

Senate Bill No. 1308

CHAPTER 665

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, 3517.63, 3535, 3537, 3539.5, 3541, 3572.1, 7507, 8546, 8870.4, 8880.18, 8903, 9149.4, 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, 19815.41, 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 Section 19608 of, to add Section 19573 to, to repeal Section 19702 of, to repeal and amend Section 21369.2 of, and to repeal and add Section 19815.2 of, the Government Code, to amend Section 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.

[Approved by Governor September 27, 2012. Filed with
Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1308, 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 Plan 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.

This bill would provide that any section of any act enacted by the Legislature during the 2012 calendar year that takes effect on or before January 1, 2013, and affects any section of this act, would prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.

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

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

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

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

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

(b) Multidisciplinary committee members shall hold office for a term of three years and appointments shall be staggered accordingly. A member may be reappointed, but no person shall serve as a member of the committee for more than two consecutive terms. Vacancies occurring shall be filled by appointment for the unexpired term, within 90 days after they occur.

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

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

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

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

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

(a) The director shall serve at the pleasure of the Governor. The salary for the director shall be fixed and determined by the secretary with approval of the Department of Human Resources.

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

(c) The director, in consultation with the secretary and in accordance with the State Civil Service Act, may appoint and fix the compensation of

legal, clerical, technical, investigation, and auditing personnel as may be necessary to carry out this part. All personnel shall perform their respective duties under the supervision and direction of the director.

(d) The director may appoint not more than four deputy directors as he or she deems appropriate. The deputy directors shall perform their respective duties under the supervision and direction of the director.

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

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

19428. The board shall appoint an executive director who shall receive the annual salary established by the board and approved by the Department of Human Resources. The executive director shall be the board's executive officer and shall carry out and execute the duties as specified by law and by the board.

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

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

(b) The executive director shall receive the annual salary established by the commission and approved by the Department of Human Resources. The executive director shall be the commission's executive officer and shall carry out and execute the duties as specified by law and by the commission.

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

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

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

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

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

(d) This section shall apply to eligible state employees in state bargaining units that have agreed to this section in a memorandum of understanding, or as authorized by the Director of Human Resources for classifications of

state employees that are excluded from the definition of “state employee” by paragraph (c) of Section 3513 of the Government Code.

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

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

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

(b) The Director of Human Resources may establish the normal rate of contribution for a state employee who is a member of the Defined Benefit Program who is excepted from the definition of “state employee” in subdivision (c) of Section 3513 of the Government Code, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

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

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

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

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

(2) If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the

member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59008. (a) The Department of Human Resources shall consider making salaries for teachers, specialists, and administrators of the California School for the Deaf competitive with the salaries of similarly qualified school teachers, specialists, and administrators who are employed by the encompassing school districts.

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

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

59104. (a) The Department of Human Resources shall consider making salaries for teachers, specialists, and administrators of the California School for the Blind competitive with the salaries of similarly qualified school teachers, specialists, and administrators who are employed by the encompassing school districts.

(b) For purposes of this section, "teachers," "teacher specialists," and "administrators" mean those individuals who hold the appropriate teaching,

service, or teaching and administrative credential, as appropriate, as issued by the Commission on Teacher Credentialing, as determined by the employing state agency.

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

59205. (a) The Department of Human Resources shall consider making salaries for teachers, specialists, and administrators of the Diagnostic Center, Southern California, the Diagnostic Center, Central California, and the Diagnostic Center, Northern California, competitive with the salaries of similarly qualified school teachers, specialists, and administrators who are employed by the encompassing school districts.

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

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

17450. (a) For purposes of this article:

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

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

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

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

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

(2) If an obligor is disabled, meets the federal Supplemental Security Income resource test, and is receiving Supplemental Security Income/State Supplementary Payments (SSI/SSP), or, but for excess income as described in Section 416.1100 and following of Part 416 of Title 20 of the Code of Federal Regulations, would be eligible to receive as SSI/SSP, pursuant to Section 12200 of the Welfare and Institutions Code, and the obligor has supplied the local child support agency with proof of his or her eligibility for, and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the child support delinquency shall not be referred to the department for collection, and, if referred, shall be withdrawn, rescinded, or otherwise recalled from the department by the local child support agency. The department shall not take any collection action, or if

the local child support agency has already taken collection action, shall cease collection actions in the case of a disabled obligor when the delinquency is withdrawn, rescinded, or otherwise recalled by the local child support agency in accordance with the process established as described in paragraph (1).

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

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

(1) Contingent upon the enactment of the Budget Act, and staffing authorization from the Department of Finance and the Department of Human Resources, the department shall assume responsibility for leadership and staffing of the collection of child support delinquencies and the Financial Institution Data Match System.

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

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

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

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

(b) Each member of the committee who is eligible to receive per diem and mileage shall be allowed per diem and mileage in accordance with the rules of the Department of Human Resources for attending any meeting of the committee involving this article.

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

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

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

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

The board may meet in regular session each month. The chairperson of the board or the director may call any other meeting of the board at any time. Each member shall be allowed per diem and mileage in accordance with Department of Human Resources rules for attending any meeting of the board.

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

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

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

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

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

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

- (A) Selection of officers.
- (B) Terms of office for board members.
- (C) Annual assessment rate.
- (D) Annual budget.
- (E) Expenditures authorized under Sections 6047.5 and 6047.30.

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

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

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

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

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

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

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

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

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

(2) Four from the grape industry.

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

(4) One public representative.

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

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

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

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

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

14581. There is, in the department, a Fertilizer Inspection Advisory Board consisting of nine persons appointed by the secretary, eight of whom shall be licensed under this chapter and subject to the payment of the

inspection fee in accordance with this chapter, and one of whom shall be a public member. The members of the board shall receive no compensation, but are entitled to payment of necessary traveling expenses in accordance with the rules of the Department of Human Resources. These expenses shall be paid out of appropriations made to the department pursuant to this chapter.

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

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

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

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

27574. The committee shall meet at the call of its chairman, the director, or at the request of any three members of the committee. The committee shall meet at least once a year. Necessary expenditures incurred by the committee members in attending committee meetings may be reimbursed in accordance with Department of Human Resources rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The members of the advisory committee shall be reimbursed for travel expenses pursuant to the rules and regulations adopted by the Director of Human Resources pursuant to Section 19820 of the Government Code for attendance at a meeting approved by the Secretary of Food and Agriculture.

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

74743. No board member or alternate member or member of a committee established by the commission who is a nonmember of the commission shall receive any compensation. Each board member or each alternate member serving in place of a board member, except ex officio members who are state officers or employees, and each member of a committee established by the commission who is not a board member or alternate member, may receive per diem not to exceed one hundred dollars (\$100) per day, as established by the commission. In addition, board members and alternate members of the commission and members of committees established by the commission shall be reimbursed for actual and necessary travel expenses under the rules of the Department of Human Resources. The per diem and reimbursement for travel expenses shall be paid to those members for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as provided by the commission.

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

77939. Members and alternate members of the commission and members of committees established by the commission shall not receive any compensation but shall receive the per diem established by Section 11564.5 of the Government Code. Ex officio members who are state officers or employees and who are compensated by the state are not eligible for per diem pursuant to this section. In addition, members and alternate members of the commission and members of committees established by the commission shall be reimbursed for actual and necessary travel expenses under the rules of the Department of Human Resources. The per diem and reimbursement for travel expenses shall be paid to those members for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission.

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

78239. Members and alternate members of the commission, and members of committees established by the commission, shall not receive any compensation, but notwithstanding Section 11564.5 of the Government Code, shall receive the per diem established by the commission, not to exceed one hundred dollars (\$100) per day. Ex officio members who are state officers or employees are not eligible for per diem pursuant to this section. In addition, members and alternate members of the commission, and members of committees established by the commission, shall be reimbursed for actual and necessary travel expenses under the rules of the

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

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

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

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

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

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

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

- (1) Payments, refunds, or credits for income tax purposes.
- (2) Payment of claims for reimbursement for health care services or mental health services provided under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.
- (3) Any payment made pursuant to a public social service or public health program to a recipient of benefits under that program.
- (4) Payments made on claims by the California Victim Compensation and Government Claims Board.
- (5) Payments made by the Commission on State Mandates.

(6) Payments made by the Department of Human Resources pursuant to Section 19823.

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

1150. As used in this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Any eligible employee participating in the flexible benefits program shall be subject to federal laws and implementing regulations of the Department of Human Resources which affects the flexible benefit program throughout the period of the employee’s enrollment.

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

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

(f) There is in the State Treasury the Flexelect Benefit Fund which, notwithstanding Section 13340, is continuously appropriated without regard to fiscal years to the Department of Human Resources for expenditure to implement the flexible benefits program and to pay the related administrative costs. The fund shall consist of the amounts received from state employee compensation excluded from gross income and transmitted to the Flexelect Benefit Fund, income of whatever nature earned on the money in the Flexelect Benefit Fund during any fiscal year and credited to the fund, and amounts appropriated therefor in the annual Budget Act and other statutes.

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

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

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

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

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

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

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

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

SEC. 35. Section 3517.63 of the Government Code is amended to read:

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

(b) A side letter, appendix, or other addendum to a properly ratified memorandum of understanding that does not require the expenditure of funds shall be expressly identified by the Department of Human Resources if that side letter, appendix, or other addendum is to be incorporated in a subsequent memorandum of understanding submitted to the Legislature for approval.

SEC. 36. Section 3535 of the Government Code is amended to read:

3535. The Department of Human Resources may adopt rules and regulations for the administration of excluded employer-employee relations, including supervisory employer-employee relations, under these provisions. Such rules and regulations may include provisions for:

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

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

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

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

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

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

SEC. 37. Section 3537 of the Government Code is amended to read:

3537. Every excluded employee organization shall submit an annual registration statement on or before July 1 of each calendar year to the Department of Human Resources. The registration statement shall, at a minimum, list the name of the organization, its affiliations, headquarters, and other business addresses, its principal business telephone number, a list of principal officers and representatives, and a copy of its organization bylaws.

SEC. 38. Section 3539.5 of the Government Code is amended to read:

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

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

SEC. 39. Section 3541 of the Government Code is amended to read:

3541. (a) There is in state government the Public Employment Relations Board which shall be independent of any state agency and shall consist of five members. The members of the board shall be appointed by the Governor by and with the advice and consent of the Senate. One of the original members shall be chosen for a term of one year, one for a term of three years, and one for a term of five years. The first term for the two new members of the board resulting from the expansion of the board to five members shall be reduced by the Governor as necessary so that the term of only one member of the board shall expire in any given year. Thereafter, terms shall be for a period of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Members of the board shall be eligible for reappointment. The Governor shall select one member to serve as chairperson. A member of the board may be removed by the Governor upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

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

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

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

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

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

board, to assist the board in the performance of its functions under this chapter. The general counsel shall serve at the pleasure of the board.

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

(h) The Governor shall appoint one legal adviser for each member of the board upon the recommendation of that board member. Each appointee shall serve at the pleasure of the recommending board member and shall receive a salary as shall be fixed by the board with the approval of the Department of Human Resources.

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

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

SEC. 40. Section 3572.1 of the Government Code is amended to read:

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

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

No written memoranda reached pursuant to this chapter that require budgetary or curative action by the Legislature or other funding agencies, including the Federal Maritime Administration, shall be effective unless and until that action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding for all state-funded employees or for necessary legislation will be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fails fully to fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring; provided, however, that the parties may agree that provisions of the memoranda that are nonbudgetary and do not require funding shall take effect whether or not the funding requests submitted to the Legislature are approved.

The Legislature recognizes that the California Maritime Academy's sources of funding are multiple, and approval by the Legislature, and by

other public agencies, as to employees funded by those agencies, may be required prior to implementation of increased expenditures resulting from agreements reached in accordance with this chapter.

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

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

(d) If agreement is reached to extend existing memoranda of understanding covering California Maritime Academy employees beyond the current June 30, 1995, expiration date, then any decisions, agreements, or settlements made by the California State University in the administration of the memoranda of understanding relative to employees of the California Maritime Academy shall not be binding upon, or considered as precedent required to be followed by, the Department of Human Resources.

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

SEC. 41. Section 7507 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

(B) The requirements of this paragraph do not apply to:

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

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

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

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the Director of Human Resources.

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

SEC. 42. Section 8546 of the Government Code is amended to read:

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

(a) Notwithstanding Section 19790, the State Auditor shall establish an equal employment opportunity program that shall meet the criteria and objectives established by the State Personnel Board. The State Auditor shall

report annually to the State Personnel Board and the commission regarding the program.

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

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

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

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

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

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

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

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

(2) At the election of the State Auditor, officers and employees of the bureau may participate in benefits programs administered by the Department of Human Resources subject to the same conditions for participation that apply to civil service employees in other state agencies. For the purposes of benefits programs administration only, the State Auditor is subject to the determinations of the department. The Bureau of State Audits shall reimburse the Department of Human Resources for the normal administrative costs incurred by the Department of Human Resources and for any extraordinary

costs resulting from the inclusion of the bureau employees in these state benefit programs.

SEC. 43. Section 8870.4 of the Government Code is amended to read:

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

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

SEC. 44. Section 8880.18 of the Government Code is amended to read:

8880.18. Compensation and Expenses

Commissioners shall be compensated at the rate of one hundred dollars (\$100) for each day they are engaged in commission business. Commission members shall be reimbursed for actual expenses incurred on commission business, including necessary travel expenses as determined by the Department of Human Resources.

SEC. 45. Section 8903 of the Government Code is amended to read:

8903. When traveling to and from a session of the Legislature, or when traveling to and from a meeting of a committee of which he or she is a member, or when traveling pursuant to any other legislative function or responsibility as authorized or directed by the rules of the house of which he or she is a member or by the joint rules, when that travel is by a common carrier of passengers, a Member of the Legislature shall be entitled to reimbursement for the actual costs of travel by the common carrier. If the member travels by other means and common carrier service is available and feasible he or she shall be reimbursed in the amount of the fare of available common carrier service. If common carrier service is unavailable or not feasible, a member shall be reimbursed at a rate not to exceed the rate established by the Department of Human Resources for the reimbursement of officers and employees of the state pursuant to Section 19820. No mileage shall be allowed or paid for travel in a conveyance owned or provided by and at the expense of a public agency. As used in this section, "common carrier" means carrier by aircraft, railroad, bus, or vessel.

SEC. 46. Section 9149.4 of the Government Code is amended to read:

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

SEC. 47. Section 11565.5 of the Government Code is amended to read:

11565.5. Notwithstanding Sections 11553, 11553.5, 11555, 11556, 11563.7, and 11564, with respect to any salary increase made after January 1, 1997, for nonelected members of state boards and commissions specified in Sections 11553, 11553.5, 11555, 11556, 11563.7, and 11564, the annual compensation provided by these sections shall not automatically increase but may be increased in any fiscal year in which there is a general increase in the salary ranges and rates for state civil service classifications. The amount of the increase, as determined by the Department of Human Resources and subject to the appropriation of funds by the Legislature in the annual Budget Act, shall not exceed the percentage of the general increase in the salary rates and ranges for classifications provided during that fiscal year for state employees designated as managerial.

SEC. 48. Section 12010.6 of the Government Code is amended to read:

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

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

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

(d) Positions designated by the Governor as exempt from civil service pursuant to this section shall be limited to those designated as managerial positions under Section 3513 by the Department of Human Resources.

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

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

SEC. 49. Section 12012.85 of the Government Code is amended to read:

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

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

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

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

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

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

(f) Any other purpose specified by law.

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

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

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

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

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

SEC. 50. Section 13332.07 of the Government Code is amended to read:

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

SEC. 51. Section 14876 of the Government Code is amended to read:

14876. (a) Pressmen, typographers, linotypers, compositors, bookbinders, lithographers, engravers, apprentices and assistants and all

other employees of the Office of State Printing employed in allied work shall be paid on an hourly wage basis. The basic wage of those employees shall be the prevailing hourly wage paid to persons identified by the Department of Human Resources to be in similar and comparable employment by private printers in the major metropolitan areas in California. The Department of Human Resources shall accept and give validity to certified copies of agreed upon contracts submitted by either the employer, the employer group, or the employee organization.

The Department of Human Resources shall survey only major employers where there are agreed upon contracts. If any agreed upon contract contains any provision or provisions that do not reflect the actual practice of the employer, the Department of Human Resources shall disregard the provision or provisions.

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

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

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

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

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

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

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

SEC. 52. Section 14998.3 of the Government Code is amended to read:

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

(b) The Director of the Film Commission shall receive a salary to be determined by the Department of Human Resources.

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

SEC. 53. Section 16649.94 of the Government Code is amended to read:

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

SEC. 54. Section 18000.5 of the Government Code is amended to read:

18000.5. (a) Notwithstanding Sections 18000 and 19990, any officer or employee of the state may receive for his or her personal use compensation from any nonprofit corporation formed exclusively to aid and assist an entity described in subdivision (b) for services rendered to the nonprofit corporation and for his or her expenses of performing these services, provided that the nonprofit corporation obtains the prior written approval of the Department of Human Resources to provide the compensation to any officer or employee and files with the Controller and the Department of Human Resources by September 30 of each year a statement disclosing the names of state officers and employees compensated and their respective amounts of compensation for the preceding fiscal year, and the giving or receipt of the compensation is not in violation of any state or federal law. Any subsequent changes to the compensation for any officer or employee provided under this section must be approved by the Department of Human Resources.

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

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

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

SEC. 55. Section 18573 of the Government Code is amended to read:

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

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

SEC. 56. Section 18574 of the Government Code is amended to read:

18574. All officers and employees of the state and any county, city, district, or other subdivision of the state recognized by law shall aid in all proper ways in carrying this part and the board rules into effect, allow the reasonable use of public buildings, and heat and light them for the purpose of making examinations of applicants and holding hearings and investigations under this part. Officers and employees shall afford to the board and the Department of Human Resources, or the board's or department's authorized representatives, all reasonable facilities, permit inspection of all books and papers applying or in any way appertaining to all offices subject to the authority of the state, produce the books or papers, and attend and testify when required so to do.

SEC. 57. Section 18706 of the Government Code is amended to read:

18706. The board may make agreements with personnel agencies in other jurisdictions, political subdivisions, and state agencies excepted from the state civil service.

SEC. 58. Section 18707 of the Government Code is amended to read:

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

SEC. 59. Section 18708 of the Government Code is amended to read:

18708. The board shall cooperate with the Director of Finance, the Department of Human Resources, the California Victim Compensation and Government Claims Board, the Controller, and other state agencies, in

matters not covered by this part, and not inconsistent with this part, to promote the efficient and economical administration of the state's business.

SEC. 60. Section 18711 of the Government Code is amended to read:

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

SEC. 61. Section 18714 of the Government Code is amended to read:

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

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

SEC. 62. Section 18717 of the Government Code is amended to read:

18717. (a) The board shall develop objective criteria for determining the application of the state safety category of membership in the Public Employees' Retirement System to positions in the state civil service. Upon the request of the Department of Human Resources or an employee organization, the board shall then determine which classes of positions meet all or part of the elements of the criteria and shall list the positions in order based upon the degree in which their duties meet the criteria. An employee organization that requests a determination with respect to a class of position previously determined not to meet the criteria shall submit a written argument supporting the assertion that the class of position meets the criteria. The board, if it finds the written argument to be unpersuasive, may refuse to commence determination proceedings unless and until either the Department of Human Resources requests a determination with respect to that class of position or the employee organization submits to the board a supporting argument which the board finds persuasive. The board shall indicate to the department whether the classes qualify for state safety membership. The Public Employees' Retirement System and employing agencies shall assist and cooperate with the board in preparation of the report.

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

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

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

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

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

SEC. 63. Section 18801.1 of the Government Code is amended to read:

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

SEC. 64. Section 18802 of the Government Code is amended to read:

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

SEC. 65. Section 18904 of the Government Code is amended to read:

18904. For each class there shall be maintained a separate departmental reemployment list within a given state agency, which shall consist of the names of persons on the general reemployment list but employed in that state agency at the time of separation. There shall also be maintained a separate subdivisional reemployment list within a given state agency which shall consist of the names of persons employed in a subdivision of a state agency at the time of separation if subdivisions for that state agency have been set up with the approval of the Department of Human Resources for layoff purposes.

SEC. 66. Section 18905 of the Government Code is amended to read:

18905. The order in which names appear on reemployment lists shall be determined by the relative order of the scores determined as for layoff in accordance with Section 19997.3 and Department of Human Resources rules.

SEC. 67. Section 19134 of the Government Code is amended to read:

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

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

(c) (1) The Department of Human Resources shall establish annually the state employer wage and benefit costs for workers covered pursuant to this section.

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

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

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

(f) The Department of General Services and the Department of Human Resources may adopt guidelines and regulations to implement the requirements of this section.

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

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

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

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

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

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

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

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

SEC. 68. Section 19172 of the Government Code is amended to read:

19172. During the probationary period the appointing power or his or her officially delegated representative shall evaluate the work and efficiency of a probationer in the manner and at such periods as the Department of Human Resources rules may require.

SEC. 69. Section 19253.5 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

(h) Upon the request of an appointing authority or the petition of the employee who was terminated, demoted, or transferred in accordance with this section, the employee shall be reinstated to an appropriate vacant position in the same class, in a comparable class or in a lower related class if it is determined by the board that the employee is no longer incapacitated

for duty. Such a reinstatement to a position in a different agency may be made only with the concurrence of that agency. In approving or ordering the reinstatements, the board may require the satisfactory completion of a new probationary period. When the board finds the employee who was terminated, demoted, or transferred is no longer incapacitated for duty but there is no vacant position to which the employee appropriately can be appointed, the name of the employee shall be placed upon those reemployment lists that are determined to be appropriate by the board.

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

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

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

SEC. 70. Section 19261 of the Government Code is amended to read:

19261. (a) The Department of Human Resources may establish standards of health and safety in state agencies and may develop a comprehensive health and safety program designed to improve the efficiency and raise the morale of state employees.

Nothing in this section or in the standards established thereunder shall discriminate against treatment by prayer or spiritual means nor require

physical examination of any employee who files with the board an affidavit setting forth that he or she depends exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he or she is to the best of his or her knowledge and belief in good health and that he or she claims exemption on such grounds, except that when there is probable cause to believe that such employee is not physically able to perform the duties of his or her employment, the board may require a physical examination of the employee sufficient to indicate whether or not he or she is able to perform the duties of his or her employment.

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

SEC. 71. Section 19573 is added to the Government Code, to read:

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

SEC. 72. Section 19576.1 of the Government Code is amended to read:

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

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

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

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

Notwithstanding any other law or rule, if the provisions of this section are in conflict with the provisions of the memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of

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

SEC. 73. Section 19582 of the Government Code is amended to read:

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

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

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

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

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

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

(e) In arriving at a decision or a proposed decision, the board, in exercising its discretion consistent with its authority under Section 3 of Article VII of the California Constitution, shall give consideration and respect to any applicable disciplinary criteria established pursuant to Section

19573, and the extent to which the employee's conduct resulted in, or if repeated is likely to result in, harm to the public service, the circumstances surrounding the offense or misconduct, and the likelihood of recurrence.

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

SEC. 74. Section 19583 of the Government Code is amended to read:

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

SEC. 75. Section 19592 of the Government Code is amended to read:

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

SEC. 76. Section 19608 of the Government Code, as added by Section 24 of Chapter 88 of the Statutes of 1998, is repealed.

SEC. 77. Section 19608 of the Government Code, as added by Section 24 of Chapter 91 of the Statutes of 1998, is amended to read:

19608. Any demonstration project implemented under this chapter shall not include the adoption or waiver of regulations or statutes that are administered or enforced by the Department of Human Resources without the express approval of the Department of Human Resources.

SEC. 78. Section 19702 of the Government Code is repealed.

SEC. 79. Section 19770 of the Government Code is amended to read:

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

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

(c) For the purposes of this chapter:

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

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

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

SEC. 80. Section 19775 of the Government Code is amended to read:

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

SEC. 81. Section 19775.1 of the Government Code is amended to read:

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

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

SEC. 82. Section 19775.15 of the Government Code is amended to read:

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

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

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

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

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

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

SEC. 83. Section 19775.16 of the Government Code is amended to read:

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

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

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

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

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

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

(e) Benefits provided under paragraph (1) of subdivision (b) shall only be provided to an employee who was not eligible to participate in the federal Ready Reserve Mobilization Income Insurance Program (10 U.S.C. Sec. 12521 et seq.) or a successor federal program that, in the determination of the Director of Human Resources, is substantively similar to the federal

Ready Reserve Mobilization Income Insurance Program. For an employee eligible to participate in the federal Ready Reserve Mobilization Income Insurance Program or a successor program, and whose monthly salary as a state employee was higher than the sum of his or her military pay and allowances and the maximum allowable benefit under the federal Ready Reserve Mobilization Income Insurance Program or a successor program, the employee shall receive the amount payable under paragraph (1) of subdivision (b), but that amount shall be reduced by the maximum allowable benefit under the federal Ready Reserve Mobilization Income Insurance Program or a successor program. For individuals who elected the federal Ready Reserve Mobilization Income Insurance Program, the state shall reimburse for the cost of the insurance premium for the period of time on active duty, not to exceed 180 calendar days.

SEC. 84. Section 19775.17 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

SEC. 85. Section 19775.18 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 86. The heading of Chapter 1 (commencing with Section 19815) of Part 2.6 of Division 5 of Title 2 of the Government Code is amended to read:

CHAPTER 1. DEPARTMENT OF HUMAN RESOURCES

SEC. 87. Section 19815.2 of the Government Code is repealed.

SEC. 88. Section 19815.2 is added to the Government Code, to read:

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

(b) Subject to Article VII of the California Constitution, the Department of Human Resources succeeds to and 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.

SEC. 89. Section 19815.41 of the Government Code is amended to read:

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

(b) The director shall hold nonmerit statutory appeal hearings, subpoena witnesses, administer oaths, and conduct investigations in accordance with Department of Human Resources Rule 599.859 (b)(2).

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

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

SEC. 90. Section 19815.8 of the Government Code is amended to read:

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

(b) Process directed to any officer or employee, or the Department of Human Resources, in any action or proceeding arising under this part, may be served upon the director or chief counsel.

SEC. 91. Section 19816.21 of the Government Code is amended to read:

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

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

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

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

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

SEC. 92. Section 19816.22 of the Government Code is amended to read:

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

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

SEC. 93. Section 19819.5 of the Government Code is amended to read:

19819.5. There is in the Department of Human Resources, the Division of Labor Relations.

SEC. 94. Section 19822.6 of the Government Code is amended to read:

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

The Child Care Fund shall be administered by the Department of Human Resources.

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

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

SEC. 95. Section 19827.3 of the Government Code is amended to read:

19827.3. In order for the state to recruit skilled firefighters for the California Department of Forestry and Fire Protection, it is the policy of the state to consider prevailing salaries and benefits prior to making salary recommendations. In order to provide comparability in pay, the Department

of Human Resources shall take into consideration the salary and benefits of other jurisdictions employing 75 or more full-time firefighters who work in California.

SEC. 96. Section 19829.5 of the Government Code is amended to read:

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

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

SEC. 97. Section 19829.6 of the Government Code is amended to read:

19829.6. The Department of Human Resources shall post, in a clear and conspicuous manner on the department's Web site, each memorandum of understanding that has been submitted to the Legislature for determination pursuant to Section 3517.5 and that has been ratified by the affected union membership. The memorandum of understanding of the agreement reached between the Governor and the recognized employee organization shall be posted on the department's Web site in its entirety, with a declaration that the memorandum has been submitted to the office of the Legislative Analyst and the Legislature, including the date of that submission. The department shall include on its Web site posting a summary of the memorandum of understanding that is the same summary provided to the Legislature by the department.

SEC. 98. Section 19844.7 of the Government Code is amended to read:

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

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

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

SEC. 99. Section 19849.11 of the Government Code is amended to read:

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

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

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

SEC. 100. Section 19849.13 of the Government Code is amended to read:

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

SEC. 101. Section 19849.14 of the Government Code is amended to read:

19849.14. Effective July 1, 1987, there is hereby established in the State Treasury the Nonrepresented State Employee Long-Term Disability Insurance Fund for the purpose of funding nonrepresented state employee long-term disability insurance benefits. Premiums derived from contributions by the employer or employee shall be credited to the fund. Income of

whatever nature, earned on the Nonrepresented State Employee Long-Term Disability Insurance Fund during any fiscal year, shall be credited to the fund. Moneys in this fund are continuously appropriated without regard to fiscal year, notwithstanding Section 13340. The fund shall be used by the Department of Human Resources to pay long-term disability claims and administrative costs.

SEC. 102. Section 19849.16 of the Government Code is amended to read:

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

SEC. 103. Section 19853 of the Government Code is amended to read:

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

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

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

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

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

(f) Persons employed on less than a full-time basis shall receive holidays in accordance with the Department of Human Resources rules.

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

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

SEC. 104. Section 19853.1 of the Government Code is amended to read:

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

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

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

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

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

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

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

(3) When a holiday, other than a personal holiday, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday,

accrue only an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

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

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

(6) Persons employed on less than a full-time basis shall receive holidays in accordance with the Department of Human Resources rules.

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

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

SEC. 105. Section 19867 of the Government Code is amended to read:

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

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

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

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

SEC. 106. Section 19999.1 of the Government Code is amended to read:

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

SEC. 107. Section 19999.3 of the Government Code is amended to read:

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

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

(c) The state employees described in subdivision (a) who are employed in positions that are subject to the federal system, as defined in Section 20033, shall contribute to the retirement program 5 percent of compensation, as set forth in Part 3 (commencing with Section 20000), in excess of five hundred thirteen dollars (\$513) per month paid to that member for service rendered. The state employer shall pick up the contribution, as authorized by Section 414(h) of the Internal Revenue Code, and shall deduct the contribution from the employee's compensation. The contributions required by this subdivision shall cease when the state employee begins making contributions to the defined benefit retirement program.

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

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

(f) (1) “State employees,” as used in this section, include employees, as defined in Section 19815.

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

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

SEC. 108. Section 19999.21 of the Government Code is amended to read:

19999.21. The Department of Human Resources shall administer the retirement program established by this chapter. The department shall provide by rule for the regulation of the retirement program and the method by which the benefit payments would be made to eligible recipients. The department shall by rule establish the level of employee deferrals to the plan, cessation of, or transfer of membership to the Public Employees’ Retirement System upon qualification, continued participation in the plan, and other provisions necessary for the implementation of this retirement program. The department may assess each state agency a fee for the costs associated with administration of this program.

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

SEC. 109. Section 19999.31 of the Government Code is amended to read:

19999.31. The Department of Human Resources shall administer the retirement program established by this chapter. The department shall provide the method by which benefit payments shall be made to eligible recipients. The department shall establish the program, the transfer of contributions to the Public Employees’ Retirement System upon qualification and election by the member, continued participation in the program, and other provisions necessary for the implementation of the retirement program. The department may assess each state agency a fee for the costs associated with administration of this program.

SEC. 110. Section 20068 of the Government Code is amended to read:

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

(b) “State safety service” with respect to a member who becomes a state safety member pursuant to Section 20405 shall also include service prior

to the date on which he or she becomes a state safety member as an officer or employee of the Department of Corrections and Rehabilitation.

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

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

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

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

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

SEC. 111. Section 20090 of the Government Code is amended to read: 20090. The Board of Administration of the Public Employees’ Retirement System is continued in existence. It consists of:

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

(b) The Director of Human Resources.

(c) The Controller.

(d) The Treasurer.

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

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

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

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

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

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

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

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

SEC. 112. Section 20090.1 of the Government Code is amended to read: 20090.1. (a) Notwithstanding any other provision of law to the contrary, the member of the board who is an elected official of a contracting agency appointed by the Governor, pursuant to subdivision (e) of Section 20090,

may designate a deputy, who is employed under the official's authority, to act in his or her place and stead on the board or any of its committees. The deputy, while sitting on the board or any of its committees, may exercise the same powers that the elected official could exercise if he or she were personally present. The elected official shall be responsible for the acts of the deputy acting under this designation.

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

SEC. 113. Section 20398 of the Government Code is amended to read: 20398. "State peace officer/firefighter member" also includes:

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

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

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

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

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

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

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

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

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

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

SEC. 114. Section 20405 of the Government Code is amended to read:

20405. (a) “State safety member” shall also include officers and employees of the Department of Corrections and Rehabilitation in the following classifications:

Classification	Classification
Code	
0683	Assistant Dairy Operator
2156	Assistant Food Manager (Correctional Facility)
4302	Assistant General Manager, Operations
2080	Assistant Seamer (Correctional Facility)
5447	Assistant Warden, Psychiatric Services, Correctional Facility
6868	Automobile Mechanic (Correctional Facility)
6394	Automotive Equipment Operator I (Correctional Facility)
6392	Automotive Equipment Operator II (Correctional Facility)
6893	Automotive Pool Manager I (Correctional Facility)
2224	Baker I (Correctional Facility)

Classification Code	Classification
2221	Baker II (Correctional Facility)
2086	Barber (Correctional Facility)
2084	Barbershop Manager (Correctional Facility)
6216	Building Maintenance Worker (Correctional Facility)
2245	Butcher–Meat Cutter II (Correctional Facility)
6483	Carpenter I (Correctional Facility)
6474	Carpenter II (Correctional Facility)
6471	Carpenter III (Correctional Facility)
2015	Chief Assistant General Manager, Prison Industries
4110	Chief, Day Labor Programs (Correctional Facility)
9344	Chief Dentist, Correctional Facility
2578	Chief Deputy, Clinical Services, Correctional Facility
6699	Chief Engineer I (Correctional Facility)
7547	Chief Medical Officer, Correctional Facility
6754	Chief of Plant Operation I (Correctional Facility)
6751	Chief of Plant Operation II (Correctional Facility)
6748	Chief of Plant Operation III (Correctional Facility)
9267	Chief Physician and Surgeon, Correctional Facility
7612	Chief Psychiatrist, Correctional Facility
9859	Chief Psychologist, Correctional Facility
7146	Chief, Quality Assurance, Prison Industries
9279	Clinical Dietician, Correctional Facility
9293	Clinical Laboratory Technologist, Correctional Facility
4132	Construction Supervisor (Correctional Facility)
4107	Construction Supervisor I (Correctional Facility)
4108	Construction Supervisor II (Correctional Facility)
4109	Construction Supervisor III (Correctional Facility)
2187	Cook I (Correctional Facility)
2186	Cook II (Correctional Facility)
7208	Correctional Business Manager I, Department of Corrections
4744	Correctional Business Manager II, Department of Corrections
4910	Correctional Health Services Administrator I, Correctional Facility
4912	Correctional Health Services Administrator II, Correctional Facility
6304	Correctional Plant Manager I, Department of Corrections
6305	Correctional Plant Manager II, Department of Corrections

Classification Code	Classification
6303	Correctional Plant Supervisor, Department of Corrections
9296	Dental Assistant, Correctional Facility
9298	Dental Hygienist, Correctional Facility
9299	Dental Laboratory Technician, Correctional Facility
9268	Dentist, Correctional Facility
7200	Dry Cleaning Plant Supervisor
6544	Electrician I (Correctional Facility)
6538	Electrician II (Correctional Facility)
6534	Electrician III (Correctional Facility)
6916	Electronics Technician (Correctional Facility)
6865	Equipment Maintenance Supervisor (Correctional Facility)
2153	Food Administrator I (Correctional Facility)
2147	Food Administrator II (Correctional Facility)
2150	Food Manager (Correctional Facility)
2196	Food Service Worker I (Correctional Facility)
2195	Food Service Worker II (Correctional Facility)
6955	Fusion Welder (Correctional Facility)
6628	Glazier (Correctional Facility)
0743	Groundskeeper (Correctional Facility)
6826	Heavy Equipment Mechanic (Correctional Facility)
6379	Heavy Truck Driver (Correctional Facility)
9307	Hospital Aid, Correctional Facility
7218	Industrial Supervisor, Prison Industries (Bindery)
0648	Industrial Supervisor, Prison Industries (Crop Farm)
0682	Industrial Supervisor, Prison Industries (Dairy)
7204	Industrial Supervisor, Prison Industries (Dental Laboratory)
7198	Industrial Supervisor, Prison Industries (Fabric Products)
7211	Industrial Supervisor, Prison Industries (Knit Goods Finishing)
7210	Industrial Supervisor, Prison Industries (Knitting Mill)
2109	Industrial Supervisor, Prison Industries (Laundry)
7215	Industrial Supervisor, Prison Industries (Maintenance and Repair)
7197	Industrial Supervisor, Prison Industries (Mattress and Bedding)
7191	Industrial Supervisor, Prison Industries (Metal Fabrication)

Classification Code	Classification
7216	Industrial Supervisor, Prison Industries (Printing)
7207	Industrial Supervisor, Prison Industries (Shoe Manufacturing)
7206	Industrial Supervisor, Prison Industries (Shoes and Boots, Lasting to Packing)
7321	Industrial Supervisor, Prison Industries (Silkscreen)
7192	Industrial Supervisor, Prison Industries (Tool and Die)
7179	Industrial Supervisor, Prison Industries (Upholstery)
7178	Industrial Supervisor, Prison Industries (Wood Products)
2006	Janitor (Correctional Facility)
2005	Janitor Supervisor I (Correctional Facility)
2004	Janitor Supervisor II (Correctional Facility)
2000	Janitor Supervisor III (Correctional Facility)
9265	Laboratory Assistant, Correctional Facility
2727	Language, Speech and Hearing Specialist
2114	Laundry Supervisor I (Correctional Facility)
2111	Laundry Supervisor II (Correctional Facility)
2117	Laundry Worker (Correctional Facility)
6867	Lead Automobile Mechanic (Correctional Facility)
0720	Lead Groundskeeper (Correctional Facility)
0718	Lead Groundskeeper I (Correctional Facility)
2952	Librarian (Correctional Facility)
6643	Locksmith I (Correctional Facility)
6801	Machinist (Correctional Facility)
6941	Maintenance Mechanic (Correctional Facility)
6617	Mason (Correctional Facility)
1508	Materials and Stores Supervisor I (Correctional Facility)
1505	Materials and Stores Supervisor II (Correctional Facility)
8217	Medical Technical Assistant, Correctional Facility
9273	Nurse Anesthetist, Correctional Facility
9353	Nurse Instructor, Correctional Facility
9278	Nurse Practitioner, Correctional Facility
9280	Occupational Therapist, Correctional Facility
7971	Optometrist, Correctional Facility
6528	Painter I (Correctional Facility)
6524	Painter II (Correctional Facility)
6521	Painter III (Correctional Facility)

Classification Code	Classification
7199	Pest Control Technician (Correctional Facility)
9281	Physical Therapist I, Correctional Facility
9342	Physical Therapist II, Correctional Facility
9269	Physician and Surgeon, Correctional Facility
6550	Plumber I (Correctional Facility)
6594	Plumber II (Correctional Facility)
6545	Plumber III (Correctional Facility)
7972	Podiatrist (Correctional Facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Prison Industries Administrator
7157	Prison Industries Manager (General)
7164	Prison Industries Manager (Metal Products)
7165	Prison Industries Manager (Textile Products)
7163	Prison Industries Manager (Wood Products)
0679	Prison Industries Superintendent I (Agriculture)
0617	Prison Industries Superintendent II (Agriculture)
7217	Prison Industries Superintendent II (Bindery)
7109	Prison Industries Superintendent I (Coffee Roasting and Grinding)
7203	Prison Industries Superintendent I (Dental Laboratory)
7202	Prison Industries Superintendent II (Dental Laboratory)
7170	Prison Industries Superintendent II (Detergent)
7350	Prison Industries Superintendent I (Egg Production)
7194	Prison Industries Superintendent I (Fabric Products)
7195	Prison Industries Superintendent II (Fabric Products)
7351	Prison Industries Superintendent I (Fiberglass Products)
7352	Prison Industries Superintendent I (Furniture Refurbishing)
7209	Prison Industries Superintendent II (Knitting Mill)
2108	Prison Industries Superintendent II (Laundry)
7154	Prison Industries Superintendent II (Maintenance and Repair)
7196	Prison Industries Superintendent II (Mattress and Bedding)
7189	Prison Industries Superintendent I (Metal Products)

Classification Code	Classification
7190	Prison Industries Superintendent II (Metal Products)
7214	Prison Industries Superintendent II (Printing)
7205	Prison Industries Superintendent II (Shoe Manufacturing)
7320	Prison Industries Superintendent I (Silkscreen)
7319	Prison Industries Superintendent II (Silkscreen)
7175	Prison Industries Superintendent I (Wood Products)
7172	Prison Industries Superintendent II (Wood Products)
4760	Procurement and Services Officer I (Correctional Facility)
4761	Procurement and Services Officer II (Correctional Facility)
7162	Product Engineering Technician, Prison Industries
7156	Production Manager I, Prison Industries
1793	Property Controller I (Correctional Facility)
1794	Property Controller II (Correctional Facility)
9282	Psychiatric Social Worker, Correctional Facility
9283	Psychologist–Clinical, Correctional Facility
9284	Psychology Associate, Correctional Facility
9354	Psychology Internship Director, Correctional Facility
9285	Psychometrist, Correctional Facility
9274	Public Health Nurse I, Correctional Facility
9345	Public Health Nurse II, Correctional Facility
7145	Quality Assurance Manager, Prison Industries
3080	Quality Control Technician, Prison Industries (Cleaning Products)
9315	Radiologic Technologist, Correctional Facility
9286	Recreation Therapist, Correctional Facility
6715	Refrigeration Engineer (Correctional Facility)
9275	Registered Nurse, Correctional Facility
2734	Resource Specialist, Special Education
9316	Respiratory Care Practitioner, Correctional Facility
9854	School Psychologist
2077	Seamer (Correctional Facility)
9348	Senior Clinical Laboratory Technologist, Correctional Facility
9266	Senior Laboratory Assistant, Correctional Facility
2945	Senior Librarian (Correctional Facility)
8215	Senior Medical Technical Assistant

Classification Code	Classification
9346	Senior Occupational Therapist, Correctional Facility
9270	Senior Psychiatrist, Correctional Facility (Specialist)
9271	Senior Psychiatrist, Correctional Facility (Supervisor)
9289	Senior Psychologist, Correctional Facility
9287	Senior Psychologist, Correctional Facility (Specialist)
9288	Senior Psychologist, Correctional Facility (Supervisor)
9350	Senior Radiologic Technologist, Correctional Facility (Specialist)
9351	Senior Radiologic Technologist, Correctional Facility (Supervisor)
7562	Sheet Metal Worker (Correctional Facility)
6211	Skilled Laborer (Correctional Facility)
9911	Social Worker, Youth Authority
9272	Staff Psychiatrist, Correctional Facility
9290	Staff Psychologist-Clinical, Correctional Facility
6713	Stationary Engineer (Correctional Facility)
6718	Stationary Engineer Apprentice (Four-Year Program) (Correctional Facility)
6557	Steamfitter Supervisor (Correctional Facility)
3082	Substitute Academic Teacher (Correctional Facility)
9349	Supervising Clinical Laboratory Technologist, Correctional Facility
2183	Supervising Cook I (Correctional Facility)
2182	Supervising Cook II (Correctional Facility)
0716	Supervising Groundskeeper II (Correctional Facility)
2044	Supervising Housekeeper I (Correctional Facility)
2940	Supervising Librarian (Correctional Facility)
9276	Supervising Psychiatric Nurse, Correctional Facility
9291	Supervising Psychiatric Social Worker I, Correctional Facility
9292	Supervising Psychiatric Social Worker II, Correctional Facility
9317	Supervising Registered Nurse I, Correctional Facility
9318	Supervising Registered Nurse II, Correctional Facility

Classification Code	Classification
9319	Supervising Registered Nurse III, Correctional Facility
9910	Supervising Social Worker I, Youth Authority
9908	Supervising Social Worker II, Youth Authority
2305	Supervisor of Academic Instruction (Correctional Facility)
6763	Supervisor of Building Trades (Correctional Facility)
2384	Supervisor of Commercial Diver Training
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
9277	Surgical Nurse I, Correctional Facility
9329	Surgical Nurse II, Correctional Facility
3073	Teacher (Adaptive Physical Education) (Correctional Facility)
2286	Teacher (Cerebral Palsied Children) (Correctional Facility)
2287	Teacher (Elementary-Multiple Subjects) (Correctional Facility)
2288	Teacher (Emotionally/Learning Handicapped) (Correctional Facility)
3075	Teacher (English Language Development) (Correctional Facility)
2297	Teacher (Ethnic Studies) (Correctional Facility)
2289	Teacher (Family Life Education) (Correctional Facility)
2373	Teacher (Hearing Impaired) (Correctional Facility)
2284	Teacher (High School-Arts and Crafts) (Correctional Facility)
2285	Teacher (High School-Business Education) (Correctional Facility)
3074	Teacher (High School-English/Language Arts) (Correctional Facility)
3076	Teacher (High School-Foreign Language) (Correctional Facility)
2290	Teacher (High School-General Education) (Correctional Facility)
2291	Teacher (High School-Home Economics) (Correctional Facility)
3077	Teacher (High School-Mathematics) (Correctional Facility)
2294	Teacher (High School-Music) (Correctional Facility)

Classification Code	Classification
2295	Teacher (High School-Physical Education) (Correctional Facility)
3078	Teacher (High School-Science) (Correctional Facility)
3079	Teacher (High School-Social Science) (Correctional Facility)
2298	Teacher (Librarian) (Correctional Facility)
2292	Teacher (Mentally Retarded Children) (Correctional Facility)
2371	Teacher (Speech Development and Correction) (Correctional Facility)
6400	Teaching Assistant (Correctional Facility)
7201	Tobacco Factory Superintendent
7560	Tractor Operator-Laborer (Correctional Facility)
6382	Truck Driver (Correctional Facility)
6772	Utility Shops Supervisor (Correctional Facility)
2387	Vocational Instructor (Airframe Mechanics) (Correctional Facility)
2853	Vocational Instructor (Animal Husbandry) (Correctional Facility)
2396	Vocational Instructor (Auto Body and Fender Repair) (Correctional Facility)
2398	Vocational Instructor (Auto Mechanics) (Correctional Facility)
2399	Vocational Instructor (Baking) (Correctional Facility)
2400	Vocational Instructor (Bookbinding) (Correctional Facility)
2854	Vocational Instructor (Building Maintenance) (Correctional Facility)
2417	Vocational Instructor (Carpentry) (Correctional Facility)
2419	Vocational Instructor (Commercial Diver Training) (Correctional Facility)
2855	Vocational Instructor (Computer and Related Technologies) (Correctional Facility)
2420	Vocational Instructor (Cosmetology) (Correctional Facility)
2422	Vocational Instructor (Culinary Arts) (Correctional Facility)
2869	Vocational Instructor (Dental Technology) (Correctional Facility)
2856	Vocational Instructor (Diesel Mechanics) (Correctional Facility)

Classification Code	Classification
2423	Vocational Instructor (Dog Grooming and Handling) (Correctional Facility)
2425	Vocational Instructor (Drycleaning Works) (Correctional Facility)
2857	Vocational Instructor (Drywall Installer/Taper) (Correctional Facility)
2426	Vocational Instructor (Electrical Work) (Correctional Facility)
2428	Vocational Instructor (Electronics) (Correctional Facility)
2688	Vocational Instructor (Eyewear Manufacturing) (Correctional Facility)
2429	Vocational Instructor (Fire Science) (Correctional Facility)
2858	Vocational Instructor (Floor Cover Layer) (Correctional Facility)
2431	Vocational Instructor (Furniture Refinishing and Repair) (Correctional Facility)
2432	Vocational Instructor (Garment Making) (Correctional Facility)
2433	Vocational Instructor (Heavy Equipment Repair) (Correctional Facility)
2597	Vocational Instructor (Household Appliance Repair) (Correctional Facility)
2598	Vocational Instructor (Industrial Arts) (Correctional Facility)
2599	Vocational Instructor (Instrument Repair) (Correctional Facility)
2600	Vocational Instructor (Janitorial Service) (Correctional Facility)
2601	Vocational Instructor (Landscape Gardening) (Correctional Facility)
2611	Vocational Instructor (Laundry Work) (Correctional Facility)
2614	Vocational Instructor (Machine Shop Practice) (Correctional Facility)
2615	Vocational Instructor (Masonry) (Correctional Facility)
2619	Vocational Instructor (Meat Cutting) (Correctional Facility)
2627	Vocational Instructor (Mechanical Drawing) (Correctional Facility)
2628	Vocational Instructor (Merchandising) (Correctional Facility)

Classification Code	Classification
2630	Vocational Instructor (Mill and Cabinet Work) (Correctional Facility)
2674	Vocational Instructor (Office Machine Repair) (Correctional Facility)
2849	Vocational Instructor (Office Services and Related Technologies) (Correctional Facility)
2640	Vocational Instructor (Offset Printing) (Correctional Facility)
2644	Vocational Instructor (Painting) (Correctional Facility)
2645	Vocational Instructor (Plastering) (Correctional Facility)
2661	Vocational Instructor (Plumbing) (Correctional Facility)
2665	Vocational Instructor (Powerplant Mechanics) (Correctional Facility)
2666	Vocational Instructor (Printing) (Correctional Facility)
2667	Vocational Instructor (Radiologic Technology) (Correctional Facility)
2668	Vocational Instructor (Refrigeration and Air-conditioning Repair) (Correctional Facility)
2850	Vocational Instructor (Roofer) (Correctional Facility)
2669	Vocational Instructor (Sewing Machine Repair) (Correctional Facility)
2670	Vocational Instructor (Sheet Metal Work) (Correctional Facility)
2671	Vocational Instructor (Shoemaking) (Correctional Facility)
2672	Vocational Instructor (Silk Screening Process) (Correctional Facility)
2851	Vocational Instructor (Small Engine Repair) (Correctional Facility)
2673	Vocational Instructor (Storekeeping and Warehousing) (Correctional Facility)
5415	Vocational Instructor (Telemarketing/Customer Service) (Correctional Facility)
2675	Vocational Instructor (Upholstering) (Correctional Facility)
2676	Vocational Instructor (Vocational Nursing) (Correctional Facility)
2677	Vocational Instructor (Welding) (Correctional Facility)
1504	Warehouse Manager I (Correctional Facility)

Classification	Classification
Code	
1502	Warehouse Manager II (Correctional Facility)
6221	Warehouse Worker (Correctional Facility)
6724	Water and Sewage Plant Supervisor (Correctional Facility)
2311	Youth Authority Teacher

(b) In addition, “state safety member” shall also include officers and employees of the Department of Corrections and Rehabilitation in any classification of Vocational Instructor, Industrial Supervisor, Industrial Superintendent, Assistant Industrial Superintendent, or Production Manager II (Prison Industries) that is established on or after January 1, 1984, if the Department of Human Resources and the State Personnel Board approve the inclusion of the classification.

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

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

SEC. 115. Section 20405.1 of the Government Code is amended to read:

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

(a) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.20, provided the Department of Human Resources agrees to their inclusion, and officers and employees whose classifications or positions have been designated as subject to state safety membership pursuant to Section 19816.21. For employees covered by a collective bargaining agreement, the effective date of safety membership shall be the date on which the department and the employees’ exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5 or any later

date specified in the memorandum of understanding. For employees not covered by a collective bargaining agreement, the Department of Human Resources shall determine the effective date of safety membership.

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

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

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

SEC. 116. Section 20405.2 of the Government Code is amended to read:

20405.2. A member who made the election to remain under the miscellaneous or industrial retirement benefit, as provided in Section 20405.1, may elect to be subject to the state safety formula within 90 days of notification by the board. The election, which shall be provided by the board on and after January 1, 2000, shall be filed with the board. Past service that would have been credited as a safety member, but for the member's election to remain under the miscellaneous or industrial formula, shall be credited under the safety formula. This section shall apply to state employees in state bargaining units that have agreed to this provision in a memorandum of understanding, or authorized by the Director of Human Resources for classifications of state employees that are excluded from the definition of state employee by paragraph (c) of Section 3513.

SEC. 117. Section 20405.3 of the Government Code is amended to read:

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

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

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

(c) This section shall apply to state employees in State Bargaining Unit 16 and, if authorized by the Director of Human Resources, state employees

that are excluded from the definition of “state employee” by paragraph (c) of Section 3513.

SEC. 118. Section 20407 of the Government Code is amended to read:

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

Classification	
Code	Classification Title
8254	Prelicensed Psychiatric Technician (forensic facility)
8253	Psychiatric Technician (forensic facility)
8252	Senior Psychiatric Technician (forensic facility)
8212	Nurse Practitioner (forensic facility)
8160	Health Services Specialist (forensic facility)
7601	Program Director-Medical (forensic facility)

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

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

SEC. 119. Section 20408 of the Government Code is amended to read:

20408. “State safety member” also includes officers and employees with the State Department of Mental Health or the Department of Forestry and Fire Protection in the following classifications:

Classification Code	Classification Title
2860	Audio Visual Assistant (Correctional Facility)
2861	Audio Visual Specialist (Correctional Facility)
8094	Registered Nurse (Forensic Facility)

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

SEC. 120. Section 20632 of the Government Code is amended to read:

20632. For state employees in classifications designated by the Director of Human Resources who are also excluded from, or otherwise not subject to, collective bargaining, and for employees in bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, compensation for uniforms shall not constitute “compensation” for the purposes of the computation of retirement contributions by employees and the state or for the purposes of the calculation of retirement benefits.

SEC. 121. Section 20636 of the Government Code is amended to read:

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

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

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

(A) Participation in a deferred compensation plan.

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

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

(D) Participation in a flexible benefits program.

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

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

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

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

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

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

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

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

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

(A) Final settlement pay.

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Participation in a flexible benefits program.

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

(C) Employer "pick up" of member contributions that meets the requirements of Section 414(h)(2) of Title 26 of the United States Code.

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

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

(F) Other payments the board may determine to be within "payrate."

(3) Notwithstanding subdivision (c), "special compensation" for state members shall mean all of the following:

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

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

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

(D) Other payments the board may determine to be within "special compensation."

(4) "Payrate" and "special compensation" for state members do not include any of the following:

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

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

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

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

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans. The amounts

deducted from a member's wages for participation in a deferred compensation plan may not be considered to be "employer payments."

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

(G) Final settlement pay.

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

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

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

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

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

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

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

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

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

duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

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

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

SEC. 122. Section 20672.5 of the Government Code is amended to read:

20672.5. Whenever a member's contribution rate is temporarily reduced by statute, a memorandum of understanding, or the Director of Human Resources, those reductions shall be limited to the payment of member contributions during the reduction period and do not apply to the purchase of service credit or the redeposit of member contributions. The purchase of service credit and the redeposit of member contributions shall be subject to the normal rate of contribution for the member in effect immediately prior to the temporary rate reduction.

SEC. 123. Section 20677.4 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

(g) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 124. Section 20683 of the Government Code is amended to read:

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

(b) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or

employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

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

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

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

SEC. 125. Section 20683.1 of the Government Code is amended to read:

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

(b) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 126. Section 20687 of the Government Code is amended to read:

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

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 127. Section 20963.1 of the Government Code is amended to read:

20963.1. (a) A state member whose effective date of retirement is within four months of separation from employment of the state, shall be credited at his or her retirement with 0.004 year of service for each unused day of educational leave credit, as certified to the board by the employer. The provisions of this section shall be effective for eligible state members who retire directly from state employment on and after January 1, 2000.

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

SEC. 128. Section 21159 of the Government Code is amended to read:

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

(b) A state member who, because of the enactment of this section is no longer eligible to retire for industrial disability and accepts alternate employment with the state in which the compensation is less than that received in the position held at the time of the illness or injury, shall, upon certification of the Department of Human Resources to the board, become

entitled to benefits under the partial disability retirement program set forth in Section 21160.

(c) The employee shall have the right of appeal to the Department of Human Resources regarding: (1) the requirement to participate or (2) the exclusion from participating in the program described in this section and Section 21160.

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

(e) The appointing power of the affected employee shall reimburse the Department of Human Resources for any costs associated with the administration of this provision.

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

SEC. 129. Section 21160 of the Government Code is amended to read:

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

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

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

SEC. 130. Section 21195 of the Government Code is amended to read:

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

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

SEC. 131. Section 21223 of the Government Code is amended to read:

21223. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided under this system upon approval of the Director of Human Resources or the governing body of a contracting agency, as the case may be, under employment by any state or contracting agency in which he or she previously served while a member of this system,

where by reason of actual litigation, or a proceeding before the California Victim Compensation and Government Claims Board or the governing body of a contracting agency, as the case may be, or where the state or contracting agency desires to perpetuate testimony in connection with any anticipated litigation involving the state or contracting agency, and adverse interests, the services of the person are or may be necessary in preparing for trial or in testifying as to matters within or based upon his or her knowledge acquired while employed. He or she may be paid a per diem and actual and necessary traveling expenses, but he or she shall not be paid at a greater rate of compensation per diem than the rate ordinarily paid other persons by state agencies or the contracting agency for similar services. However, there shall be deducted from the per diem compensation sums equal to the retirement annuity allocable to the days of actual employment under this section.

SEC. 132. Section 21251.13 of the Government Code is amended to read:

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

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

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

(3) Shall not apply to excluded employees, as defined in Section 3527, unless the Department of Human Resources has approved the application of those provisions to those employees. Notwithstanding any provision of law to the contrary, any approval by the Department of Human Resources for the application of these provisions to those excluded employees is irrevocable.

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

(c) Notwithstanding Section 3517.8 or any provision of a memorandum of understanding that has been continued in effect on and after January 15, 2011, pursuant to Section 3517.8 to the contrary, the retirement formulas in Sections 21354.1, 21363.3, 21363.4, 21363.8, and 21369.1 shall only apply to state employees who were first employed and subject to those

sections before January 15, 2011. Those sections shall not apply to any state employee member first employed on and after January 15, 2011.

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

SEC. 133. Section 21353 of the Government Code is amended to read:

21353. (a) The combined current and prior service pensions for a local miscellaneous member, a school member, a state miscellaneous or state industrial member, or a university member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state or state industrial member, local miscellaneous member, school member, or a university member, or service covered under this First Tier retirement formula, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50 .....	.546
50¼ .....	.554
50½ .....	.562
50¾ .....	.570
51 .....	.578
51¼ .....	.586
51½ .....	.595
51¾ .....	.603
52 .....	.612
52¼ .....	.621
52½ .....	.630
52¾ .....	.639
53 .....	.648
53¼ .....	.658
53½ .....	.668
53¾ .....	.678
54 .....	.688
54¼ .....	.698
54½ .....	.709
54¾ .....	.719
55 .....	.730
55¼ .....	.741

55½ .....	.753
55¾ .....	.764
56 .....	.776
56¼ .....	.788
56½ .....	.800
56¾ .....	.813
57 .....	.825
57¼ .....	.839
57½ .....	.852
57¾ .....	.865
58 .....	.879
58¼ .....	.893
58½ .....	.908
58¾ .....	.923
59 .....	.937
59¼ .....	.953
59½ .....	.969
59¾ .....	.985
60	1.000
60¼	1.017
60½	1.034
60¾	1.050
61	1.067
61¼	1.084
61½	1.101
61¾	1.119
62	1.136
62¼	1.154
62½	1.173
62¾	1.191
63 and over	1.209

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

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

(d) With the exception of state miscellaneous members for service rendered for the California State University or the legislative or judicial

branch of government, this section shall apply to state miscellaneous and state industrial members who are not employed by the state on or after January 1, 2000.

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

(2) This subdivision does not apply to:

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

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

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

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

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

(2) This subdivision does not apply to:

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

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

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

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

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

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

(3) This subdivision does not apply to:

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

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

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

SEC. 134. Section 21354.1 of the Government Code is amended to read:

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

Age at retirement	Fraction
50	0.550
50¼	0.573
50½	0.595
50¾	0.618

51	0.640
51¼	0.663
51½	0.685
51¾	0.708
52	0.730
52¼	0.753
52½	0.775
52¾	0.798
53	0.820
53¼	0.843
53½	0.865
53¾	0.888
54	0.910
54¼	0.933
54½	0.955
54¾	0.978
55	1.000
55¼	1.008
55½	1.016
55¾	1.024
56	1.032
56¼	1.040
56½	1.048
56¾	1.055
57	1.063
57¼	1.071
57½	1.079
57¾	1.086
58	1.094
58¼	1.102
58½	1.110
58¾	1.118
59	1.125
59¼	1.134
59½	1.141
59¾	1.149
60	1.157
60¼	1.165
60½	1.173
60¾	1.180
61	1.188
61¼	1.196
61½	1.203
61¾	1.211
62	1.219
62¼	1.227
62½	1.235

62¾	1.243
63 and over	1.250

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

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

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

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

(f) Notwithstanding any other provision of this section, this section shall not apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(g) Notwithstanding any other provision of this section, this section shall not apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

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

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

SEC. 135. Section 21362.2 of the Government Code is amended to read:

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

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 85 percent of final compensation. For state patrol members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

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

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

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

(f) This section shall supersede Section 21362, 21363, 21363.1, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local

safety members who retire after the date this section becomes applicable to their respective employers.

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

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

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

SEC. 136. Section 21363 of the Government Code is amended to read:

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

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
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125

Age at Retirement	Fraction
52 1/2.....	1.1250
52 3/4.....	1.1375
53	1.1500
53 1/4.....	1.1625
53 1/2.....	1.1750
53 3/4.....	1.1875
54	1.2000
54 1/4.....	1.2125
54 1/2.....	1.2250
54 3/4.....	1.2375
55 and over.....	1.2500

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

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

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

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

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

(3) For local safety members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

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

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

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

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

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

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

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

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

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

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

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the

contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

(i) Notwithstanding Section 3517.8 or any provision of an expired memorandum of understanding, this section shall apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011, and is represented by State Bargaining Unit 6 or 7. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

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

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

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

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

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

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

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

SEC. 137. Section 21363.1 of the Government Code is amended to read:

21363.1. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service, and for local safety members with respect

to local safety service rendered to a contracting agency that is subject to this section, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member or local safety member at the date of his or her retirement to equal the fraction of 3 percent of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50 .....	.800
50¼ .....	.810
50½ .....	.820
50¾ .....	.830
51 .....	.840
51¼ .....	.850
51½ .....	.860
51¾ .....	.870
52 .....	.880
52¼ .....	.890
52½ .....	.900
52¾ .....	.910
53 .....	.920
53¼ .....	.930
53½ .....	.940
53¾ .....	.950
54 .....	.960
54¼ .....	.970
54½ .....	.980
54¾ .....	.990
55 and over	1.000

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 85 percent of final compensation. For state peace officer/firefighter members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member has service under this section

with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall supersede Section 21363 for state peace officer/firefighter members with respect to service rendered for the California State University or the legislative or judicial branch of government.

(d) This section shall also supersede Section 21363 for state peace officer/firefighter members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

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

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

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

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

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

(j) This section shall apply to a state patrol member who is employed by the state for the first time and becomes a state patrol member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5. With respect to related state patrol members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(k) This section shall apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 8. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential

positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(l) Subdivisions (j) and (k) do not apply to:

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

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

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

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

(m) (1) Notwithstanding any other provision of this section, this section shall not apply to a peace officer/firefighter member who is employed for the first time by the California State University or the legislative or judicial branch and becomes a state peace officer/firefighter member of the system on or after January 15, 2011.

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

(n) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to those peace officer/firefighter members in State Bargaining Units 6 and 7 first employed by the state on or after January 15, 2011.

SEC. 138. Section 21363.4 of the Government Code is amended to read:

21363.4. (a) Upon attaining the age of 50 years or more, the combined current and prior service pension for a state peace officer/firefighter member described in subdivision (c) who retires or dies on or after January 1, 2006, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of state peace officer/firefighter service, as defined in subdivision (d), subject to this section with which he or she is credited at retirement.

(b) For state peace officer/firefighter members, with respect to service for all state employers under this section, the current service pension and the combined current and prior service pension under this section shall not exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates

to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) For purposes of this section, “state peace officer/firefighter member” means state peace officer/firefighter members under this part who, on or after January 1, 2006, are employed by the state and are members of State Bargaining Unit 6 or State Bargaining Unit 8, and may include state peace officer/firefighter members in related managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Human Resources has approved their inclusion in writing to the board.

(d) For purposes of this section, “state peace officer/firefighter service” means service performed by a state peace officer/firefighter member while a member of State Bargaining Unit 6 or State Bargaining Unit 8, and may include state peace officer/firefighter service in related managerial, supervisory, or confidential positions or as officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Human Resources has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members and service as defined herein.

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

(g) Notwithstanding any other provision of this section, this section shall not apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 8. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(h) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011, and is represented by State Bargaining Unit 6. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential

positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

SEC. 139. Section 21363.8 of the Government Code is amended to read:

21363.8. (a) Upon attaining the age of 50 years or more, the combined current and prior service pension for a state peace officer/firefighter member described in subdivision (c) who retires or dies on or after January 1, 2004, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of state peace officer/firefighter service, as defined in subdivision (d), subject to this section with which he or she is credited at retirement.

(b) For state peace officer/firefighter members, with respect to service for all state employers under this section, the current service pension and the combined current and prior service pension under this section may not exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) (1) This section shall apply to state peace officer/firefighter members under this part who, on or after January 1, 2004, are employed by the state and are members of State Bargaining Unit 7.

(2) This section may also apply to state peace officer/firefighter members in managerial, supervisory, or confidential positions that are related to the members described in paragraph (1) and to officers or employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the members described in paragraph (1), if the Department of Human Resources has approved their inclusion in writing to the board.

(d) (1) For purposes of this section, “state peace officer/firefighter service” means service performed by a state peace officer/firefighter member while a member of State Bargaining Unit 7.

(2) That service may include state peace officer/firefighter service in managerial, supervisory, or confidential positions that are related to the members described in paragraph (1) or as officers or employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the members described in paragraph (1), provided the Department of Human Resources has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members subject to this section and state peace officer/firefighter service as defined herein.

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

(g) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011, and is represented by State Bargaining Unit 7. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

SEC. 140. Section 21369 of the Government Code is amended to read:

21369. (a) The combined prior and current service pension for a state safety member, and a local safety member with respect to service to a contracting agency subject to this section, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, police, fire, or county peace officer service that is credited to him or her as a state safety member or a local safety member subject to this section at retirement. Notwithstanding the preceding sentence, this section shall apply to the current and prior service pension for any other state safety member based on service to which it would have applied had the member, on July 1, 1971, been in employment described in Section 20403 or 20404.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

	The percent for each year of credited service
If the retirement age occurs at:	is:
50	0.713
50 1/4	0.725

If the retirement age occurs at:	The percent for each year of credited service
	is:
50 1/2.....	0.737
50 3/4.....	0.749
51	0.761
51 1/4.....	0.775
51 1/2.....	0.788
51 3/4.....	0.801
52	0.814
52 1/4.....	0.828
52 1/2.....	0.843
52 3/4.....	0.857
53	0.871
53 1/4.....	0.886
53 1/2.....	0.902
53 3/4.....	0.917
54	0.933
54 1/4.....	0.950
54 1/2.....	0.966
54 3/4.....	0.983

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) This section shall not apply to a person whose effective date of retirement is prior to July 1, 1971.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for

disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars (\$400) per month for service after the effective date of coverage of a member under the federal system. This subdivision shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates. It shall not apply to a local safety member employed by a contracting agency electing to be subject to this section after March 7, 1973, unless the agency elects to be subject to this paragraph by amendment to its contract or by appropriate provision of a contract entered into after this provision is effective and as to any member, the reduction in the percentage of final compensation shall apply to all local safety service to the agency, if any of the local safety service has been included in the federal system.

(g) With the exception of state safety members for service rendered for the California State University, this section shall apply to state safety members who are not employed by the state on or after January 1, 2000.

(h) This section shall not apply to a contracting agency nor its employees until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(i) (1) Notwithstanding Section 3517.8 or any provision of an expired memorandum of understanding, this section shall also apply to a state safety member who is employed by the state or the California State University for the first time and becomes a state safety member of the system on or after January 15, 2011. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

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

(j) This section does not apply to:

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

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

(3) State or California State University employees on an approved leave of absence before January 15, 2011, who return to active employment on or after January 15, 2011, and who were not previously subject to this section.

(4) State employees who are subject to Section 21369.2 so long as their memorandum of understanding is in effect. Upon expiration of the memorandum of understanding, notwithstanding Section 3517.8, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

SEC. 141. Section 21369.1 of the Government Code is amended to read:

21369.1. (a) The combined current and prior service pensions for state safety members subject to this section with respect to state safety service that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state safety service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	0.8500
50¼	0.8625
50½	0.8750
50¾	0.8875
51	0.9000
51¼	0.9125
51½	0.9250
51¾	0.9375
52	0.9500
52¼	0.9625
52½	0.9750
52¾	0.9875
53	1.0000
53¼	1.0320
53½	1.0630
53¾	1.0940
54	1.1250
54¼	1.1570
54½	1.1880
54¾	1.2190
55 and over	1.2500

(b) For state safety members with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer, and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) This section shall supersede Section 21369 for state safety members with respect to service rendered for the California State University.

(d) This section shall also supersede Section 21369 for state safety members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

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

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

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

(h) Notwithstanding any other provision of this section, this section shall not apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(i) (1) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to a state safety member who is employed by the state or the California State University for the first time and becomes a state safety member of the system on or after January 15, 2011. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of

understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

SEC. 142. Section 21369.2 of the Government Code, as amended by Section 128 of Chapter 296 of the Statutes of 2011, is repealed.

SEC. 143. Section 21369.2 of the Government Code, as amended by Section 129 of Chapter 296 of the Statutes of 2011, is amended to read:

21369.2. (a) The combined prior and current service pension for a state safety member, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety service, that is credited to him or her as a state safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

Age at Retirement	Fraction
50	0.713
50 ¹ / ₄	0.725
50 ¹ / ₂	0.737
50 ³ / ₄	0.749
51	0.761
51 ¹ / ₄	0.775
51 ¹ / ₂	0.788
51 ³ / ₄	0.801
52	0.814
52 ¹ / ₄	0.828
52 ¹ / ₂	0.843
52 ³ / ₄	0.857
53	0.871
53 ¹ / ₄	0.886
53 ¹ / ₂	0.902
53 ³ / ₄	0.917
54	0.933
54 ¹ / ₄	0.950
54 ¹ / ₂	0.966
54 ³ / ₄	0.983
55	1.0000
55 ¹ / ₄	1.0125
55 ¹ / ₂	1.0250

55¾.....	1.0375
56	1.0500
56¼.....	1.0625
56½.....	1.0750
56¾.....	1.0875
57	1.1000
57¼.....	1.1125
57½.....	1.1250
57¾.....	1.1375
58	1.1500
58¼.....	1.1625
58½.....	1.1750
58¾.....	1.1875
59	1.2000
59¼.....	1.2125
59½.....	1.2250
59¾.....	1.2375
60 and over	1.2500

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member’s pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

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

(e) This section shall apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of this section, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(f) This section does not apply to:

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

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

(3) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who become subject to representation by State Bargaining Unit 12, 16, 18, or 19 on or after the first day of the pay period following the effective date of this subdivision.

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

SEC. 144. Section 21410 of the Government Code is amended to read:

21410. Notwithstanding Sections 21406, 21407, 21408, 21409, and 21411, any state member who becomes subject to Section 21159 on or after January 1, 1993, and retires for industrial disability because of incapacity for the performance of duties in any employment with the state employer, as determined by the Department of Human Resources, shall receive a disability retirement allowance of 60 percent of the member's final compensation plus an annuity purchased with the member's accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive the service retirement allowance if the allowance, after deducting the annuity, is greater.

Benefits payable under this section are payable solely to state members employed in state bargaining units subject to Section 21159.

SEC. 145. Section 21465 of the Government Code is amended to read:

21465. (a) Optional settlement 5 consists of a partial distribution of the actuarial present value of the portion, as specified in this section, of the member's unmodified monthly allowance, as prescribed in Section 21362, 21362.2, 21363, 21363.1, 21363.4, or 21423, when a service retirement allowance is payable. The actuarial present value shall be based upon the investment return and postretirement mortality assumptions adopted by the board for that purpose. The member may elect to receive the actuarial present value of no less than 20 percent and no more than 50 percent of his or her unmodified allowance. The member may elect to receive the remaining portion of the unmodified allowance, not distributed as a lump-sum payment, under one of the settlements specified in this article for the remainder of his or her lifetime and thereafter to his or her designated beneficiary, unless this amount is solely limited to the survivor continuance portion. The portion of the unmodified allowance equivalent to the survivor continuance pursuant to Section 21624 may not be distributed as a lump-sum payment. The benefits provided under this section may not exceed the benefits that would have otherwise been provided under any other section in this article.

(b) This section shall only apply to the following members who retire on or after January 1, 1999:

(1) State peace officer/firefighter members in State Bargaining Unit 6.

(2) State peace officer/firefighter members in State Bargaining Unit 8 and state patrol members in State Bargaining Unit 5, if a memorandum of understanding has been agreed upon by the state and the recognized employee organization to become subject to this section.

(3) This section shall also apply to state peace officer/firefighter members and state patrol members in related supervisory and confidential positions, if the Department of Human Resources has approved their inclusion.

SEC. 146. Section 21672 of the Government Code is amended to read:

21672. A tax-preferred retirement savings program may include one or more of the following components:

(a) Investment fund options for participants, as part of the deferred compensation program administered for state employees by the Department of Human Resources.

(b) Investment fund options for other participants.

(c) Annuity contracts on behalf of all participants.

(d) Asset management, administrative, or related services.

SEC. 147. Section 21674 of the Government Code is amended to read:

21674. (a) Investment fund options under subdivision (a) of Section 21672 shall be provided through a written interagency agreement between the board and the Department of Human Resources.

(b) Except for investments made pursuant to subdivision (a), participating employers shall enter into a written contractual agreement with the board.

(c) Participants shall enter into contractual agreements that are required to effectuate participation in a tax-preferred retirement savings program, including employees participating under a program described in subdivision (a) or (b) of Section 21671, or any other program that provides for the deferral of compensation program or written salary reduction agreements with their employers, for the purpose of making deferrals or for annuity contracts.

SEC. 148. Section 22808 of the Government Code is amended to read:

22808. An employee enrolled in a health benefit plan under this part shall be entitled to have his or her coverage and the coverage of any family members continued for the duration of a leave of absence, upon his or her application and upon assuming payments of the contributions otherwise required of the employer, if any of the following apply:

(a) A leave of absence is granted to the employee without pay under the State Civil Service Act and the rules or regulations of the Department of Human Resources, or other comparable leave.

(b) The employee is laid off and has not yet obtained other employment, for a period of up to one year.

(c) The employee is employed by the California State University and is granted a leave of absence for more than half-time.

SEC. 149. Section 22811 of the Government Code is amended to read:

22811. Notwithstanding any other provision of this part, a former Member of the Legislature who has served six or more years as a Member of the Legislature may elect, within 60 days after permanent separation from state service, to enroll or continue enrollment in a health benefit plan and dental care plan provided to annuitants. Upon that election, the former member shall pay the total premiums related to that coverage and an additional 2 percent thereof for the administrative costs incurred by the board and the Department of Human Resources in administering this section.

The health and dental benefits shall be provided without discrimination as to premium rates or benefits coverage. A person who subsequently terminates his or her coverage under this section may not reenroll pursuant to this section.

SEC. 150. Section 22814 of the Government Code is amended to read:

22814. (a) A judge who retires pursuant to Chapter 11 (commencing with Section 75000) of Title 8, but is not yet receiving a pension, may continue his or her coverage and the coverage of any family members for the duration of the leave of absence, upon his or her application and upon assuming payment of the contributions otherwise required of the employer.

(b) (1) A judge who leaves judicial office pursuant to subdivision (b) of Section 75521 and has not attained 65 years of age may continue his or her coverage and the coverage of any family members upon assuming payment of the contributions otherwise required of the employer. The judge shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources.

(2) An election to continue coverage under this subdivision shall be made within 60 days of permanent separation. A retired judge who cancels that coverage may not reenroll.

(3) Upon attaining 65 years of age, a retired judge who has continuous and uninterrupted coverage pursuant to this subdivision shall be entitled to the applicable employer contribution.

SEC. 151. Section 22815 of the Government Code is amended to read:

22815. (a) The following persons are eligible for enrollment as provided in this section:

(1) A Member of the Legislature or an elective officer of the state whose office is provided by the California Constitution who meets all of the following conditions:

(A) Has at least eight years of credited service.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement, or is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

(2) An exempt employee who meets all of the following conditions:

(A) Has at least 10 years of credited state service that includes at least two years of credited service while an exempt employee.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

(b) During the period he or she is not yet receiving a retirement allowance, a person described by subdivision (a) may continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and the employee contribution. The person shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources. An election to continue coverage under this section shall be made within 60 days of permanent separation.

(c) A person who receives coverage pursuant to this subdivision, and subsequently terminates that coverage, may not be allowed to reenroll and may not enroll as an annuitant pursuant to subdivision (d).

(d) Upon retirement and receipt of a retirement allowance, a person described in subdivision (b) may elect to continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, at which time the state shall assume payment of the employer contribution and the person shall thereafter be deemed an annuitant.

(e) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

SEC. 152. Section 22816 of the Government Code is amended to read:

22816. (a) A person who meets all of the criteria of an annuitant, as defined in subdivision (f) or (g) of Section 22760, other than the condition of receiving a retirement allowance under a retirement system supported in whole or in part by state funds, may continue enrollment in a health benefit plan or dental care plan provided to annuitants without discrimination as to premium rates or benefits coverage, upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and the employee contribution. The person shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources. An election to continue coverage under this section shall be made within 60 days of permanent separation.

(b) A person who receives coverage pursuant to this subdivision who subsequently terminates that coverage may not reenroll. However, termination under this subdivision does not affect an annuitant's rights under Section 22817. The benefits authorized by Section 22817 and this section are separate and distinct benefits.

(c) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

SEC. 153. Section 22850 of the Government Code is amended to read:
22850. (a) The board may, without compliance with any provision of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans.

(b) The board may contract with carriers for health benefit plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the hospital and medical care fields prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, inpatient medical benefits, outpatient benefits, obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means.

(c) Notwithstanding any other provision of this part, the board may contract with health benefit plans offering unique or specialized health services.

(d) The board may administer self-funded or minimum premium health benefit plans.

(e) The board may contract for or implement employee cost containment and cost reduction incentive programs that involve the employee, the annuitant, and family members as active participants, along with the carrier and the provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing these plans, the board, in cooperation with the Department of Human Resources, may request proposals from carriers and certified public employee representatives.

(f) Notwithstanding any other provision of this part, the board may do any of the following:

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may offer health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part. The governing body of a contracting agency may elect, upon filing a resolution with the board, to provide those health benefit plans to its employees and annuitants. The resolution shall be subject to mutual agreement between the contracting agency and the recognized employee organization, if any.

(g) The board shall approve any employee association health benefit plan that was approved by the board in the 1987–88 contract year or prior, provided the plan continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees. Notwithstanding any other provision of this part, the California

Correctional Peace Officer Association Health Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state.

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.

SEC. 154. Section 22865 of the Government Code is amended to read: 22865. Prior to the approval of proposed benefits and premium readjustments authorized under Section 22864, the board shall notify the Legislature, the Trustees of the California State University, and the Department of Human Resources of the proposed changes in writing.

SEC. 155. Section 22871.5 of the Government Code is amended to read: 22871.5. (a) Notwithstanding Section 22871, the employer contribution with respect to each excluded employee, as defined by subdivision (b) of Section 3527, who is otherwise eligible shall be determined by the Department of Human Resources subject to the appropriation of funds by the Legislature.

(b) Notwithstanding Section 22871, the employer contribution with respect to each state employee, as defined by subdivision (c) of Section 3513, who is otherwise eligible shall be determined through the collective bargaining process subject to the appropriation of funds by the Legislature.

SEC. 156. Section 22944.3 of the Government Code is amended to read: 22944.3. (a) Any amount that would otherwise be used to permanently increase compensation pursuant to Section 19827, effective on July 1, 2009, and on July 1, 2010, shall instead be used to permanently prefund postemployment health care benefits for patrol members. The amount used to prefund benefits relative to any increases under the survey methodology effective July 1, 2010, shall not exceed 2 percent. The state shall take credit for these prefunding contributions in the survey methodology established in Section 19827 in the same manner as it would for an increase to the base salary for patrol members.

(b) Patrol members shall contribute an additional 0.5 percent of base pay toward prefunding retiree health benefit obligations effective on the first day of the pay period following the effective date of the act adding this section and the ratification of the addendum by the members of State Bargaining Unit 5. This contribution shall not reduce the base salary of patrol members under the survey methodology established by Section 19827.

(c) Effective July 1, 2012, the state shall contribute toward prefunding retiree health benefits, on a prospective basis, an amount at least equal to the combined contribution rate established pursuant to subdivisions (a) and (b). These contributions may be used in the survey methodology established by Section 19827 if mutually agreed in a memorandum of understanding.

(d) Contributions paid pursuant to this section shall be used exclusively for the cost of providing postemployment health care to eligible enrolled patrol member annuitants and their eligible enrolled dependents, beneficiaries, and survivors.

(e) Contributions paid pursuant to this section shall not be refundable under any circumstances to a patrol member or his or her beneficiary or survivor.

(f) Any amount used to prefund postemployment health care for patrol members pursuant to subdivision (a) shall not be included in any calculation for benefits using final compensation.

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

(h) For purposes of this section, “patrol member” has the same meaning as in Section 20390. This section shall not apply to an employee of a county.

(i) The Director of Human Resources may exercise his or her discretion to apply the provisions of this section to patrol members who are excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

SEC. 157. Section 22953 of the Government Code is amended to read:

22953. (a) The state, through the Department of Human Resources, the Trustees of the California State University, or the Regents of the University of California may contract, upon negotiations with employee organizations, with carriers for dental care plans for employees, annuitants, and eligible family members, provided the carriers have operated successfully in the area of dental care benefits for a reasonable period or have a contract to provide a health benefit plan pursuant to Section 22850. The dental care plans may include a portion of the monthly premium to be paid by the employee or annuitant. Dental care plans provided under this authority may be self-funded by the employer if it is determined to be cost effective.

(b) An employee or annuitant may enroll in a dental care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the employee or annuitant is also enrolled in the health benefit plan provided by that carrier. However, nothing in this section may be construed to require an employee or annuitant to enroll in a dental care plan and a health benefit plan provided by the same carrier.

(c) No contract for a dental care plan may be entered into unless funds are appropriated by the Legislature in a subsequently enacted statute. If a dental care plan is self-funded, funds used for that plan shall be considered continuously appropriated, notwithstanding Section 13340.

SEC. 158. Section 22954 of the Government Code is amended to read:

22954. Funds appropriated for self-funded dental care plans for state employees, other than employees of the California State University, shall be maintained in the State Employees’ Dental Care Fund which is hereby created in the State Treasury. Moneys in this fund shall be used by the Department of Human Resources to pay dental claims and other administrative costs. Income earned on the moneys in the State Employees’

Dental Care Fund shall be credited to the fund. Moneys in this fund are continuously appropriated in accordance with this section and Section 22953.

SEC. 159. Section 22959 of the Government Code is amended to read:

22959. The Department of Human Resources shall administer the benefits provided by this part for civil service employees and annuitants. The Trustees of the California State University shall administer the benefits provided by this part for employees and annuitants of the California State University.

SEC. 160. Section 22959.2 of the Government Code is amended to read:

22959.2. The Vision Care Program for State Annuitants shall be administered by the Department of Human Resources.

SEC. 161. Section 22959.4 of the Government Code is amended to read:

22959.4. (a) An annuitant who retires from the state may enroll in a vision care plan offered under this part, if any of the following apply:

(1) The annuitant was enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, and retired within 120 days of the date of separation.

(2) The annuitant was not enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, but was eligible for enrollment as an employee at the time of separation for retirement, and retired within 120 days of the date of separation.

(3) The annuitant is part of the Legislators' Retirement System receiving an allowance pursuant to Article 6 (commencing with Section 9359) of Chapter 3.5 of Part 1 of Division 2.

(b) The Department of Human Resources has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide names or addresses to any person, agency, or entity for the purpose of notifying those annuitants.

SEC. 162. Section 22959.6 of the Government Code is amended to read:

22959.6. (a) The Department of Human Resources may contract with one or more vision care plans for annuitants and eligible family members, provided the carrier or carriers have operated successfully in the area of vision care benefits for a reasonable period, as determined by the Department of Human Resources.

(b) The Department of Human Resources, as the program administrator, has full administrative authority over this program and associated funds and shall require the monthly premium to be paid by the annuitant for the vision care plan. The premium to be paid by the annuitant shall be deducted from his or her monthly allowance. If there are insufficient funds in an annuitant's allowance to pay the premium, the plan provider shall directly bill the annuitant. A vision care plan or plans provided under this authority shall be funded by the annuitants' premium. All premiums received from annuitants shall be deposited in the Vision Care Program for State Annuitants Fund, which is hereby created in the State Treasury. Any income earned on the moneys in the Vision Care Program for State Annuitants Fund shall be credited to the fund. Notwithstanding Section 13340, moneys in the fund are continuously appropriated for the purposes specified in subdivision (d).

(c) An annuitant may enroll in a vision care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the

employee or annuitant is also enrolled in the health benefit plan provided by that carrier. However, nothing in this section may be construed to require an annuitant to enroll in a vision care plan and a health benefit plan provided by the same carrier. An annuitant enrolled in this program shall only enroll into a vision plan or vision plans contracted for by the Department of Human Resources.

(d) No contract for a vision care plan may be entered into unless the Department of Human Resources determines it is reasonable to do so. Notwithstanding any other provision of law, any premium moneys paid into this program by annuitants for the purposes of the annuitant vision care plan that is contracted for shall be used for the cost of providing vision care benefits to eligible, enrolled annuitants and their eligible and enrolled dependents, the payment of claims for those vision benefits, and the cost of administration of the vision care plan or plans under this vision care program, those costs being determined by the Department of Human Resources.

(e) If the Director of Human Resources determines that it is not economically feasible to continue this program anytime after its commencement, the director may, upon written notice to enrollees and to the contracting plan or plans, terminate this program within a reasonable time. The notice of termination to the plan or plans shall be determined by the Department of Human Resources. The notice to enrollees of the termination of the program shall commence no later than three months prior to the actual date of termination of the program.

(f) Premium rates for this program shall be determined by the Department of Human Resources in conjunction with the contracted plan or plans and shall be considered separate and apart from active employee premium rates.

(g) The director shall report to the Legislature, prior to the end of the second quarter of the third plan year, on the continued economic sustainability of the Vision Care Program for State Annuitants.

SEC. 163. Section 22960 of the Government Code is amended to read:

22960. (a) The State Peace Officers' and Firefighters' Defined Contribution Plan is hereby established for state peace officer and firefighter members in Bargaining Unit 6 who have become subject to this part by memorandum of understanding, as provided by Section 3517.5.

(b) The plan may also be provided to state peace officers or firefighters who are either excluded from the definition of state employee in subdivision (c) of Section 3513, or are nonelected officers or employees of the executive branch of government and are not members of the civil service, and who supervise employees in a bargaining unit that is subject to this part, provided that the Department of Human Resources has approved their inclusion for coverage under this part.

SEC. 164. Section 22960.35 of the Government Code is amended to read:

22960.35. (a) Except as provided in this part, the plan shall be administered by the board in conformity with its powers and duties for administration of the system as set forth in Part 3 (commencing with Section 20000). The board shall, to the extent that it determines feasible, follow the

procedures set forth in Article 7 (commencing with Section 20220) of Chapter 2 of Part 3.

(b) The board may retain a third-party administrator to perform recordkeeping, customer service or other plan administration services.

(c) The board shall notify the Department of Human Resources when it is prepared to implement the plan.

SEC. 165. Section 22960.60 of the Government Code is amended to read:

22960.60. (a) Employer and employee contribution rates may be determined by the terms of the memorandum of understanding applicable to each plan participant and the employer in accordance with the requirements of this section.

(b) Through the Department of Human Resources, the employer shall provide the board with a true and correct copy of each memorandum of understanding applicable to plan participants. The board may prescribe procedures for the orderly transmittal and receipt of these documents.

(c) Except as provided in subdivision (e), after receipt of an applicable memorandum of understanding that sets forth an employer contribution rate and any employee contribution rate, the board shall, in accordance with Section 22960.36, amend the plan to provide for the employer contribution rate and any employee contribution rate set forth in the memorandum of understanding.

(d) The employer contribution rate and any employee contribution rate for state peace officers and firefighters who have become subject to this part pursuant to the provisions of subdivision (b) of Section 22960 shall be the contribution rate or rates set forth in the memorandum of understanding for state peace officers and firefighter members in Bargaining Unit 6.

(e) The board may refuse to amend the plan under this section if, in the board's considered judgment, the proposed amendment would violate any applicable provision of Title 26 of the United States Code.

(f) The initial employer contribution rate shall be prescribed in the memorandum of understanding. In the event an MOU expires and no new memorandums of understanding takes effect, the last memorandums of understanding in place shall control.

SEC. 166. Section 22960.100 of the Government Code is amended to read:

22960.100. (a) Notwithstanding any other provision of law, the plan established by this part shall also apply to state peace officer and firefighter members in State Bargaining Unit 8 who have become subject to this part by a memorandum of understanding, as provided in Section 3517.5.

(b) The plan may also be provided to state peace officers or firefighters who are either excluded from the definition of state employee in subdivision (c) of Section 3513, or are nonelected officers or employees of the executive branch of government and are not members of the civil service, and who supervise employees in a bargaining unit that is subject to this part, provided that the Department of Human Resources has approved their inclusion for coverage under this part.

SEC. 167. Section 68203 of the Government Code is amended to read: 68203. (a) On July 1, 1980, and on July 1 of each year thereafter, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, and 68203.1 shall be increased by the amount that is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California state employees; provided, that in any fiscal year in which the Legislature places a dollar limitation on salary increases for state employees the same limitation shall apply to judges in the same manner applicable to state employees in comparable wage categories.

(b) For the purposes of this section, salary increases for state employees shall be those increases as reported by the Department of Human Resources.

(c) The salary increase for judges and justices made on July 1, 1980, for the 1980–81 fiscal year, shall in no case exceed 5 percent.

(d) On January 1, 2001, the salary of the justices and judges named in Sections 68200 to 68202, inclusive, shall be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2000, by 8½ percent.

(e) On January 1, 2007, the salary of the justices and judges identified in Sections 68200 to 68202, inclusive, and 68203.1 shall also be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2006, by 8.5 percent.

SEC. 168. Section 77601 of the Government Code is amended to read: 77601. The task force shall be comprised of the following members:

(a) Four representatives of trial courts, appointed by the Chief Justice, representing two urban, one suburban, and one rural courts.

(b) Four representatives of counties, appointed by the Governor from a list of nominees submitted by the California State Association of Counties, representing urban, suburban, and rural counties.

(c) Three representatives appointed by the Senate Rules Committee, at least two of whom shall represent trial court employee organizations.

(d) Three representatives appointed by the Speaker of the Assembly, at least two of whom shall represent trial court employee organizations.

(e) The Director of Human Resources or his or her representative.

(f) The Chief Executive Officer of PERS or his or her representative.

(g) The Director of Finance or his or her representative.

(h) The Chief Justice shall designate a justice of the court of appeal as nonvoting chairperson.

SEC. 169. Section 77602 of the Government Code is amended to read:

77602. The Judicial Council shall provide staff support for the task force and shall develop guidelines for procedures and practices for the task force, which shall include input from and approval of the task force. The Department of Human Resources, the Department of Finance, and the Legislative Analyst shall provide additional support, at the request of the Judicial Council. The California State Association of Counties is encouraged to provide additional staff support.

SEC. 170. Section 100503 of the Government Code is amended to read:

100503. In addition to meeting the minimum requirements of Section 1311 of the federal act, the board shall do all of the following:

(a) Determine the criteria and process for eligibility, enrollment, and disenrollment of enrollees and potential enrollees in the Exchange and coordinate that process with the state and local government entities administering other health care coverage programs, including the State Department of Health Care Services, the Managed Risk Medical Insurance Board, and California counties, in order to ensure consistent eligibility and enrollment processes and seamless transitions between coverage.

(b) Develop processes to coordinate with the county entities that administer eligibility for the Medi-Cal program and the entity that determines eligibility for the Healthy Families Program, including, but not limited to, processes for case transfer, referral, and enrollment in the Exchange of individuals applying for assistance to those entities, if allowed or required by federal law.

(c) Determine the minimum requirements a carrier must meet to be considered for participation in the Exchange, and the standards and criteria for selecting qualified health plans to be offered through the Exchange that are in the best interests of qualified individuals and qualified small employers. The board shall consistently and uniformly apply these requirements, standards, and criteria to all carriers. In the course of selectively contracting for health care coverage offered to qualified individuals and qualified small employers through the Exchange, the board shall seek to contract with carriers so as to provide health care coverage choices that offer the optimal combination of choice, value, quality, and service.

(d) Provide, in each region of the state, a choice of qualified health plans at each of the five levels of coverage contained in subdivisions (d) and (e) of Section 1302 of the federal act.

(e) Require, as a condition of participation in the Exchange, carriers to fairly and affirmatively offer, market, and sell in the Exchange at least one product within each of the five levels of coverage contained in subdivisions (d) and (e) of Section 1302 of the federal act. The board may require carriers to offer additional products within each of those five levels of coverage. This subdivision shall not apply to a carrier that solely offers supplemental coverage in the Exchange under paragraph (10) of subdivision (a) of Section 100504.

(f) (1) Require, as a condition of participation in the Exchange, carriers that sell any products outside the Exchange to do both of the following:

(A) Fairly and affirmatively offer, market, and sell all products made available to individuals in the Exchange to individuals purchasing coverage outside the Exchange.

(B) Fairly and affirmatively offer, market, and sell all products made available to small employers in the Exchange to small employers purchasing coverage outside the Exchange.

(2) For purposes of this subdivision, “product” does not include contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of

Division 2 of the Insurance Code between the Managed Risk Medical Insurance Board and carriers for enrolled Healthy Families beneficiaries or contracts entered into pursuant to Chapter 7 (commencing with Section 14000) of, or Chapter 8 (commencing with Section 14200) of, Part 3 of Division 9 of the Welfare and Institutions Code between the State Department of Health Care Services and carriers for enrolled Medi-Cal beneficiaries.

(g) Determine when an enrollee's coverage commences and the extent and scope of coverage.

(h) Provide for the processing of applications and the enrollment and disenrollment of enrollees.

(i) Determine and approve cost-sharing provisions for qualified health plans.

(j) Establish uniform billing and payment policies for qualified health plans offered in the Exchange to ensure consistent enrollment and disenrollment activities for individuals enrolled in the Exchange.

(k) Undertake activities necessary to market and publicize the availability of health care coverage and federal subsidies through the Exchange. The board shall also undertake outreach and enrollment activities that seek to assist enrollees and potential enrollees with enrolling and reenrolling in the Exchange in the least burdensome manner, including populations that may experience barriers to enrollment, such as the disabled and those with limited English language proficiency.

(l) Select and set performance standards and compensation for navigators selected under subdivision (l) of Section 100502.

(m) Employ necessary staff.

(1) The board shall hire a chief fiscal officer, a chief operations officer, a director for the SHOP Exchange, a director of Health Plan Contracting, a chief technology and information officer, a general counsel, and other key executive positions, as determined by the board, who shall be exempt from civil service.

(2) (A) The board shall set the salaries for the exempt positions described in paragraph (1) and subdivision (i) of Section 100500 in amounts that are reasonably necessary to attract and retain individuals of superior qualifications. The salaries shall be published by the board in the board's annual budget. The board's annual budget shall be posted on the Internet Web site of the Exchange. To determine the compensation for these positions, the board shall cause to be conducted, through the use of independent outside advisors, salary surveys of both of the following:

(i) Other state and federal health insurance exchanges that are most comparable to the Exchange.

(ii) Other relevant labor pools.

(B) The salaries established by the board under subparagraph (A) shall not exceed the highest comparable salary for a position of that type, as determined by the surveys conducted pursuant to subparagraph (A).

(C) The Department of Human Resources shall review the methodology used in the surveys conducted pursuant to subparagraph (A).

(3) The positions described in paragraph (1) and subdivision (i) of Section 100500 shall not be subject to otherwise applicable provisions of the Government Code or the Public Contract Code and, for those purposes, the Exchange shall not be considered a state agency or public entity.

(n) Assess a charge on the qualified health plans offered by carriers that is reasonable and necessary to support the development, operations, and prudent cash management of the Exchange. This charge shall not affect the requirement under Section 1301 of the federal act that carriers charge the same premium rate for each qualified health plan whether offered inside or outside the Exchange.

(o) Authorize expenditures, as necessary, from the California Health Trust Fund to pay program expenses to administer the Exchange.

(p) Keep an accurate accounting of all activities, receipts, and expenditures, and annually submit to the United States Secretary of Health and Human Services a report concerning that accounting. Commencing January 1, 2016, the board shall conduct an annual audit.

(q) (1) Annually prepare a written report on the implementation and performance of the Exchange functions during the preceding fiscal year, including, at a minimum, the manner in which funds were expended and the progress toward, and the achievement of, the requirements of this title. This report shall be transmitted to the Legislature and the Governor and shall be made available to the public on the Internet Web site of the Exchange. A report made to the Legislature pursuant to this subdivision shall be submitted pursuant to Section 9795.

(2) In addition to the report described in paragraph (1), the board shall be responsive to requests for additional information from the Legislature, including providing testimony and commenting on proposed state legislation or policy issues. The Legislature finds and declares that activities including, but not limited to, responding to legislative or executive inquiries, tracking and commenting on legislation and regulatory activities, and preparing reports on the implementation of this title and the performance of the Exchange, are necessary state requirements and are distinct from the promotion of legislative or regulatory modifications referred to in subdivision (d) of Section 100520.

(r) Maintain enrollment and expenditures to ensure that expenditures do not exceed the amount of revenue in the fund, and if sufficient revenue is not available to pay estimated expenditures, institute appropriate measures to ensure fiscal solvency.

(s) Exercise all powers reasonably necessary to carry out and comply with the duties, responsibilities, and requirements of this act and the federal act.

(t) Consult with stakeholders relevant to carrying out the activities under this title, including, but not limited to, all of the following:

- (1) Health care consumers who are enrolled in health plans.
- (2) Individuals and entities with experience in facilitating enrollment in health plans.
- (3) Representatives of small businesses and self-employed individuals.

(4) The State Medi-Cal Director.

(5) Advocates for enrolling hard-to-reach populations.

(u) Facilitate the purchase of qualified health plans in the Exchange by qualified individuals and qualified small employers no later than January 1, 2014.

(v) Report, or contract with an independent entity to report, to the Legislature by December 1, 2018, on whether to adopt the option in paragraph (3) of subdivision (c) of Section 1312 of the federal act to merge the individual and small employer markets. In its report, the board shall provide information, based on at least two years of data from the Exchange, on the potential impact on rates paid by individuals and by small employers in a merged individual and small employer market, as compared to the rates paid by individuals and small employers if a separate individual and small employer market is maintained. A report made pursuant to this subdivision shall be submitted pursuant to Section 9795.

(w) With respect to the SHOP Program, collect premiums and administer all other necessary and related tasks, including, but not limited to, enrollment and plan payment, in order to make the offering of employee plan choice as simple as possible for qualified small employers.

(x) Require carriers participating in the Exchange to immediately notify the Exchange, under the terms and conditions established by the board when an individual is or will be enrolled in or disenrolled from any qualified health plan offered by the carrier.

(y) Ensure that the Exchange provides oral interpretation services in any language for individuals seeking coverage through the Exchange and makes available a toll-free telephone number for the hearing and speech impaired. The board shall ensure that written information made available by the Exchange is presented in a plainly worded, easily understandable format and made available in prevalent languages.

SEC. 171. Section 50909 of the Health and Safety Code is amended to read:

50909. (a) Notwithstanding Sections 19816 and 19825 of the Government Code, the compensation of key exempt management, including the executive director, the chief deputy director, the general counsel, the director of financing, the director of homeownership programs, the director of multifamily programs, the director of insurance and the financial risk management director shall be established by the board in the agency's annual budget, in amounts which are reasonably necessary, in the discretion of the board, to attract and hold a person of superior qualifications.

(b) (1) To determine the compensation for the positions described in this section, the board shall cause to be conducted, through the use of independent outside advisors, salary surveys of both of the following:

(A) Other state and local housing finance agencies that are most comparable to CalHFA.

(B) Other relevant labor pools.

(2) The salaries so set by the board shall not exceed the highest comparable salary for a position of that type, as determined by the survey.

(c) The Department of Human Resources shall review the methodology used in these salary surveys.

(d) Members of the board shall not receive a salary but shall be entitled to a per diem allowance of one hundred dollars (\$100) for each day's attendance at a meeting of the board or a meeting of a committee of the board, not to exceed three hundred dollars (\$300) in any month, and reimbursement for expenses incurred in the performance of their duties under this part, including travel and other necessary expenses.

SEC. 172. Section 10203.2 of the Insurance Code is amended to read:

10203.2. Life insurance conforming to all the following conditions is another form of group life insurance:

(a) Written under a policy covering, when issued, not less than 25 employees in eligible classes or positions as designated by the Department of Human Resources pursuant to Section 19849.11 of the Government Code.

(b) Written under a policy issued to the State of California through the Department of Human Resources or its designee pursuant to Sections 19849.10 to 19849.12, inclusive, of the Government Code.

(c) The premium on the policy is to be paid by the employees alone, by the state alone, or in part by the state with the remainder to be paid by the employees.

(d) Insuring only managerial and confidential employees as defined by subdivisions (e) and (f) of Section 3513 of the Government Code, and employees excluded from the definition of state employees in subdivision (c) of Section 3513 of the Government Code.

(e) Insuring for amounts of insurance based upon some plan which will preclude individual selection.

(f) Insuring for the benefit of persons other than the Department of Human Resources or its designee.

(g) Written under a policy insuring, when issued, not less than 75 percent of all employees eligible for insurance under the policy, or 75 percent of the employees of any class or position thereof reasonably determined by conditions pertaining to employment or of any established unit thereof not formed for the purpose of procuring insurance. If a group policy is intended to insure several classes, positions, or units, it may be issued as respects the classes, positions, or units of which 75 percent are covered and extended to those other units, classes, or positions of which 75 percent express the desire to be covered. In this case, when the employees apply and pay for additional amounts of insurance, a smaller percentage of employees may be insured for the additional amounts of insurance. If any employee fails to become insured under an existing policy when he or she becomes eligible and later wishes to become insured thereunder, the insurer may require satisfactory evidence of insurability before insurance is granted on the employee.

SEC. 173. Section 11871 of the Insurance Code is amended to read:

11871. The State Compensation Insurance Fund may enter into a master agreement with the Department of Human Resources to render services in the adjustment and disposition of claims for workers' compensation to any

state agencies, including any officer, department, division, bureau, commission, board or authority, not insured with the fund.

The master agreement shall provide for rendition of services at a uniform rate to all agencies, except that the rate for the Department of the California Highway Patrol may be fixed independently of the uniform rate.

The fund may, in accordance with the agreement, adjust and dispose of claims for workers' compensation made by an officer or employee of any state agency not insured with the fund.

The fund may make all expenditures, including payment to claimants for medical care or for adjustment or settlement of claims, necessary to the adjustment and final disposition of claims. The agreement shall provide that the state agency whose officer or employee is a claimant shall reimburse the fund for the expenditures and for the actual cost of services rendered.

The fund may in its own name, or in the name of the state agency for which the services are performed, do any and all things necessary to recover on behalf of the state agency for which it renders service any and all amounts which an employer might recover from third persons under Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, or which an insurer might recover pursuant to Section 11662 including the right to commence and prosecute actions, to file, pursuant to Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, liens for whatever sums would be recoverable by suit against a third person, to intervene in other court proceedings, and to compromise claims and actions before or after commencement of suit or after entry of judgment when in the opinion of the fund full collection cannot be enforced.

SEC. 174. Section 12693.65 of the Insurance Code is amended to read:

12693.65. (a) Vision benefits shall be provided to subscribers and shall meet the federal coverage requirements in Section 2103 of Title XXI of the Social Security Act.

(b) The covered benefits shall be equivalent to those provided to state employees through the Department of Human Resources, except for tinted lenses and also photochromatic lenses, unless otherwise deemed medically necessary.

(c) The board shall establish the required subscriber copayment levels for vision benefits consistent with the limitations of Section 2103 of Title XXI of the Social Security Act. The copayment levels established by the board shall, to the extent possible, reflect the copayment levels provided to state employees through the Department of Human Resources.

(d) From March 1, 2011, to June 30, 2012, inclusive, the adoption and readoption, by the board, of regulations to modify vision benefits pursuant to this section, including, but not limited to, restriction of providers through which covered vision benefits may be obtained, restriction of benefits for services from nonparticipating providers, or restriction of products and materials provided as benefits pursuant to this section, shall be deemed to be an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted from

the requirement that it describe facts showing the need for immediate action and from review by the Office of Administrative Law.

SEC. 175. Section 12710 of the Insurance Code is amended to read:

12710. The California Major Risk Medical Insurance Program is hereby created in the Health and Welfare Agency. The program shall be managed by the Major Risk Medical Insurance Board. The board shall consist of seven members, five of whom shall be appointed as follows:

The Governor shall appoint three members, subject to confirmation by the Senate, and shall designate one of these appointees as chair of the board. The Senate Committee on Rules shall appoint one member. The Speaker of the Assembly shall appoint one member. The terms of appointment shall be four years.

The Secretary of Business, Transportation and Housing, or his or her designee, and the Secretary of Health and Welfare, or his or her designee, shall serve on the board as ex officio, nonvoting members.

The board shall appoint an executive director for the board, who shall serve at the pleasure of the board. The executive director shall receive the salary established by the Department of Human Resources for exempt officials. The executive director shall administer the affairs of the board as directed by the board, and shall direct the staff of the board. The executive director may appoint, with the approval of the board, staff necessary to carry out the provisions of this part.

SEC. 176. Section 122 of the Labor Code is amended to read:

122. The administrative director shall appoint a medical director who shall possess a physician's and surgeon's certificate granted under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. The medical director shall employ medical assistants who shall also possess physicians' and surgeons' certificates and other staff necessary to the performance of his or her duties. The salaries for the medical director and his or her assistants shall be fixed by the Department of Human Resources, commensurate with the salaries paid by private industry to medical directors and assistant medical directors.

SEC. 177. Section 123 of the Labor Code is amended to read:

123. The administrative director may employ necessary assistants, officers, experts, statisticians, actuaries, accountants, workers' compensation administrative law judges, stenographic shorthand reporters, legal secretaries, disability evaluation raters, program technicians, and other employees to implement new, efficient court management systems. The salaries of the workers' compensation administrative law judges shall be fixed by the Department of Human Resources for a class of positions which perform judicial functions.

SEC. 178. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes the following:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his or her parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk or deputy sheriff appointed for his or her own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his or her services as the deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him or her for injury occurring in the course of and arising out of the employment.

(d) Any person performing voluntary services at or for a recreational camp, hut, or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or she or a member of his or her family is a member and who receives no compensation for those services other than meals, lodging, or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for those services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his or her own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury for injuries, as defined in Section 5412, or who earned less than one hundred dollars (\$100) in wages from the employer during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury for injuries, as defined in Section 5412.

(i) Any person performing voluntary service for a public agency or a private, nonprofit organization who receives no remuneration for the services other than meals, transportation, lodging, or reimbursement for incidental expenses.

(j) Any person, other than a regular employee, performing officiating services relating to amateur sporting events sponsored by any public agency or private, nonprofit organization, who receives no remuneration for these services other than a stipend for each day of service no greater than the amount established by the Department of Human Resources as a per diem expense for employees or officers of the state. The stipend shall be presumed to cover incidental expenses involved in officiating, including, but not

limited to, meals, transportation, lodging, rule books and courses, uniforms, and appropriate equipment.

(k) Any student participating as an athlete in amateur sporting events sponsored by any public agency, public or private nonprofit college, university or school, who receives no remuneration for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, scholarships, grants-in-aid, or other expenses incidental thereto.

(l) Any law enforcement officer who is regularly employed by a local or state law enforcement agency in an adjoining state and who is deputized to work under the supervision of a California peace officer pursuant to paragraph (4) of subdivision (a) of Section 832.6 of the Penal Code.

(m) Any law enforcement officer who is regularly employed by the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety and who is acting as a peace officer in this state pursuant to subdivision (a) of Section 830.32 of the Penal Code.

(n) Any person, other than a regular employee, performing services as a sports official for an entity sponsoring an intercollegiate or interscholastic sports event, or any person performing services as a sports official for a public agency, public entity, or a private nonprofit organization, which public agency, public entity, or private nonprofit organization sponsors an amateur sports event. For purposes of this subdivision, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper, or other person who is a neutral participant in a sports event.

(o) Any person who is an owner-builder, as defined in subdivision (a) of Section 50692 of the Health and Safety Code, who is participating in a mutual self-help housing program, as defined in Section 50087 of the Health and Safety Code, sponsored by a nonprofit corporation.

SEC. 179. Section 4600 of the Labor Code is amended to read:

4600. (a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer. In the case of his or her neglect or refusal reasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment.

(b) As used in this division and notwithstanding any other provision of law, medical treatment that is reasonably required to cure or relieve the injured worker from the effects of his or her injury means treatment that is based upon the guidelines adopted by the administrative director pursuant to Section 5307.27 or, prior to the adoption of those guidelines, the updated American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines.

(c) Unless the employer or the employer's insurer has established a medical provider network as provided for in Section 4616, after 30 days

from the date the injury is reported, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.

(d) (1) If an employee has notified his or her employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by that physician from the date of injury if either of the following conditions exist:

(A) The employer provides nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(B) The employer provides nonoccupational health coverage in a group health plan or a group health insurance policy as described in Section 4616.7.

(2) For purposes of paragraph (1), a personal physician shall meet all of the following conditions:

(A) Be the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(B) Be the employee's primary care physician and has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history. "Personal physician" includes a medical group, if the medical group is a single corporation or partnership composed of licensed doctors of medicine or osteopathy, which operates an integrated multispecialty medical group providing comprehensive medical services predominantly for nonoccupational illnesses and injuries.

(C) The physician agrees to be predesignated.

(3) If the employer provides nonoccupational health care pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and the employer is notified pursuant to paragraph (1), all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code. Disputes regarding the provision of medical treatment shall be resolved pursuant to Article 5.55 (commencing with Section 1374.30) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(4) If the employer provides nonoccupational health care, as described in Section 4616.7, all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by the applicable provisions of the Insurance Code.

(5) The insurer may require prior authorization of any nonemergency treatment or diagnostic service and may conduct reasonably necessary utilization review pursuant to Section 4610.

(6) An employee shall be entitled to all medically appropriate referrals by the personal physician to other physicians or medical providers within the nonoccupational health care plan. An employee shall be entitled to treatment by physicians or other medical providers outside of the nonoccupational health care plan pursuant to standards established in Article

5 (commencing with Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(e) (1) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, the employee submits to examination by a physician, he or she shall be entitled to receive, in addition to all other benefits herein provided, all reasonable expenses of transportation, meals, and lodging incident to reporting for the examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to the examination.

(2) Regardless of the date of injury, "reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents (\$0.21) a mile or the mileage rate adopted by the Director of Human Resources pursuant to Section 19820 of the Government Code, whichever is higher, plus any bridge tolls. The mileage and tolls shall be paid to the employee at the time he or she is given notification of the time and place of the examination.

(f) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, an employee submits to examination by a physician and the employee does not proficiently speak or understand the English language, he or she shall be entitled to the services of a qualified interpreter in accordance with conditions and a fee schedule prescribed by the administrative director. These services shall be provided by the employer. For purposes of this section, "qualified interpreter" means a language interpreter certified, or deemed certified, pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code.

SEC. 180. Section 322 of the Military and Veterans Code is amended to read:

322. Officers, warrant officers, and enlisted men and women on active duty in the service of the state, except in situations described in Section 188, shall be reimbursed for their necessary traveling and other expenses in accordance with the rules and regulations adopted by the Department of Human Resources.

SEC. 181. Section 1011 of the Military and Veterans Code is amended to read:

1011. (a) There is in the department a Veterans' Home of California, Yountville, situated at Veterans' Home, Napa County.

(b) (1) The department may establish and construct a second home that shall be situated in the County of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, or Ventura. The home may be located on one or more sites. The department shall operate the second home concurrently with the first home.

(2) The initial site is the Veterans' Home of California, Barstow, situated in Barstow, San Bernardino County. That site may provide skilled nursing care for up to 250 residents.

(3) When completed, the second site shall be the Veterans' Home of California, Chula Vista, situated in Chula Vista, San Diego County, pursuant to the recommendations made by the commission established pursuant to former Section 1011.5.

(4) When completed, the third site shall be the Veterans' Home of California, Lancaster, situated in Lancaster, Los Angeles County, pursuant to the recommendations made by the commission established pursuant to former Section 1011.5.

(5) When completed, the fourth site shall be the Veterans' Home of California, Ventura, situated in the community of Saticoy, Ventura County.

(6) There shall be an administrator for, and located at, each site of the southern California home.

(7) The department may complete any preapplication process necessary with the United States Department of Veterans Affairs for construction of the second home.

(c) The Legislature hereby finds and declares that the second home is a new state function. The department may perform any or all work in operating the second home by independent contractors, except the overall administration and management of the home. Any and all actions of the department taken before September 17, 1996, that are consistent with this subdivision are hereby ratified and confirmed, it having at all times been the intent of the Legislature that the department be so authorized.

(d) There shall be an administrator for each home or homesite, who shall be recommended by the Secretary of Veterans Affairs and appointed by the Governor, and shall be located at that home or homesite. The salary for each administrator shall be subject to the approval of the Department of Human Resources.

SEC. 182. Section 832.9 of the Penal Code is amended to read:

832.9. (a) A governmental entity employing a peace officer, as defined in Section 830, judge, court commissioner, or an attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall reimburse the moving and relocation expenses of those employees, or any member of his or her immediate family residing with the officer in the same household or on the same property when it is necessary to move because the officer has received a credible threat that a life threatening action may be taken against the officer, judge, court commissioner, or an attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender or his or her immediate family as a result of his or her employment.

(b) The person relocated shall receive actual and necessary moving and relocation expenses incurred both before and after the change of residence, including reimbursement for the costs of moving household effects either by a commercial household goods carrier or by the employee.

(1) Actual and necessary moving costs shall be those costs that are set forth in the Department of Human Resources rules governing promotional relocations while in the state service. The department shall not be required to administer this section.

(2) The public entity shall not be liable for any loss in value to a residence or for the decrease in value due to a forced sale.

(3) Except as provided in subdivision (c), peace officers, judges, court commissioners, and attorneys employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall receive approval of the appointing authority prior to incurring any cost covered by this section.

(4) Peace officers, judges, court commissioners, and attorneys employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall not be considered to be on duty while moving unless approved by the appointing authority.

(5) For a relocation to be covered by this section, the appointing authority shall be notified as soon as a credible threat has been received.

(6) Temporary relocation housing shall not exceed 60 days.

(7) The public entity ceases to be liable for relocation costs after 120 days of the original notification of a viable threat if the peace officer, judge, court commissioner, or attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender has failed to relocate.

(c) (1) For purposes of the right to reimbursement of moving and relocation expenses pursuant to this section, judges shall be deemed to be employees of the State of California and a court commissioner is an employee of the court by which he or she is employed.

(2) For purposes of paragraph (3) of subdivision (b), a court commissioner shall receive approval by the presiding judge of the superior court in the county in which he or she is located.

(3) For purposes of paragraph (3) of subdivision (b), judges, including justices of the Supreme Court and the Courts of Appeal, shall receive approval from the Chief Justice, or his or her designee.

(d) As used in this section, “credible threat” means a verbal or written statement or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(e) As used in this section, “immediate family” means the spouse, parents, siblings, and children residing with the peace officer, judge, court commissioner, or attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender.

SEC. 183. Section 6050 of the Penal Code is amended to read:

6050. (a) The Governor, upon recommendation of the secretary, shall appoint the wardens of the various state prisons. Each warden shall be subject to removal by the secretary. If the secretary removes him or her, the secretary’s action shall be final. The wardens shall be exempt from civil service.

(b) The Department of Human Resources shall fix the compensation of the wardens of the state prisons.

SEC. 184. Section 10295 of the Public Contract Code is amended to read:

10295. (a) All contracts entered into by any state agency for (1) the acquisition of goods or elementary school textbooks, (2) services, whether or not the services involve the furnishing or use of goods or are performed by an independent contractor, (3) the construction, alteration, improvement, repair, or maintenance of property, real or personal, or (4) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. Every contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval.

(b) This section applies to any state agency that by general or specific statute is expressly or impliedly authorized to enter into transactions referred to in this section.

(c) This section does not apply to the following:

(1) Any transaction entered into by the Trustees of the California State University, by the Board of Governors of the California Community Colleges, or by a department under the State Contract Act or the California State University Contract Law.

(2) Any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code.

(3) Any contract entered into by the Department of Transportation that is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources.

(4) Any contract entered into by the Department of Human Resources for state employee benefits, occupational health and safety, training services, or combination thereof.

(5) Any contract let by the Legislature.

(6) Any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 185. Section 10344.1 of the Public Contract Code is amended to read:

10344.1. The Department of Human Resources, with respect to contracts it enters into for state employees for employee benefits, occupational health and safety, training services, or any combination thereof, shall provide all qualified bidders with a fair opportunity to enter the bidding process, therefore stimulating competition in a manner conducive to sound fiscal practices. The Department of Human Resources shall make available to any member of the public its guidelines for awarding these contracts, and to the extent feasible, implement the objectives set forth in Section 10351.

SEC. 186. Section 10349 of the Public Contract Code is amended to read:

10349. The Department of Human Resources shall establish a program for training state agency contracting personnel in contract administration and contract management. The cost of training state agency contracting personnel shall be paid by state agencies out of their appropriations for personnel training. The Department of Human Resources shall, prior to establishing the training program required by this section, consult with the department concerning the training curriculum and the development of a training manual on contract administration.

SEC. 187. Section 309.1 of the Public Utilities Code is amended to read:

309.1. The Governor may appoint one adviser for each member of the commission upon the request of the commission member. Each adviser shall receive a salary fixed by the commission with the approval of the Department of Human Resources. The total number of advisers exempt from civil service may not exceed five.

SEC. 188. Section 185024 of the Public Utilities Code is amended to read:

185024. (a) The authority shall appoint an executive director, exempt from civil service, who shall serve at the pleasure of the authority, to administer the affairs of the authority as directed by the authority.

(b) For purposes of managing and administering the ongoing work of the authority in implementing the high-speed train project, the Governor, upon the recommendation of the executive director, may appoint up to six additional individuals, exempt from civil service, who shall serve at the pleasure of the executive director. Pursuant to this subdivision, the Governor may appoint persons only for the following positions:

- (1) Chief program manager.
- (2) Up to three regional directors.
- (3) Chief financial officer.
- (4) Director of risk management and project controls.

(c) The compensation of the executive director and the additional persons authorized by subdivision (b) shall be established by the authority, and approved by the Department of Human Resources, in an amount that is reasonably necessary, in the discretion of the authority, to attract and hold a person of superior qualifications. The authority shall cause to be conducted, through the use of independent outside advisers, a salary survey to determine the compensation for the positions under this subdivision. The Department of Human Resources may, in its discretion, accept a previously completed salary survey that meets the requirements of this subdivision, and shall review the methodology used in the survey. The salary survey shall consider both of the following:

- (1) Other state, regional, and local transportation agencies that are most comparable to the authority and its responsibilities.
- (2) Other relevant labor pools.

The compensation set by the authority shall not exceed the highest comparable compensation for a position of that type, as determined by the salary survey. Based on the salary survey, these positions shall be paid a

salary established by the authority and approved by the Department of Human Resources.

(d) The executive director may, as authorized by the authority, appoint necessary staff to carry out the provisions of this part.

SEC. 189. Section 19270 of the Revenue and Taxation Code is amended to read:

19270. (a) Consistent with the development and implementation of the California Child Support Automation System (CCSAS), the Franchise Tax Board and the Department of Child Support Services shall enter into a letter of agreement and an interagency agreement whereby the Department of Child Support Services shall assume responsibility for collection of child support delinquencies and the Financial Institution Data Match System as set forth in this article. The letter of agreement and the interagency agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon the enactment of the Budget Act, and staffing authorization from the Department of Finance and the Department of Human Resources, the Department of Child Support Services shall assume responsibility for leadership and staff of collection of child support delinquencies and the Financial Institution Data Match System.

(2) All employees and other personnel who staff or provide support for the collection of child support delinquencies and the Financial Institution Data Match System at the Franchise Tax Board shall become the employees of the Department of Child Support Services at their existing or equivalent classification, salaries, and benefits.

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

(b) It is the intent of the Legislature that any provision of income tax return information by the Franchise Tax Board to the Department of Child Support Services pursuant to this article shall be done in accordance with the privacy and confidential information laws of this state and the United States, and to the satisfaction of the Franchise Tax Board.

SEC. 190. Section 2266 of the Vehicle Code is amended to read:

2266. (a) The Legislature finds and declares all of the following:

(1) The communications operators of the Department of the California Highway Patrol are among the lowest paid when compared to operators employed by other law enforcement agencies in the state. The department's communication centers suffer from significant staff shortages and high turnover rates. Increasing the wages paid to these communications operators will increase their professionalism while reducing their rate of turnover.

(2) The recruitment and retention problem is especially evident in the classifications of Communications Operator I and II.

(3) In order for the state to recruit and retain the highest qualified and capable communications operators, those employees should be compensated in an amount equal to the estimated average total compensation for the classifications corresponding to Communications Operator I and II within

the police departments in the Cities of Los Angeles, Oakland, San Diego, and San Jose and the City and County of San Francisco.

(4) According to the Department of the California Highway Patrol, it costs the department thirty-six thousand one hundred ninety-eight dollars (\$36,198) to train a Communications Operator I and sixty-five thousand two hundred two dollars (\$65,202) to train a Communications Operator II to their respective classifications. After the department has trained an operator, all too often the new, fully trained operator will move to a local agency to a higher wage.

(5) This section is not in violation of the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code), which requires that changes for salaries and benefits be collectively bargained between representatives of the state and the employee's union. This section does not circumvent that process. This section simply authorizes the Department of Human Resources, when determining compensation for communications operators in the Department of the California Highway Patrol, to consider the total compensation for communications operators in other jurisdictions.

(b) When determining compensation for communications operators in the Department of the California Highway Patrol, the Department of Human Resources may consider the total compensation for communications operators in comparable positions in the police departments specified in paragraph (3) of subdivision (a).

SEC. 191. Section 80122 of the Water Code is amended to read:

80122. The department may do any of the following as may be, in the determination of the department, necessary for the purposes of this division:

(a) Hire and appoint employees as required, at salary levels determined by the director to be competitive to attract and retain persons with the necessary expertise and skills. Prior to hiring or appointing an employee at a salary in excess of a salary approved by the Department of Human Resources, the director shall submit the proposed salary to the Director of Finance who shall submit it to the Legislature in accordance with Section 27.00 of the annual Budget Act. No excess salary authorized under this section may be paid on or after January 1, 2003. The excess portion of a salary authorized under this section may not be considered salary in the calculation of final compensation for purposes of benefits under the Public Employees' Retirement System.

(b) Engage the services of private parties to render professional and technical assistance and advice and other services in carrying out the purposes of this division.

(c) Contract for the services of other public agencies.

(d) The State Personnel Board and the Department of Human Resources shall assist the department in expediting the hiring of personnel necessary and desirable for the timely and successful implementation and administration of the department's duties and responsibilities pursuant to this division.

SEC. 192. Any section of any act enacted by the Legislature during the 2012 calendar year that takes effect on or before January 1, 2013, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2012 calendar year and takes effect on or before January 1, 2013, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

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