

Senate Bill No. 401

Passed the Senate September 10, 1999

Secretary of the Senate

Passed the Assembly September 9, 1999

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 18717, 19816.20, 19818.8, 19858.3, 19858.4, 19858.5, 19863.1, 20400, 20405.1, 21547, and 22754 of, to add Sections 21547.5 and 22955.55 to, and to repeal Sections 19816.23, 19858.6, 20068.2, 20405.3, 22811.6, and 22957.5 of, the Government Code, and to amend Sections 10295 and 10344.1 of the Public Contract Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 401, Karnette. State employees.

(1) Existing law requires the State Personnel Board, except with respect to state employees in State Bargaining Unit 16 or 19, to develop objective criteria for determining the application to state civil service positions of the state safety membership category of the Public Employees' Retirement System (PERS), to determine, upon the request of the Department of Personnel Administration or an employee organization, which classes of positions meet the criteria, and to report thereon to the Legislature with the related signed memorandum of understanding. Existing law requires the department, with respect to state employees in State Bargaining Unit 16 or 19, to determine which classes or position meet the elements of the criteria for state safety category of membership in the PERS.

This bill would require the department, with respect to state bargaining units that have agreed to these provisions in a memorandum of understanding between the state employer and the recognized employee organization, to determine which classes or positions meet the elements of the criteria for the state safety category of members in PERS.

(2) Existing law authorizes the Department of Personnel Administration to provide for annual leave benefits with respect to each officer and employee



excluded from the definition of state employee for the purposes of the Ralph C. Dills Act, which regulates state employer-employee relations. The California Code of Regulations authorizes employees who are excluded from the definition of state employee for the purposes of that act to make an irrevocable election, in lieu of earning sick leave and vacation benefits, to participate in the annual leave program and requires newly appointed employees to this class as of November 1, 1995, to be placed in the annual leave program.

This bill would make a conforming change to provisions of existing law regarding annual leave to provide that the provisions are applicable to employees who are excluded from the definition of state employee for the purposes of the act.

(3) Existing law provides that participation in the annual leave program by employees in any state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and a recognized employee organization and has been approved by the Legislature is subject to conditions set forth in a specified provision of existing law.

This bill would repeal that provision of existing law and instead authorize these state employees to participate in the annual leave program subject to the appropriate memorandum of understanding.

(4) Under existing law, the Department of Personnel Administration succeeds to, and is vested with, the duties, purposes, responsibilities, and jurisdiction exercised by the State Personnel Board with respect to the administration of the Personnel Classification Plan. Existing law prohibits a person from being assigned to perform the duties of any class other than that to which his or her position is allocated, except for the temporary assignment or loan of employees within an agency or between agencies for not to exceed 2 years or between jurisdictions for not to exceed 4 years for specified purposes.

This bill would make a technical change by correcting a cross-reference to conform to existing law.



(5) Existing law provides that a state officer or employee who is entitled to temporary disability indemnity under existing provisions of law governing workers' compensation as a result of an industrial accident occurring during a period of employment for which he or she is not earning sick leave credit shall have sick leave credit of one day for each completed month of service during the time he or she is not earning sick leave credit.

This bill would provide that these state officers or employees who are entitled to temporary disability indemnity or vocational rehabilitation maintenance allowance shall earn sick leave and vacation leave or annual leave as though the employee was working. The bill would authorize a state officer or employee who is receiving temporary disability or vocational rehabilitation maintenance allowance to supplement the payments with any form of leave credits provided the supplementation does not exceed the employee's full pay less mandatory withholdings.

(6) Existing law, the Public Employees' Retirement Law, establishes the Public Employees' Retirement System, and sets forth the provisions for its administration and the delivery of benefits to its members. The state's employer contributions to the Public Employees' Retirement Fund are continuously appropriated from the General Fund and other funds in the State Treasury. Existing law includes employees in State Bargaining Unit 16 or 19 whose classifications or positions are found to meet specified state safety criteria within the classifications of state safety officers, if the Department of Personnel Administration has agreed to their inclusion.

This bill would include state employees in state bargaining units that have agreed in a memorandum of understanding between the state employer and the recognized employee organization that the classifications or positions of these state employees are found to meet specified state safety criteria within the classifications of state safety officers, if the Department of Personnel Administration has agreed to their inclusion. To the



extent that the bill would enlarge the class of persons eligible for state safety membership, it would make an appropriation by increasing the state's contribution to the Public Employees' Retirement Fund.

(7) The Public Employees' Retirement Law authorizes the surviving spouse or eligible children of certain state members who die prior to retirement with 20 years or more of state service to receive a specified monthly allowance in lieu of the basic death benefit, as defined.

This bill would revise the amount of that monthly allowance, as specified, and would provide that survivors who are receiving the current allowance shall receive the revised allowance on and after January 1, 2000.

(8) Existing law, the Public Employees' Medical and Hospital Care Act, provides health benefits plan coverage to public employees and annuitants meeting the eligibility requirements prescribed by the Board of Administration of the Public Employees' Retirement System. Existing law revises the definition of "eligible employee" for the purposes of the act as it applies to state employees in State Bargaining Units 8 and 16, and revises the definition of "family member" for the purposes of the act as it applies to state employees in State Bargaining Unit 5.

This bill would repeal the revised definitions of "eligible employees" and "family member."

(9) Under the Public Employees' Medical and Hospital Care Act and the State Employees' Dental Care Act, an annuitant, as defined, may enroll or continue his or her enrollment in an approved health benefits plan and dental care plan without discrimination as to premium rates or benefits coverage. However, a family member receiving the survivor's monthly allowance described above may elect to be covered or continue to be covered by those plans only upon payment of the total premium cost plus 2%.

This bill would repeal those provisions regarding the payment of premiums by those family members and instead would include those family members within the



definition of an “annuitant” for purposes of plan coverage under those acts.

(10) Existing law governing preretirement death benefits under the Public Employees’ Retirement System provides that notwithstanding the requirement that a state member attain the minimum age for voluntary service retirement in his or her last employment preceding death, upon the death of a state member on or after January 1, 1993, who is credited with 20 years or more of state service, the surviving spouse, or eligible children if there is no eligible spouse, may receive a monthly allowance in lieu of the basic death benefit, as specified.

This bill would revise the applicable conditions and amounts payable under this provision.

(11) Existing law, with specified exceptions, provides that all contracts entered into by any state agency for the hiring or purchase of a variety of goods and services, including equipment, supplies, textbooks, and repair or maintenance, are void unless approved by the Department of General Services. Contracts entered into by the Department of Personnel Administration for employee benefits, occupational health and safety, training services, or a combination thereof, for state employees in State Bargaining Unit 8 or 16 are exempt from this approval requirement.

This bill would apply the exemption to contracts entered into by the Department of Personnel Administration for employee benefits, occupational health and safety, training services, or a combination thereof, for state employees in state bargaining units that have agreed to this provision in a memorandum of understanding.

(12) Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become



effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions of specified memoranda of understanding entered into between the state employer and specified employee organizations, and would provide that the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

This bill would provide that any provision in a memorandum of understanding approved by any section of this bill, and which requires the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would provide that if funds for these provisions are not specifically appropriated by the Legislature, all or any part of the memorandum of understanding may be declared null and void by any affected employee organization.

(13) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. 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 Personnel Administration 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 Personnel Administration 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. 2. Section 19816.20 of the Government Code is amended to read:

19816.20. Notwithstanding Section 18717, 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.

(a) The department shall determine which classes or positions meet the elements of the criteria for the state safety category of membership in the Public Employees' Retirement System. An employee organization or employing agency requesting a determination from the department shall provide the department with information and written argument supporting the request.

(b) The department may use the determination findings in subsequent negotiations with the exclusive representatives.

(c) The department shall not approve safety membership for any class or position that has not been determined to meet all of the following criteria:

(1) In addition to the defined scope of duties assigned to the class or position, the member's ongoing responsibility includes:

(A) The protection and safeguarding of the public and of property.

(B) The control or supervision of, or a regular, substantial contact with one of the following:

(i) Inmates or youthful offenders in adult or youth correctional facilities.

(ii) Patients in state mental facilities that house Penal Code offenders.

(iii) Clients charged with a felony who are in a locked and controlled treatment facility of a developmental center.

(2) The conditions of employment require that the member be capable of responding to emergency situations and provide a level of service to the public such that the safety of the public and of property is not jeopardized.

(d) For classes or positions that are found to meet this criteria, the department may agree to provide safety membership by a memorandum of understanding



reached pursuant to Section 3517.5 if the affected employees are subject to collective bargaining. The department shall notify the retirement system of its determination, as prescribed in Section 20405.1.

(e) The department shall provide the Legislature an annual report that lists the classes or positions which were found to be eligible for safety membership under this section.

SEC. 3. Section 19816.23 of the Government Code is repealed.

SEC. 4. Section 19818.8 of the Government Code is amended to read:

19818.8. (a) A person shall not be assigned to perform the duties of any class other than that to which his or her position is allocated, except as permitted by Section 19050.8.

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

SEC. 5. Section 19858.3 of the Government Code is amended to read:

19858.3. This article shall apply to all of the following:

(a) Employees who are excluded from the definition of “state employee” in subdivision (c) of Section 3513.

(b) Nonelected officers of the executive branch of government exempt from civil service designated by the department as eligible to receive managerial benefits.

(c) A State Traffic Sergeant in the California Highway Patrol.

(d) Commencing January 1, 1989, employees in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to be subject to this article and has been approved by the Legislature pursuant to law.



SEC. 6. Section 19858.4 of the Government Code is amended to read:

19858.4. In lieu of the sick leave and vacation provisions of Sections 19858.1 and 19859, eligible employees, as defined by subdivisions (a), (b), and (c) of Section 19858.3, may elect to participate in an annual leave program. Each employee who has elected to participate in the annual leave program and who is employed full time shall receive credit for annual leave with pay in accordance with the following schedule:

1 month to 3 years	11 hours per month
37 months to 10 years	15 hours per month
121 months to 15 years	17 hours per month
181 months to 20 years	18 hours per month
241 months to 25 years	19 hours per month
301 months and over	20 hours per month

Part-time and hourly employees shall accrue proportional annual leave credits based on the schedule in this section. The time when annual leave shall be taken shall be determined by the appointing power of the officer or employee. Employees shall have use of any accrued sick leave they have accrued at the time they elect the annual leave program under the same conditions as other employees not participating in the program.

The department shall provide by rule for the regulation and accumulation of annual leave, the effect of an absence from the payroll of 10 work days or less in any calendar month upon credit for annual leave, methods by which employees leaving the employment of one state agency and entering the employment of another state agency may be compensated for, transfer, or otherwise receive proper credit for, their accumulated annual leave, and other provisions necessary for the administration of this section.

SEC. 7. Section 19858.5 of the Government Code is amended to read:



19858.5. In lieu of sick leave and vacation provisions of Sections 19858.1 and 19859, eligible employees, as defined by subdivision (d) of Section 19858.3, may participate in an annual leave program subject to the conditions of the appropriate memorandum of understanding. Each employee who participates in the annual leave program and who is employed full time shall receive credit for annual leave with pay in accordance with the following schedule:

1 month to 3 years	11 hours per month
37 months to 10 years	14 hours per month
121 months to 15 years	16 hours per month
181 months to 20 years	17 hours per month
241 months and over	18 hours per month

Part-time and hourly employees shall accrue proportional annual leave credits based on the schedule in this section. The time when annual leave shall be taken shall be determined by the appointing power of the officer or employee. Employees shall have use of any accrued sick leave they have accrued at the time they elect the annual leave program under the same conditions as other employees not participating in the program.

The department shall provide by rule for the regulation and accumulation of annual leave, the effect of an absence from the payroll of 10 work days or less in any calendar month upon credit for annual leave, methods by which employees leaving the employment of one state agency and entering the employment of another state agency may be compensated for, transfer, or otherwise receive proper credit for, their accumulated annual leave, and other provisions necessary for the administration of this section.

SEC. 8. Section 19858.6 of the Government Code is repealed.

SEC. 9. Section 19863.1 of the Government Code is amended to read:



19863.1. (a) Notwithstanding any other provision of the law to the contrary, a state officer or employee who is entitled to temporary disability indemnity or vocational rehabilitation maintenance allowance under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100) of the Labor Code as a result of an industrial accident or injury shall earn sick leave and vacation leave or annual leave as though the employee was working. The state officer or employee who is receiving temporary disability or vocational rehabilitation maintenance allowance shall be permitted to supplement the payments with any form of leave credits. Supplementation of leave credits combined with vocational rehabilitation maintenance allowance shall not exceed the employee's full pay less mandatory withholdings.

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

SEC. 10. Section 20068.2 of the Government Code is repealed.

SEC. 11. Section 20400 of the Government Code is amended to read:

20400. (a) "State safety member" also includes members employed in the Department of Forestry and Fire Protection, whose principal duties consist of active fire suppression or supervision, including, but not limited to, members employed to perform duties now performed under the following titles: State Forester; all classes of State Forest Rangers; all classes of Deputy State Forester; all classes of fire prevention and law enforcement officers; all classes of Foresters; Fire Captain; all classes of Fire Crew Foreman; all classes of Forestry Trainees; all classes of forestry equipment and civil engineers; Forestry Superintendent, Conservation Camps; Fire Apparatus



Engineer; Fireman, C.D.F.; Firefighter (Seasonal); Equipment Maintenance Foreman; Heavy Fire Equipment Operator. However, “state safety members” shall not include members employed in classes other than those set forth in this section whose principal duties are clerical or such as otherwise clearly do not fall within the scope of active fire suppression.

(b) Notwithstanding subdivision (a), “state safety member” shall not include civil engineers hired by the Department of Forestry and Fire Protection on or after January 1, 2000.

SEC. 12. 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.

(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 Personnel Administration agrees to their inclusion. 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.

(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) Notwithstanding Section 7550.5, 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 or Section 21353 only for service also included in the federal system.

SEC. 13. Section 20405.3 of the Government Code is repealed.

SEC. 14. Section 21547 of the Government Code is amended to read:

21547. (a) Notwithstanding any other provision of this article requiring attainment of the minimum age for voluntary service retirement to him or her in his or her last employment preceding death, upon the death of a state member on or after January 1, 1993, who is credited with 20 years or more of state service, the surviving spouse, or eligible children if there is no eligible spouse, may receive a monthly allowance in lieu of the basic death benefit. The board shall notify the eligible survivor, as defined in Section 21546, of this alternate death benefit. The board shall calculate the monthly allowance that shall be payable as follows:

(1) To the member's surviving spouse, an amount equal to the amount the member would have received if he or she had retired for service at minimum retirement age on the date of death and had election Option Settlement 2 and Section 21459.

(2) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, to the surviving children, under the age of 18 years, collectively, an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had retired for service at minimum retirement age on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, "surviving children" includes a posthumously born child or children of the member.

(b) This section shall only apply to members employed in 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, members who are excluded from the definition of state employees in subdivision (c) of Section 3513, and members employed by the executive branch of government who are not members of the civil service.

(c) For purposes of this section, “state service” means service rendered as a state employee, as defined in Section 19815. This section shall not apply to any contracting agency nor to the employees of any contracting agency.

SEC. 15. Section 21547.5 is added to the Government Code, to read:

21547.5. For any survivor receiving a monthly allowance pursuant to Section 21547 prior to January 1, 2000, that allowance shall be adjusted as of January 1, 2000, to equal the amount that the survivor would have been entitled to receive if the member’s death had occurred on or after January 1, 2000. The adjusted allowance shall be payable only on and after January 1, 2000.

SEC. 16. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

(a) “Board” means the Board of Administration of the Public Employees’ Retirement System.

(b) “Employee” means:

(1) Any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees’ Retirement System employed by a contracting agency that has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers’ Retirement System employed by an employer who has elected to become subject to this part, or who is an employee or annuitant of a special district or county



subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3) that has elected to become subject to this part, or who is an employee or annuitant of a special district, as defined in subdivision (i), that has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(2) Any officer or employee who participates in the retirement system of a contracting agency as defined in paragraph (2) of subdivision (g) that has elected to become subject to this part, except persons employed less than half time or who are otherwise determined to be ineligible.

(3) Any annuitant of the Public Employees' Retirement System employed by a contracting agency as defined in subdivision (g) that has elected to become subject to this part who is a person retired under Section 21228.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, that is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.



(d) “Health benefits plan” means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.

(e) “Annuitant” means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21541, 21546, or 21547 or similar provisions of any other state retirement system.

(3) Any employee who has retired under the retirement system provided by a contracting agency as defined in paragraph (2) of subdivision (g) and who receives a retirement allowance from that retirement system, or a surviving family member who receives the retirement allowance in place of the deceased.

(4) Any person who was a state member for 30 years or more and who, at the time of retirement, was a local member employed by a contracting agency.

(f) “Family member” means an employee’s or annuitant’s spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) “Contracting agency” means:

(1) Any contracting agency as defined in Section 20022, any county or special district subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and any special district, school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(2) Any public body or agency of, or within California not covered by the Public Employees’ Retirement



System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), that provides a retirement system for its employees funded wholly or in part by public funds.

(h) “Employer” means the state, any contracting agency employing an employee, and any agency that has elected to become subject to this part pursuant to Section 22856.

(i) “Special district” means a nonprofit, self-governed public agency, within the State of California and comprised solely of public employees, performing a governmental rather than proprietary function.

SEC. 17. Section 22811.6 of the Government Code is repealed.

SEC. 18. Section 22955.55 is added to the Government Code, to read:

22955.55. (a) Notwithstanding the provisions of Sections 22953 and 22954, employees who become state members of the Public Employees’ Retirement System after January 1, 2000, and who are included in the definition of state employee in subdivision (c) of Section 3513, and are members of a state bargaining unit that has agreed to this section, shall not receive any portion of the employer’s contribution payable for annuitants, pursuant to Sections 22953 and 22954, unless these employees are credited with 10 years of state service as defined by this section, at the time of retirement.

(b) Notwithstanding Sections 22953 and 22954, a state employee who became a state member of the Public Employees’ Retirement System after January 1, 2000, and is either (1) excluded from the definition of state employee in subdivision (c) of Section 3513; or (2) a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall not receive any portion of the employer’s contribution payable for annuitants, pursuant to Sections 22953 and 22954, unless the employee is credited with 10 years of state service as defined by this section, at the time of retirement.



(c) The percentage of employer’s contribution amount payable for postretirement dental care benefits for an employee subject to this section shall be based on the funding provisions of the plan and the member’s completed years of state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(d) This section shall only apply to state employees who retire for service.

(e) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(f) For purposes of this section, “state service” shall mean service rendered as an employee or an appointed or elected officer of the state for compensation. In those cases where the state assumes or has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that local public agency shall not be credited, at retirement, as state service for the purposes of this section, unless the former employer has paid or agreed to pay the state agency the amount actuarially determined to equal the cost for any employee dental benefits which were vested at the same time that the function and the related personnel were assumed by the state. For noncontracting local public



agencies, the state department shall certify the completed years of local agency service to be credited to the employee to the Public Employees' Retirement System at the time of separation for retirement.

(g) Whenever the state contracts to assume a local public agency function, completed years of service rendered by the personnel for compensation as employees or appointed or elected officers of the local public agency shall be credited as state service only upon a finding by the Department of Finance that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate the state for postretirement dental benefit costs for those personnel.

(h) This section shall not apply to employees of the California State University or the Legislature.

SEC. 19. Section 22957.5 of the Government Code is repealed.

SEC. 20. Section 10295 of the Public Contract Code is amended to read:

10295. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or elementary school textbooks, (b) services, whether or not the services involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) 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 such 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. 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. This section does not apply to any transaction entered into by the Trustees of the California State University or by a department under the State Contract Act or the California State University Contract



Law, 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, 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, any contract entered into by the Department of Personnel Administration for state employees in state bargaining units that have agreed to this section in a memorandum of understanding for employee benefits, occupational health and safety, training services, or combination thereof any contract let by the Legislature, or 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. 21. Section 10344.1 of the Public Contract Code is amended to read:

10344.1. The Department of Personnel Administration, with respect to contracts entered into by the department 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 Personnel Administration 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. 22. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations in 1999, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit - 2 - Association of California State Attorneys and Administrative Law Judges.



(b) Unit - 9 - Professional Engineers in California Government.

(c) Unit - 10 - California Association of Professional Scientists.

(d) Unit - 12 - International Union of Operating Engineers.

(e) Unit - 13 - International Union of Operating Engineers.

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

SEC. 24. Any provision in a memorandum of understanding approved by any section of this act that requires the expenditure of funds shall not take effect unless funds for these provisions are appropriated by the Legislature. If funds for these provisions are not appropriated by the Legislature, all or any part of the memorandum of understanding may be declared null and void by any affected employee organization.

SEC. 25. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 1999–2000 fiscal year and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary for this act to take effect immediately.



Approved _____, 1999

Governor

