act that carriers charge the same
16 premium rate for each qualified health plan whether offered inside
17 or outside the Exchange.

18 (o) Authorize expenditures, as necessary, from the California
19 Health Trust Fund to pay program expenses to administer the
20 Exchange.

21 (p) Keep an accurate accounting of all activities, receipts, and
22 expenditures, and annually submit to the United States Secretary
23 of Health and Human Services a report concerning that accounting.
24 Commencing January 1, 2016, the board shall conduct an annual
25 audit.

26 (q) (1) Annually prepare a written report on the implementation
27 and performance of the Exchange functions during the preceding
28 fiscal year, including, at a minimum, the manner in which funds
29 were expended and the progress toward, and the achievement of,
30 the requirements of this title. This report shall be transmitted to
31 the Legislature and the Governor and shall be made available to
32 the public on the Internet Web site of the Exchange. A report made
33 to the Legislature pursuant to this subdivision shall be submitted
34 pursuant to Section 9795.

35 (2) In addition to the report described in paragraph (1), the board
36 shall be responsive to requests for additional information from the
37 Legislature, including providing testimony and commenting on
38 proposed state legislation or policy issues. The Legislature finds
39 and declares that activities including, but not limited to, responding
40 to legislative or executive inquiries, tracking and commenting on

1 legislation and regulatory activities, and preparing reports on the
2 implementation of this title and the performance of the Exchange,
3 are necessary state requirements and are distinct from the
4 promotion of legislative or regulatory modifications referred to in
5 subdivision (d) of Section 100520.

6 (r) Maintain enrollment and expenditures to ensure that
7 expenditures do not exceed the amount of revenue in the fund, and
8 if sufficient revenue is not available to pay estimated expenditures,
9 institute appropriate measures to ensure fiscal solvency.

10 (s) Exercise all powers reasonably necessary to carry out and
11 comply with the duties, responsibilities, and requirements of this
12 act and the federal act.

13 (t) Consult with stakeholders relevant to carrying out the
14 activities under this title, including, but not limited to, all of the
15 following:

16 (1) Health care consumers who are enrolled in health plans.

17 (2) Individuals and entities with experience in facilitating
18 enrollment in health plans.

19 (3) Representatives of small businesses and self-employed
20 individuals.

21 (4) The State Medi-Cal Director.

22 (5) Advocates for enrolling hard-to-reach populations.

23 (u) Facilitate the purchase of qualified health plans in the
24 Exchange by qualified individuals and qualified small employers
25 no later than January 1, 2014.

26 (v) Report, or contract with an independent entity to report, to
27 the Legislature by December 1, 2018, on whether to adopt the
28 option in paragraph (3) of subdivision (c) of Section 1312 of the
29 federal act to merge the individual and small employer markets.
30 In its report, the board shall provide information, based on at least
31 two years of data from the Exchange, on the potential impact on
32 rates paid by individuals and by small employers in a merged
33 individual and small employer market, as compared to the rates
34 paid by individuals and small employers if a separate individual
35 and small employer market is maintained. A report made pursuant
36 to this subdivision shall be submitted pursuant to Section 9795.

37 (w) With respect to the SHOP Program, collect premiums and
38 administer all other necessary and related tasks, including, but not
39 limited to, enrollment and plan payment, in order to make the

1 offering of employee plan choice as simple as possible for qualified
2 small employers.

3 (x) Require carriers participating in the Exchange to immediately
4 notify the Exchange, under the terms and conditions established
5 by the board when an individual is or will be enrolled in or
6 disenrolled from any qualified health plan offered by the carrier.

7 (y) Ensure that the Exchange provides oral interpretation
8 services in any language for individuals seeking coverage through
9 the Exchange and makes available a toll-free telephone number
10 for the hearing and speech impaired. The board shall ensure that
11 written information made available by the Exchange is presented
12 in a plainly worded, easily understandable format and made
13 available in prevalent languages.

14 SEC. 176. Section 11755 of the Health and Safety Code is
15 amended to read:

16 11755. The department shall do all of the following:

17 (a) Adopt regulations pursuant to Section 11152 of the
18 Government Code.

19 (b) Employ administrative, technical, and other personnel as
20 may be necessary for the performance of its powers and duties.

21 (c) Do or perform any of the acts that may be necessary,
22 desirable, or proper to carry out the purpose of this division.

23 (d) Provide funds to counties for the planning and
24 implementation of local programs to alleviate problems related to
25 alcohol and other drug use.

26 (e) Review and execute negotiated net amount contracts and
27 Drug Medi-Cal contracts, and approve or disapprove county plans
28 submitted for state and federal funds allocated by the department.

29 (f) Provide for technical assistance and training to local alcohol
30 and other drug programs to assist in the planning and
31 implementation of quality services. The department may charge
32 a fee to cover the cost of providing technical assistance to these
33 alcohol and other drug programs.

34 (g) Review research in, and serve as a resource to provide
35 information relating to, alcohol and other drug programs.

36 (h) In cooperation with the Department of ~~Personnel~~
37 ~~Administration~~ *Human Resources*, encourage training in other
38 state agencies to assist the agencies to recognize employee
39 problems relating to alcohol and other drug use that affects job

1 performance and encourage the employees to seek appropriate
2 services.

3 (i) Assist and cooperate with the Office of Statewide Health
4 Planning and Development and the California Health Policy and
5 Data Advisory Commission in the drafting and adoption of the
6 state health plan to assure inclusion of appropriate provisions
7 relating to alcohol and other drug problems.

8 (j) In the same manner and subject to the same conditions as
9 other state agencies, develop and submit annually to the
10 Department of Finance a program budget for the state-funded
11 alcohol and other drug program, which budget shall include
12 expenditures proposed to be made under this division, and may
13 include expenditures proposed to be made by any other state agency
14 relating to alcohol and other drug problems, pursuant to an
15 interagency agreement with the department.

16 (k) Review and certify alcohol and other drug programs meeting
17 state standards pursuant to Chapter 7 (commencing with Section
18 11830) and Chapter 13 (commencing with Section 11847) of Part
19 2.

20 (l) Develop standards for assuring minimal statewide levels of
21 service quality provided by alcohol and other drug programs.

22 (m) Review and license narcotic treatment programs.

23 (n) Develop and implement, in partnership with the counties,
24 alcohol and other drug prevention strategies especially designed
25 for youth.

26 (o) Develop and maintain a centralized alcohol and drug abuse
27 indicator data collection system that shall gather and obtain
28 information on the status of the alcohol and other drug abuse
29 problems in the State of California. This information shall include,
30 but not be limited to, all of the following:

31 (1) The number and characteristics of persons receiving recovery
32 or treatment services from alcohol and other drug programs
33 providing publicly funded services or services licensed by the
34 department.

35 (2) The location and types of services offered by these programs.

36 (3) The number of admissions to hospitals on both an emergency
37 room and inpatient basis for treatment related to alcohol and other
38 drugs.

39 (4) The number of arrests for alcohol and other drug violations.

1 (5) The number of *the* Department of ~~the Youth Authority~~
2 *Corrections and Rehabilitation, Division of Juvenile Justice,*
3 commitments for drug violations.

4 (6) The number of Department of *Corrections and Rehabilitation*
5 commitments for drug violations.

6 (7) The number or percentage of persons having alcohol or other
7 drug problems as determined by survey information.

8 (8) The amounts of illicit drugs confiscated by law enforcement
9 in the state.

10 (9) The statewide alcohol and other drug program distribution
11 and the fiscal impact of alcohol and other drug problems upon the
12 state.

13 Providers of publicly funded services or services licensed by the
14 department to clients-participants shall report data in a manner, in
15 a format, and under a schedule prescribed by the department.

16 (p) Issue an annual report that portrays the drugs abused,
17 populations affected, user characteristics, crime-related costs,
18 socioeconomic costs, and other related information deemed
19 necessary in providing a problem profile of alcohol and other drug
20 abuse in the state.

21 (q) (1) Require any individual, public or private organization,
22 or government agency, receiving federal grant funds, to comply
23 with all federal statutes, regulations, guidelines, and terms and
24 conditions of the grants. The failure of the individual, public or
25 private organization, or government agency, to comply with the
26 statutes, regulations, guidelines, and terms and conditions of grants
27 received may result in the department's disallowing noncompliant
28 costs, or the suspension or termination of the contract or grant
29 award allocating the grant funds.

30 (2) Adopt regulations implementing this subdivision in
31 accordance with Chapter 3.5 (commencing with Section 11340)
32 of Part 1 of Division 3 of Title 2 of the Government Code. For the
33 purposes of the Administrative Procedure Act, the adoption of the
34 regulations shall be deemed necessary for the preservation of the
35 public peace, health and safety, or general welfare. Subsequent
36 amendments to the adoption of emergency regulations shall be
37 deemed an emergency only if those amendments are adopted in
38 direct response to a change in federal statutes, regulations,
39 guidelines, or the terms and conditions of federal grants. Nothing
40 in this paragraph shall be interpreted as prohibiting the department

1 from adopting subsequent amendments on a nonemergency basis
2 or as emergency regulations in accordance with the standards set
3 forth in Section 11346.1 of the Government Code.

4 SEC. 177. Section 50909 of the Health and Safety Code is
5 amended to read:

6 50909. (a) Notwithstanding Sections 19816 and 19825 of the
7 Government Code, the compensation of key exempt management,
8 including the executive director, the chief deputy director, the
9 general counsel, the director of financing, the director of
10 homeownership programs, the director of multifamily programs,
11 the director of insurance and the financial risk management director
12 shall be established by the board in the agency's annual budget,
13 in amounts which are reasonably necessary, in the discretion of
14 the board, to attract and hold a person of superior qualifications.

15 (b) (1) To determine the compensation for the positions
16 described in this section, the board shall cause to be conducted,
17 through the use of independent outside advisors, salary surveys of
18 both of the following:

19 (A) Other state and local housing finance agencies that are most
20 comparable to CalHFA.

21 (B) Other relevant labor pools.

22 (2) The salaries so set by the board shall not exceed the highest
23 comparable salary for a position of that type, as determined by the
24 survey.

25 (c) The Department of ~~Personnel Administration~~ *Human*
26 *Resources* shall review the methodology used in these salary
27 surveys.

28 (d) Members of the board shall not receive a salary but shall be
29 entitled to a per diem allowance of one hundred dollars (\$100) for
30 each day's attendance at a meeting of the board or a meeting of a
31 committee of the board, not to exceed three hundred dollars (\$300)
32 in any month, and reimbursement for expenses incurred in the
33 performance of their duties under this part, including travel and
34 other necessary expenses.

35 SEC. 178. Section 10203.2 of the Insurance Code is amended
36 to read:

37 10203.2. Life insurance conforming to all the following
38 conditions is another form of group life insurance:

39 (a) Written under a policy covering, when issued, not less than
40 25 employees in eligible classes or positions as designated by the

1 Department of ~~Personnel Administration~~ *Human Resources*
2 pursuant to Section 19849.11 of the Government Code.

3 (b) Written under a policy issued to the State of California
4 through the Department of ~~Personnel Administration~~ *Human*
5 *Resources* or its designee pursuant to Sections 19849.10 to
6 19849.12, inclusive, of the Government Code.

7 (c) The premium on the policy is to be paid by the employees
8 alone, by the state alone, or in part by the state with the remainder
9 to be paid by the employees.

10 (d) Insuring only managerial and confidential employees as
11 defined by subdivisions (e) and (f) of Section 3513 of the
12 Government Code, and employees excluded from the definition
13 of state employees in subdivision (c) of Section 3513 of the
14 Government Code.

15 (e) Insuring for amounts of insurance based upon some plan
16 which will preclude individual selection.

17 (f) Insuring for the benefit of persons other than the Department
18 of ~~Personnel Administration~~ *Human Resources* or its designee.

19 (g) Written under a policy insuring, when issued, not less than
20 75 percent of all employees eligible for insurance under the policy,
21 or 75 percent of the employees of any class or position thereof
22 reasonably determined by conditions pertaining to employment or
23 of any established unit thereof not formed for the purpose of
24 procuring insurance. If a group policy is intended to insure several
25 classes, positions, or units, it may be issued as respects the classes,
26 positions, or units of which 75 percent are covered and extended
27 to those other units, classes, or positions of which 75 percent
28 express the desire to be covered. In this case, when the employees
29 apply and pay for additional amounts of insurance, a smaller
30 percentage of employees may be insured for the additional amounts
31 of insurance. If any employee fails to become insured under an
32 existing policy when he or she becomes eligible and later wishes
33 to become insured thereunder, the insurer may require satisfactory
34 evidence of insurability before insurance is granted on the
35 employee.

36 SEC. 179. Section 11871 of the Insurance Code is amended
37 to read:

38 11871. The State Compensation Insurance Fund may enter into
39 a master agreement with the Department of ~~Personnel~~
40 ~~Administration~~ *Human Resources* to render services in the

1 adjustment and disposition of claims for workers' compensation
2 to any state agencies, including any officer, department, division,
3 bureau, commission, board or authority, not insured with the fund.

4 The master agreement shall provide for rendition of services at
5 a uniform rate to all agencies, except that the rate for the
6 *Department of the California Highway Patrol* may be fixed
7 independently of the uniform rate.

8 The fund may, in accordance with the agreement, adjust and
9 dispose of claims for workers' compensation made by an officer
10 or employee of any state agency not insured with the fund.

11 The fund may make all expenditures, including payment to
12 claimants for medical care or for adjustment or settlement of
13 claims, necessary to the adjustment and final disposition of claims.
14 The agreement shall provide that the state agency whose officer
15 or employee is a claimant shall reimburse the fund for the
16 expenditures and for the actual cost of services rendered.

17 The fund may in its own name, or in the name of the state agency
18 for which the services are performed, do any and all things
19 necessary to recover on behalf of the state agency for which it
20 renders service any and all amounts which an employer might
21 recover from third persons under Chapter 5 (commencing with
22 Section 3850) of Part 1 of Division 4 of the Labor Code, or which
23 an insurer might recover pursuant to Section 11662 including the
24 right to commence and prosecute actions, to file, pursuant to
25 Chapter 5 (commencing with Section 3850) of Part 1 of Division
26 4 of the Labor Code, liens for whatever sums would be recoverable
27 by suit against a third person, to intervene in other court
28 proceedings, and to compromise claims and actions before or after
29 commencement of suit or after entry of judgment when in the
30 opinion of the fund full collection cannot be enforced.

31 SEC. 180. Section 12693.65 of the Insurance Code is amended
32 to read:

33 12693.65. (a) Vision benefits shall be provided to subscribers
34 and shall meet the federal coverage requirements in Section 2103
35 of Title XXI of the Social Security Act.

36 (b) The covered benefits shall be equivalent to those provided
37 to state employees through the Department of ~~Personnel~~
38 ~~Administration~~ *Human Resources*, except for tinted lenses and
39 also photochromatic lenses, unless otherwise deemed medically
40 necessary.

1 (c) The board shall establish the required subscriber copayment
2 levels for vision benefits consistent with the limitations of Section
3 2103 of Title XXI of the Social Security Act. The copayment levels
4 established by the board shall, to the extent possible, reflect the
5 copayment levels provided to state employees through the
6 Department of ~~Personnel Administration~~ *Human Resources*.

7 (d) From March 1, 2011, to June 30, 2012, inclusive, the
8 adoption and readoption, by the board, of regulations to modify
9 vision benefits pursuant to this section, including, but not limited
10 to, restriction of providers through which covered vision benefits
11 may be obtained, restriction of benefits for services from
12 nonparticipating providers, or restriction of products and materials
13 provided as benefits pursuant to this section, shall be deemed to
14 be an emergency and necessary to avoid serious harm to the public
15 peace, health, safety, or general welfare for purposes of Sections
16 11346.1 and 11349.6 of the Government Code, and the board is
17 hereby exempted from the requirement that it describe facts
18 showing the need for immediate action and from review by the
19 Office of Administrative Law.

20 SEC. 181. Section 12710 of the Insurance Code is amended
21 to read:

22 12710. The California Major Risk Medical Insurance Program
23 is hereby created in the Health and Welfare Agency. The program
24 shall be managed by the Major Risk Medical Insurance Board.
25 The board shall consist of seven members, five of whom shall be
26 appointed as follows:

27 The Governor shall appoint three members, subject to
28 confirmation by the Senate, and shall designate one of these
29 appointees as chair of the board. The Senate Committee on Rules
30 shall appoint one member. The Speaker of the Assembly shall
31 appoint one member. The terms of appointment shall be four years.

32 The Secretary of Business, Transportation, and Housing, or his
33 or her designee, and the Secretary of Health and Welfare, or his
34 or her designee, shall serve on the board as ex officio, nonvoting
35 members.

36 The board shall appoint an executive director for the board, who
37 shall serve at the pleasure of the board. The executive director
38 shall receive the salary established by the Department of ~~Personnel~~
39 ~~Administration~~ *Human Resources* for exempt officials. The
40 executive director shall administer the affairs of the board as

1 directed by the board, and shall direct the staff of the board. The
2 executive director may appoint, with the approval of the board,
3 staff necessary to carry out the provisions of this part.

4 SEC. 182. Section 122 of the Labor Code is amended to read:

5 122. The administrative director shall appoint a medical director
6 who shall possess a physician's and surgeon's certificate granted
7 under Chapter 5 (commencing with Section 2000) of Division 2
8 of the Business and Professions Code. The medical director shall
9 employ medical assistants who shall also possess physicians' and
10 surgeons' certificates and other staff necessary to the performance
11 of his or her duties. The salaries for the medical director and his
12 or her assistants shall be fixed by the Department of ~~Personnel~~
13 ~~Administration~~ *Human Resources*, commensurate with the salaries
14 paid by private industry to medical directors and assistant medical
15 directors.

16 SEC. 183. Section 123 of the Labor Code is amended to read:

17 123. The administrative director may employ necessary
18 assistants, officers, experts, statisticians, actuaries, accountants,
19 workers' compensation administrative law judges, stenographic
20 shorthand reporters, legal secretaries, disability evaluation raters,
21 program technicians, and other employees to implement new,
22 efficient court management systems. The salaries of the workers'
23 compensation administrative law judges shall be fixed by the
24 Department of ~~Personnel Administration~~ *Human Resources* for a
25 class of positions which perform judicial functions.

26 SEC. 184. Section 3352 of the Labor Code is amended to read:

27 3352. "Employee" excludes the following:

28 (a) Any person defined in subdivision (d) of Section 3351 who
29 is employed by his or her parent, spouse, or child.

30 (b) Any person performing services in return for aid or
31 sustenance only, received from any religious, charitable, or relief
32 organization.

33 (c) Any person holding an appointment as deputy clerk or deputy
34 sheriff appointed for his or her own convenience, and who receives
35 no compensation from the county or municipal corporation or from
36 the citizens thereof for his or her services as the deputy. This
37 exclusion is operative only as to employment by the county or
38 municipal corporation and does not deprive any person so
39 deputized from recourse against a private person employing him

1 or her for injury occurring in the course of and arising out of the
2 employment.

3 (d) Any person performing voluntary services at or for a
4 recreational camp, hut, or lodge operated by a nonprofit
5 organization, exempt from federal income tax under Section 101(6)
6 of the Internal Revenue Code, of which he or she or a member of
7 his or her family is a member and who receives no compensation
8 for those services other than meals, lodging, or transportation.

9 (e) Any person performing voluntary service as a ski patrolman
10 who receives no compensation for those services other than meals
11 or lodging or the use of ski tow or ski lift facilities.

12 (f) Any person employed by a ski lift operator to work at a snow
13 ski area who is relieved of and not performing any prescribed
14 duties, while participating in recreational activities on his or her
15 own initiative.

16 (g) Any person, other than a regular employee, participating in
17 sports or athletics who receives no compensation for the
18 participation other than the use of athletic equipment, uniforms,
19 transportation, travel, meals, lodgings, or other expenses incidental
20 thereto.

21 (h) Any person defined in subdivision (d) of Section 3351 who
22 was employed by the employer to be held liable for less than 52
23 hours during the 90 calendar days immediately preceding the date
24 of the injury for injuries, as defined in Section 5411, or during the
25 90 calendar days immediately preceding the date of the last
26 employment in an occupation exposing the employee to the hazards
27 of the disease or injury for injuries, as defined in Section 5412, or
28 who earned less than one hundred dollars (\$100) in wages from
29 the employer during the 90 calendar days immediately preceding
30 the date of the injury for injuries, as defined in Section 5411, or
31 during the 90 calendar days immediately preceding the date of the
32 last employment in an occupation exposing the employee to the
33 hazards of the disease or injury for injuries, as defined in Section
34 5412.

35 (i) Any person performing voluntary service for a public agency
36 or a private, nonprofit organization who receives no remuneration
37 for the services other than meals, transportation, lodging, or
38 reimbursement for incidental expenses.

39 (j) Any person, other than a regular employee, performing
40 officiating services relating to amateur sporting events sponsored

1 by any public agency or private, nonprofit organization, who
2 receives no remuneration for these services other than a stipend
3 for each day of service no greater than the amount established by
4 the Department of ~~Personnel Administration~~ *Human Resources* as
5 a per diem expense for employees or officers of the state. The
6 stipend shall be presumed to cover incidental expenses involved
7 in officiating, including, but not limited to, meals, transportation,
8 lodging, rule books and courses, uniforms, and appropriate
9 equipment.

10 (k) Any student participating as an athlete in amateur sporting
11 events sponsored by any public agency, public or private nonprofit
12 college, university or school, who receives no remuneration for
13 the participation other than the use of athletic equipment, uniforms,
14 transportation, travel, meals, lodgings, scholarships, grants-in-aid,
15 or other expenses incidental thereto.

16 (l) Any law enforcement officer who is regularly employed by
17 a local or state law enforcement agency in an adjoining state and
18 who is deputized to work under the supervision of a California
19 peace officer pursuant to paragraph (4) of subdivision (a) of Section
20 832.6 of the Penal Code.

21 (m) Any law enforcement officer who is regularly employed
22 by the Oregon State Police, the Nevada Department of Motor
23 Vehicles and Public Safety, or the Arizona Department of Public
24 Safety and who is acting as a peace officer in this state pursuant
25 to subdivision (a) of Section 830.32 of the Penal Code.

26 (n) Any person, other than a regular employee, performing
27 services as a sports official for an entity sponsoring an
28 intercollegiate or interscholastic sports event, or any person
29 performing services as a sports official for a public agency, public
30 entity, or a private nonprofit organization, which public agency,
31 public entity, or private nonprofit organization sponsors an amateur
32 sports event. For purposes of this subdivision, “sports official”
33 includes an umpire, referee, judge, scorekeeper, timekeeper, or
34 other person who is a neutral participant in a sports event.

35 (o) Any person who is an owner-builder, as defined in
36 subdivision (a) of Section 50692 of the Health and Safety Code,
37 who is participating in a mutual self-help housing program, as
38 defined in Section 50087 of the Health and Safety Code, sponsored
39 by a nonprofit corporation.

40 SEC. 185. Section 4600 of the Labor Code is amended to read:

1 4600. (a) Medical, surgical, chiropractic, acupuncture, and
2 hospital treatment, including nursing, medicines, medical and
3 surgical supplies, crutches, and apparatuses, including orthotic and
4 prosthetic devices and services, that is reasonably required to cure
5 or relieve the injured worker from the effects of his or her injury
6 shall be provided by the employer. In the case of his or her neglect
7 or refusal reasonably to do so, the employer is liable for the
8 reasonable expense incurred by or on behalf of the employee in
9 providing treatment.

10 (b) As used in this division and notwithstanding any other
11 provision of law, medical treatment that is reasonably required to
12 cure or relieve the injured worker from the effects of his or her
13 injury means treatment that is based upon the guidelines adopted
14 by the administrative director pursuant to Section 5307.27 or, prior
15 to the adoption of those guidelines, the updated American College
16 of Occupational and Environmental Medicine's Occupational
17 Medicine Practice Guidelines.

18 (c) Unless the employer or the employer's insurer has
19 established a medical provider network as provided for in Section
20 4616, after 30 days from the date the injury is reported, the
21 employee may be treated by a physician of his or her own choice
22 or at a facility of his or her own choice within a reasonable
23 geographic area.

24 (d) (1) If an employee has notified his or her employer in
25 writing prior to the date of injury that he or she has a personal
26 physician, the employee shall have the right to be treated by that
27 physician from the date of injury if either of the following
28 conditions exist:

29 (A) The employer provides nonoccupational group health
30 coverage in a health care service plan, licensed pursuant to Chapter
31 2.2 (commencing with Section 1340) of Division 2 of the Health
32 and Safety Code.

33 (B) The employer provides nonoccupational health coverage in
34 a group health plan or a group health insurance policy as described
35 in Section 4616.7.

36 (2) For purposes of paragraph (1), a personal physician shall
37 meet all of the following conditions:

38 (A) Be the employee's regular physician and surgeon, licensed
39 pursuant to Chapter 5 (commencing with Section 2000) of Division
40 2 of the Business and Professions Code.

1 (B) Be the employee’s primary care physician and has
2 previously directed the medical treatment of the employee, and
3 who retains the employee’s medical records, including his or her
4 medical history. “Personal physician” includes a medical group,
5 if the medical group is a single corporation or partnership
6 composed of licensed doctors of medicine or osteopathy, which
7 operates an integrated multispecialty medical group providing
8 comprehensive medical services predominantly for
9 nonoccupational illnesses and injuries.

10 (C) The physician agrees to be predesignated.

11 (3) If the employer provides nonoccupational health care
12 pursuant to Chapter 2.2 (commencing with Section 1340) of
13 Division 2 of the Health and Safety Code, and the employer is
14 notified pursuant to paragraph (1), all medical treatment, utilization
15 review of medical treatment, access to medical treatment, and other
16 medical treatment issues shall be governed by Chapter 2.2
17 (commencing with Section 1340) of Division 2 of the Health and
18 Safety Code. Disputes regarding the provision of medical treatment
19 shall be resolved pursuant to Article 5.55 (commencing with
20 Section 1374.30) of Chapter 2.2 of Division 2 of the Health and
21 Safety Code.

22 (4) If the employer provides nonoccupational health care, as
23 described in Section 4616.7, all medical treatment, utilization
24 review of medical treatment, access to medical treatment, and other
25 medical treatment issues shall be governed by the applicable
26 provisions of the Insurance Code.

27 (5) The insurer may require prior authorization of any
28 nonemergency treatment or diagnostic service and may conduct
29 reasonably necessary utilization review pursuant to Section 4610.

30 (6) An employee shall be entitled to all medically appropriate
31 referrals by the personal physician to other physicians or medical
32 providers within the nonoccupational health care plan. An
33 employee shall be entitled to treatment by physicians or other
34 medical providers outside of the nonoccupational health care plan
35 pursuant to standards established in Article 5 (commencing with
36 Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety
37 Code.

38 (e) (1) When at the request of the employer, the employer’s
39 insurer, the administrative director, the appeals board, or a workers’
40 compensation administrative law judge, the employee submits to

1 examination by a physician, he or she shall be entitled to receive,
2 in addition to all other benefits herein provided, all reasonable
3 expenses of transportation, meals, and lodging incident to reporting
4 for the examination, together with one day of temporary disability
5 indemnity for each day of wages lost in submitting to the
6 examination.

7 (2) Regardless of the date of injury, “reasonable expenses of
8 transportation” includes mileage fees from the employee’s home
9 to the place of the examination and back at the rate of twenty-one
10 cents (\$0.21) a mile or the mileage rate adopted by the Director
11 of the ~~Department of Personnel Administration~~ *Human Resources*
12 pursuant to Section 19820 of the Government Code, whichever is
13 higher, plus any bridge tolls. The mileage and tolls shall be paid
14 to the employee at the time he or she is given notification of the
15 time and place of the examination.

16 (f) When at the request of the employer, the employer’s insurer,
17 the administrative director, the appeals board, or a workers’
18 compensation administrative law judge, an employee submits to
19 examination by a physician and the employee does not proficiently
20 speak or understand the English language, he or she shall be
21 entitled to the services of a qualified interpreter in accordance with
22 conditions and a fee schedule prescribed by the administrative
23 director. These services shall be provided by the employer. For
24 purposes of this section, “qualified interpreter” means a language
25 interpreter certified, or deemed certified, pursuant to Article 8
26 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of
27 Division 3 of Title 2 of, or Section 68566 of, the Government
28 Code.

29 ~~(g) This section shall become operative on January 1, 2010.~~

30 SEC. 186. Section 322 of the Military and Veterans Code is
31 amended to read:

32 322. Officers, warrant officers, and enlisted men and women
33 on active duty in the service of the state, except in situations
34 described in Section 188, shall be reimbursed for their necessary
35 traveling and other expenses in accordance with the rules and
36 regulations adopted by the ~~Department of Personnel Administration~~
37 *Human Resources*.

38 SEC. 187. Section 1011 of the Military and Veterans Code is
39 amended to read:

1 1011. (a) There is in the department a Veterans' Home of
2 California, Yountville, situated at Veterans' Home, Napa County.

3 (b) (1) The department may establish and construct a second
4 home that shall be situated in the County of Imperial, Los Angeles,
5 Orange, Riverside, San Bernardino, San Diego, or Ventura. The
6 home may be located on one or more sites. The department shall
7 operate the second home concurrently with the first home.

8 (2) The initial site is the Veterans' Home of California, Barstow,
9 situated in Barstow, San Bernardino County. That site may provide
10 skilled nursing care for up to 250 residents.

11 (3) When completed, the second site shall be the Veterans'
12 Home of California, Chula Vista, situated in Chula Vista, San
13 Diego County, pursuant to the recommendations made by the
14 commission established pursuant to former Section 1011.5.

15 (4) When completed, the third site shall be the Veterans' Home
16 of California, Lancaster, situated in Lancaster, Los Angeles County,
17 pursuant to the recommendations made by the commission
18 established pursuant to former Section 1011.5.

19 (5) When completed, the fourth site shall be the Veterans' Home
20 of California, Ventura, situated in the community of Saticoy,
21 Ventura County.

22 (6) There shall be an administrator for, and located at, each site
23 of the southern California home.

24 (7) The department may complete any preapplication process
25 necessary with the United States Department of Veterans Affairs
26 for construction of the second home.

27 (c) The Legislature hereby finds and declares that the second
28 home is a new state function. The department may perform any
29 or all work in operating the second home by independent
30 contractors, except the overall administration and management of
31 the home. Any and all actions of the department taken before
32 September 17, 1996, that are consistent with this subdivision are
33 hereby ratified and confirmed, it having at all times been the intent
34 of the Legislature that the department be so authorized.

35 (d) There shall be an administrator for each home or homesite,
36 who shall be recommended by the Secretary of Veterans Affairs
37 and appointed by the Governor, and shall be located at that home
38 or homesite. The salary for each administrator shall be subject to
39 the approval of the Department of ~~Personnel Administration~~ *Human*
40 *Resources*.

1 SEC. 188. Section 832.9 of the Penal Code is amended to read:

2 832.9. (a) A governmental entity employing a peace officer,
3 as defined in Section 830, judge, court commissioner, or an
4 attorney employed by the Department of Justice, the State Public
5 Defender, or a county office of a district attorney or public defender
6 shall reimburse the moving and relocation expenses of those
7 employees, or any member of his or her immediate family residing
8 with the officer in the same household or on the same property
9 when it is necessary to move because the officer has received a
10 credible threat that a life threatening action may be taken against
11 the officer, judge, court commissioner, or an attorney employed
12 by the Department of Justice, the State Public Defender, or a county
13 office of the district attorney or public defender or his or her
14 immediate family as a result of his or her employment.

15 (b) The person relocated shall receive actual and necessary
16 moving and relocation expenses incurred both before and after the
17 change of residence, including reimbursement for the costs of
18 moving household effects either by a commercial household goods
19 carrier or by the employee.

20 (1) Actual and necessary moving costs shall be those costs that
21 are set forth in the Department of ~~Personnel Administration~~ *Human*
22 *Resources* rules governing promotional relocations while in the
23 state service. The department shall not be required to administer
24 this section.

25 (2) The public entity shall not be liable for any loss in value to
26 a residence or for the decrease in value due to a forced sale.

27 (3) Except as provided in subdivision (c), peace officers, judges,
28 court commissioners, and attorneys employed by the Department
29 of Justice, the State Public Defender, or a county office of a district
30 attorney or public defender shall receive approval of the appointing
31 authority prior to incurring any cost covered by this section.

32 (4) Peace officers, judges, court commissioners, and attorneys
33 employed by the Department of Justice, the State Public Defender,
34 or a county office of a district attorney or public defender shall
35 not be considered to be on duty while moving unless approved by
36 the appointing authority.

37 (5) For a relocation to be covered by this section, the appointing
38 authority shall be notified as soon as a credible threat has been
39 received.

40 (6) Temporary relocation housing shall not exceed 60 days.

1 (7) The public entity ceases to be liable for relocation costs after
2 120 days of the original notification of a viable threat if the peace
3 officer, judge, court commissioner, or attorney employed by the
4 Department of Justice, the State Public Defender, or a county office
5 of a district attorney or public defender has failed to relocate.

6 (c) (1) For purposes of the right to reimbursement of moving
7 and relocation expenses pursuant to this section, judges shall be
8 deemed to be employees of the State of California and a court
9 commissioner is an employee of the court by which he or she is
10 employed.

11 (2) For purposes of paragraph (3) of subdivision (b), a court
12 commissioner shall receive approval by the presiding judge of the
13 superior court in the county in which he or she is located.

14 (3) For purposes of paragraph (3) of subdivision (b), judges,
15 including justices of the Supreme Court and the Courts of Appeal,
16 shall receive approval from the Chief Justice, or his or her designee.

17 (d) As used in this section, “credible threat” means a verbal or
18 written statement or a threat implied by a pattern of conduct or a
19 combination of verbal or written statements and conduct made
20 with the intent and the apparent ability to carry out the threat so
21 as to cause the person who is the target of the threat to reasonably
22 fear for his or her safety or the safety of his or her immediate
23 family.

24 (e) As used in this section, “immediate family” means the
25 spouse, parents, siblings, and children residing with the peace
26 officer, judge, court commissioner, or attorney employed by the
27 Department of Justice, the State Public Defender, or a county office
28 of a district attorney or public defender.

29 SEC. 189. Section 6050 of the Penal Code is amended to read:

30 6050. (a) The Governor, upon recommendation of the
31 secretary, shall appoint the wardens of the various state prisons.
32 Each warden shall be subject to removal by the secretary. If the
33 secretary removes him or her, the secretary’s action shall be final.
34 The wardens shall be exempt from civil service.

35 (b) The Department of ~~Personnel Administration~~ *Human*
36 *Resources* shall fix the compensation of the wardens of the state
37 prisons.

38 SEC. 190. Section 10295 of the Public Contract Code is
39 amended to read:

1 10295. (a) All contracts entered into by any state agency for
2 (1) the acquisition of goods or elementary school textbooks, (2)
3 services, whether or not the services involve the furnishing or use
4 of goods or are performed by an independent contractor, (3) the
5 construction, alteration, improvement, repair, or maintenance of
6 property, real or personal, or (4) the performance of work or
7 services by the state agency for or in cooperation with any person,
8 or public body, are void unless and until approved by the
9 department. Every contract shall be transmitted with all papers,
10 estimates, and recommendations concerning it to the department
11 and, if approved by the department, shall be effective from the
12 date of the approval.

13 (b) This section applies to any state agency that by general or
14 specific statute is expressly or impliedly authorized to enter into
15 transactions referred to in this section.

16 (c) This section does not apply to the following:

17 (1) Any transaction entered into by the Trustees of the California
18 State University, by the Board of Governors of the California
19 Community Colleges, or by a department under the State Contract
20 Act or the California State University Contract Law.

21 (2) Any contract of a type specifically mentioned and authorized
22 to be entered into by the Department of Transportation under
23 Section 14035 or 14035.5 of the Government Code, Sections 99316
24 to 99319, inclusive, of the Public Utilities Code, or the Streets and
25 Highways Code.

26 (3) Any contract entered into by the Department of
27 Transportation that is not funded by money derived by state tax
28 sources but, rather, is funded by money derived from federal or
29 local tax sources.

30 (4) Any contract entered into by the Department of ~~Personnel~~
31 ~~Administration~~ *Human Resources* for state employee benefits,
32 occupational health and safety, training services, or combination
33 thereof.

34 (5) Any contract let by the Legislature.

35 (6) Any contract entered into under the authority of Chapter 4
36 (commencing with Section 11770) of Part 3 of Division 2 of the
37 Insurance Code.

38 SEC. 191. Section 10344.1 of the Public Contract Code is
39 amended to read:

1 10344.1. The Department of ~~Personnel Administration~~ *Human*
 2 *Resources*, with respect to contracts it enters into for state
 3 employees for employee benefits, occupational health and safety,
 4 training services, or any combination thereof, shall provide all
 5 qualified bidders with a fair opportunity to enter the bidding
 6 process, therefore stimulating competition in a manner conducive
 7 to sound fiscal practices. The Department of ~~Personnel~~
 8 ~~Administration~~ *Human Resources* shall make available to any
 9 member of the public its guidelines for awarding these contracts,
 10 and to the extent feasible, implement the objectives set forth in
 11 Section 10351.

12 SEC. 192. Section 10349 of the Public Contract Code is
 13 amended to read:

14 10349. The Department of ~~Personnel Administration~~ *Human*
 15 *Resources* shall establish a program for training state agency
 16 contracting personnel in contract administration and contract
 17 management. The cost of training state agency contracting
 18 personnel shall be paid by state agencies out of their appropriations
 19 for personnel training. The Department of ~~Personnel Administration~~
 20 *Human Resources* shall, prior to establishing the training program
 21 required by this section, consult with the department concerning
 22 the training curriculum and the development of a training manual
 23 on contract administration.

24 SEC. 193. Section 309.1 of the Public Utilities Code is
 25 amended to read:

26 309.1. ~~(a)~~ The Governor may appoint one adviser for each
 27 member of the commission upon the request of the commission
 28 member. Each adviser shall receive a salary fixed by the
 29 commission with the approval of the Department of ~~Personnel~~
 30 ~~Administration~~ *Human Resources*. The total number of advisers
 31 exempt from civil service may not exceed five.

32 ~~(b) This section shall become operative on January 1, 2003.~~

33 SEC. 194. Section 185024 of the Public Utilities Code is
 34 amended to read:

35 185024. (a) The authority shall appoint an executive director,
 36 exempt from civil service, who shall serve at the pleasure of the
 37 authority, to administer the affairs of the authority as directed by
 38 the authority.

39 (b) For purposes of managing and administering the ongoing
 40 work of the authority in implementing the high-speed train project,

1 the Governor, upon the recommendation of the executive director,
2 may appoint up to six additional individuals, exempt from civil
3 service, who shall serve at the pleasure of the executive director.
4 Pursuant to this subdivision, the Governor may appoint persons
5 only for the following positions:

- 6 (1) Chief program manager.
- 7 (2) Up to three regional directors.
- 8 (3) Chief financial officer.
- 9 (4) Director of risk management and project controls.

10 (c) The compensation of the executive director and the additional
11 persons authorized by subdivision (b) shall be established by the
12 authority, and approved by the Department of ~~Personnel~~
13 ~~Administration~~ *Human Resources*, in an amount that is reasonably
14 necessary, in the discretion of the authority, to attract and hold a
15 person of superior qualifications. The authority shall cause to be
16 conducted, through the use of independent outside advisers, a
17 salary survey to determine the compensation for the positions under
18 this subdivision. The Department of ~~Personnel Administration~~
19 *Human Resources* may, in its discretion, accept a previously
20 completed salary survey that meets the requirements of this
21 subdivision, and shall review the methodology used in the survey.
22 The salary survey shall consider both of the following:

- 23 (1) Other state, regional, and local transportation agencies that
24 are most comparable to the authority and its responsibilities.
- 25 (2) Other relevant labor pools.

26 The compensation set by the authority shall not exceed the
27 highest comparable compensation for a position of that type, as
28 determined by the salary survey. Based on the salary survey, these
29 positions shall be paid a salary established by the authority and
30 approved by the Department of ~~Personnel Administration~~ *Human*
31 *Resources*.

32 (d) The executive director may, as authorized by the authority,
33 appoint necessary staff to carry out the provisions of this part.

34 SEC. 195. Section 19270 of the Revenue and Taxation Code
35 is amended to read:

36 19270. (a) Consistent with the development and
37 implementation of the California Child Support Automation System
38 (CCSAS), the Franchise Tax Board and the Department of Child
39 Support Services shall enter into a letter of agreement and an
40 interagency agreement whereby the Department of Child Support

1 Services shall assume responsibility for collection of child support
2 delinquencies and the Financial Institution Data Match System as
3 set forth in this article. The letter of agreement and the interagency
4 agreement shall, at a minimum, set forth all of the following:

5 (1) Contingent upon the enactment of the Budget Act, and
6 staffing authorization from the Department of Finance and the
7 Department of ~~Personnel Administration~~ *Human Resources*, the
8 Department of Child Support Services shall assume responsibility
9 for leadership and staff of collection of child support delinquencies
10 and the Financial Institution Data Match System.

11 (2) All employees and other personnel who staff or provide
12 support for the collection of child support delinquencies and the
13 Financial Institution Data Match System at the Franchise Tax
14 Board shall become the employees of the Department of Child
15 Support Services at their existing or equivalent classification,
16 salaries, and benefits.

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

22 (b) It is the intent of the Legislature that any provision of income
23 tax return information by the Franchise Tax Board to the
24 Department of Child Support Services pursuant to this article shall
25 be done in accordance with the privacy and confidential
26 information laws of this state and the United States, and to the
27 satisfaction of the Franchise Tax Board.

28 SEC. 196. Section 2266 of the Vehicle Code is amended to
29 read:

30 2266. (a) The Legislature finds and declares all of the
31 following:

32 (1) The communications operators of the Department of the
33 California Highway Patrol are among the lowest paid when
34 compared to operators employed by other law enforcement
35 agencies in the state. The department's communication centers
36 suffer from significant staff shortages and high turnover rates.
37 Increasing the wages paid to these communications operators will
38 increase their professionalism while reducing their rate of turnover.

39 (2) The recruitment and retention problem is especially evident
40 in the classifications of Communications Operator I and II.

1 (3) In order for the state to recruit and retain the highest qualified
2 and capable communications operators, those employees should
3 be compensated in an amount equal to the estimated average total
4 compensation for the classifications corresponding to
5 Communications Operator I and II within the police departments
6 in the Cities of Los Angeles, Oakland, San Diego, and San Jose
7 and the City and County of San Francisco.

8 (4) According to the Department of the California Highway
9 Patrol, it costs the department thirty-six thousand one hundred
10 ninety-eight dollars (\$36,198) to train a Communications Operator
11 I and sixty-five thousand two hundred two dollars (\$65,202) to
12 train a Communications Operator II to their respective
13 classifications. After the department has trained an operator, all
14 too often the new, fully trained operator will move to a local agency
15 to a higher wage.

16 (5) This section is not in violation of the Ralph C. Dills Act
17 (Chapter 10.3 (commencing with Section 3512) of Division 4 of
18 Title 1 of the Government Code), which requires that changes for
19 salaries and benefits be collectively bargained between
20 representatives of the state and the employee's union. This section
21 does not circumvent that process. This section simply authorizes
22 the Department of ~~Personnel Administration~~ *Human Resources*,
23 when determining compensation for communications operators in
24 the Department of the California Highway Patrol, to consider the
25 total compensation for communications operators in other
26 jurisdictions.

27 (b) When determining compensation for communications
28 operators in the Department of the California Highway Patrol, the
29 Department of ~~Personnel Administration~~ *Human Resources* may
30 consider the total compensation for communications operators in
31 comparable positions in the police departments specified in
32 paragraph (3) of subdivision (a).

33 SEC. 197. Section 80122 of the Water Code is amended to
34 read:

35 80122. The department may do any of the following as may
36 be, in the determination of the department, necessary for the
37 purposes of this division:

38 (a) Hire and appoint employees as required, at salary levels
39 determined by the director to be competitive to attract and retain
40 persons with the necessary expertise and skills. Prior to hiring or

1 appointing an employee at a salary in excess of a salary approved
2 by the Department of ~~Personnel Administration~~ *Human Resources*,
3 the director shall submit the proposed salary to the Director of
4 Finance who shall submit it to the Legislature in accordance with
5 Section 27.00 of the annual Budget Act. No excess salary
6 authorized under this section may be paid on or after January 1,
7 2003. The excess portion of a salary authorized under this section
8 may not be considered salary in the calculation of final
9 compensation for purposes of benefits under the Public Employees'
10 Retirement System.

11 (b) Engage the services of private parties to render professional
12 and technical assistance and advice and other services in carrying
13 out the purposes of this division.

14 (c) Contract for the services of other public agencies.

15 (d) The State Personnel Board and the Department of ~~Personnel~~
16 ~~Administration~~ *Human Resources* shall assist the department in
17 expediting the hiring of personnel necessary and desirable for the
18 timely and successful implementation and administration of the
19 department's duties and responsibilities pursuant to this division.