

AMENDED IN SENATE JUNE 5, 2000

AMENDED IN SENATE MAY 24, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 649

**Introduced by Assembly Members Machado and
Strom-Martin**

(Principal coauthors: Senators Chesbro and Ortiz)

February 23, 1999

An act to amend Section 1094.5 of the Code of Civil Procedure, to add Sections 22508.6, 22717.5, and 22801.5 to the Education Code, to amend Sections 18670, 19175, 19582, 19816.20, 19876.5, 20395, 20405.1, 21159, 21160, 21161, 21195, and 22825.01 of, to add Sections 19576.6, 20309.5, and 20407.5 to, and to repeal Section 22754.2 of, the Government Code, and to amend Section 10295 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

AB 649, as amended, Machado. State employees.

(1) Under existing law, members of the Defined Benefit Program of the State Teachers' Retirement Plan who become employed by any of a list of other public employers to perform service that requires membership in a different public retirement system, may elect to be excluded from

membership in that different system and continue to have their service subject to their existing system.

This bill would make this election available to members of the State Teachers' Retirement System who became employed by the state, during a specified period, to perform service subject to Second Tier benefits in the Public Employees' Retirement System and who satisfy certain requirements. The bill would require persons making that election to make specified contributions to the Teachers' Retirement Fund with respect to their pre-election state service and would also require specified assets to be transferred from the Public Employees' Retirement System to that fund on account of that state service, thereby making an appropriation to the Teachers' Retirement Fund, a continuously appropriated fund.

(2) Under existing law, members of the Defined Benefit Program of the State Teachers' Retirement Plan are entitled to service credit at service retirement for accumulated and unused leave of absence for illness or injury, as specified.

This bill would provide that members who are eligible state employees and who retire on or after January 1, 2000, shall receive, subject to the terms of a memorandum of understanding or the authorization of the Department of Personnel Administration, service credit at service retirement for accumulated unused leave of absence for education, as specified.

(3) Existing law includes procedures for disciplining state employees, including State Personnel Board investigations and hearings, the review of administrative decisions, and suspensions.

This bill would provide that certain of these procedures do not apply to state employees in State Bargaining Unit 11 who have been disciplined for positive drug test results and who expressly waive appeal to the State Personnel Board and invoke arbitration proceedings pursuant to a collective bargaining agreement. The bill would require the state employer, if the collective bargaining agreement has expired and an answer has been filed, to follow the appeal procedures contained in the expired memorandum of understanding for



state employees in State Bargaining Unit 11 until a successor agreement is negotiated.

(4) 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. Member contributions to the Public Employees' Retirement System are deposited into the Public Employees' Retirement Fund, which is a continuously appropriated fund. Existing law includes in the state safety membership category 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 membership criteria, if the Department of Personnel Administration has agreed to their inclusion. Existing law excludes from the state peace officer/firefighter membership category security officers employed by the Department of Justice.

This bill would include state employees excluded from the Ralph C. Dills Act and officers or employees of the executive branch of state government who are not members of the civil service within the classification of state safety members, if the department has approved their inclusion, and would delete the exclusion of security officers employed by the Department of Justice from the classification of state peace officer/firefighter members. To the extent the bill would enlarge the class of persons eligible for state safety or state peace officer/firefighter membership, it would make an appropriation by increasing the amount of contributions to the Public Employees' Retirement Fund.

(5) Existing law establishes the Rural Health Care Equity Trust Fund, which is administered by the Department of Personnel Administration to provide subsidies and reimbursements for certain health care premiums and health care costs incurred by state employees and annuitants in rural areas on or after January 1, 2000. The fund ceases to be operative on January 1, 2005, or earlier, as specified. Existing law requires each fund in the State Treasury to reimburse the General Fund for specified contributions to the Rural Health



Care Equity Trust Fund for the employees and annuitants paid from each fund.

This bill would change references to the fund to the Rural Health Care Equity Program and specify the means by which the General Fund reimbursements are to be made.

(6) Existing law, the Public Employees' Retirement Law, provides increased industrial disability retirement benefits for certain state membership categories who are incapacitated for the performance of their present duties as a result of injury or illness arising out of and in the course of their employment on or after January 1, 1993.

This bill would provide that these provisions do not apply to a job-related or job-incurred illness or injury that occurs on or after January 1, 2000. The bill would declare the intent of the Legislature that these provisions be given retroactive effect to January 1, 2000.

(7) Under the Public Employees' Retirement Law, specified officers and employees of the State Department of Mental Health are classified as state safety members, however, those members have the option to irrevocably elect, within a specified time period, to remain subject to the miscellaneous membership classification.

This bill would provide that a specified group of those officers and employees who elected to remain subject to the miscellaneous membership classification shall have the right to elect to become safety members, as specified.

(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.

This bill would revise the definition of "eligible employees" for the purposes of the act to delete a definition applicable only to state employees in State Bargaining Unit 19.

(9) Existing law, with specified exceptions, provides that all contracts entered into by any state agency for the hiring or purchase 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 any combination thereof, for state employees in state bargaining units that have agreed to this exemption in a memorandum of understanding are exempt from this approval requirement.

This bill would revise this provision to make it applicable to all contracts, with specified exceptions, entered into by any state agency for the acquisition of goods and services. The bill would expand the exemption for contracts entered into by the Department of Personnel Administration for employee benefits, occupational health and safety, training services, and any combination thereof, for state employees, as specified.

(10) This bill would appropriate \$65,414,288 from the General Fund and unallocated special funds, in specified amounts, for allocation for various state employee benefits or programs, including state employee compensation, the Work and Family Fund, and the Rural Area Health Subsidy Program.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 1094.5 of the Code of Civil
2 Procedure is amended to read:
3 1094.5. (a) Where the writ is issued for the purpose
4 of inquiring into the validity of any final administrative
5 order or decision made as the result of a proceeding in
6 which by law a hearing is required to be given, evidence
7 is required to be taken, and discretion in the
8 determination of facts is vested in the inferior tribunal,
9 corporation, board, or officer, the case shall be heard by
10 the court sitting without a jury. All or part of the record
11 of the proceedings before the inferior tribunal,
12 corporation, board, or officer may be filed with the
13 petition, may be filed with respondent's points and
14 authorities, or may be ordered to be filed by the court.
15 Except when otherwise prescribed by statute, the cost of



1 preparing the record shall be borne by the petitioner.
2 Where the petitioner has proceeded pursuant to Section
3 68511.3 of the Government Code and the Rules of Court
4 implementing that section and where the transcript is
5 necessary to a proper review of the administrative
6 proceedings, the cost of preparing the transcript shall be
7 borne by the respondent. Where the party seeking the
8 writ has proceeded pursuant to Section 1088.5, the
9 administrative record shall be filed as expeditiously as
10 possible, and may be filed with the petition, or by the
11 respondent after payment of the costs by the petitioner,
12 where required, or as otherwise directed by the court. If
13 the expense of preparing all or any part of the record has
14 been borne by the prevailing party, the expense shall be
15 taxable as costs.

16 (b) The inquiry in such a case shall extend to the
17 questions whether the respondent has proceeded
18 without, or in excess of jurisdiction; whether there was a
19 fair trial; and whether there was any prejudicial abuse of
20 discretion. Abuse of discretion is established if the
21 respondent has not proceeded in the manner required by
22 law, the order or decision is not supported by the findings,
23 or the findings are not supported by the evidence.

24 (c) Where it is claimed that the findings are not
25 supported by the evidence, in cases in which the court is
26 authorized by law to exercise its independent judgment
27 on the evidence, abuse of discretion is established if the
28 court determines that the findings are not supported by
29 the weight of the evidence. In all other cases, abuse of
30 discretion is established if the court determines that the
31 findings are not supported by substantial evidence in the
32 light of the whole record.

33 (d) Notwithstanding subdivision (c), in cases arising
34 from private hospital boards or boards of directors of
35 districts organized pursuant to The Local Hospital
36 District Law, Division 23 (commencing with Section
37 32000) of the Health and Safety Code or governing bodies
38 of municipal hospitals formed pursuant to Article 7
39 (commencing with Section 37600) or Article 8
40 (commencing with Section 37650) of Chapter 5 of



1 Division 3 of Title 4 of the Government Code, abuse of
2 discretion is established if the court determines that the
3 findings are not supported by substantial evidence in the
4 light of the whole record. However, in all cases in which
5 the petition alleges discriminatory actions prohibited by
6 Section 1316 of the Health and Safety Code, and the
7 plaintiff makes a preliminary showing of substantial
8 evidence in support of that allegation, the court shall
9 exercise its independent judgment on the evidence and
10 abuse of discretion shall be established if the court
11 determines that the findings are not supported by the
12 weight of the evidence.

13 (e) Where the court finds that there is relevant
14 evidence that, in the exercise of reasonable diligence,
15 could not have been produced or that was improperly
16 excluded at the hearing before respondent, it may enter
17 judgment as provided in subdivision (f) remanding the
18 case to be reconsidered in the light of that evidence; or,
19 in cases in which the court is authorized by law to exercise
20 its independent judgment on the evidence, the court may
21 admit the evidence at the hearing on the writ without
22 remanding the case.

23 (f) The court shall enter judgment either
24 commanding respondent to set aside the order or
25 decision, or denying the writ. Where the judgment
26 commands that the order or decision be set aside, it may
27 order the reconsideration of the case in the light of the
28 court's opinion and judgment and may order respondent
29 to take such further action as is specially enjoined upon
30 it by law, but the judgment shall not limit or control in any
31 way the discretion legally vested in the respondent.

32 (g) Except as provided in subdivision (h), the court in
33 which proceedings under this section are instituted may
34 stay the operation of the administrative order or decision
35 pending the judgment of the court, or until the filing of
36 a notice of appeal from the judgment or until the
37 expiration of the time for filing the notice, whichever
38 occurs first. However, no such stay shall be imposed or
39 continued if the court is satisfied that it is against the
40 public interest. The application for the stay shall be

1 accompanied by proof of service of a copy of the
2 application on the respondent. Service shall be made in
3 the manner provided by Title 5 (commencing with
4 Section 405) of Part 2 or Chapter 5 (commencing with
5 Section 1010) of Title 14 of Part 2. If an appeal is taken
6 from a denial of the writ, the order or decision of the
7 agency shall not be stayed except upon the order of the
8 court to which the appeal is taken. However, in cases
9 where a stay is in effect at the time of filing the notice of
10 appeal, the stay shall be continued by operation of law for
11 a period of 20 days from the filing of the notice. If an
12 appeal is taken from the granting of the writ, the order
13 or decision of the agency is stayed pending the
14 determination of the appeal unless the court to which the
15 appeal is taken shall otherwise order. Where any final
16 administrative order or decision is the subject of
17 proceedings under this section, if the petition shall have
18 been filed while the penalty imposed is in full force and
19 effect, the determination shall not be considered to have
20 become moot in cases where the penalty imposed by the
21 administrative agency has been completed or complied
22 with during the pendency of the proceedings.

23 (h) (1) The court in which proceedings under this
24 section are instituted may stay the operation of the
25 administrative order or decision of any licensed hospital
26 or any state agency made after a hearing required by
27 statute to be conducted under the Administrative
28 Procedure Act, as set forth in Chapter 5 (commencing
29 with Section 11500) of Part 1 of Division 3 of Title 2 of the
30 Government Code, conducted by the agency itself or an
31 administrative law judge on the staff of the Office of
32 Administrative Hearings pending the judgment of the
33 court, or until the filing of a notice of appeal from the
34 judgment or until the expiration of the time for filing the
35 notice, whichever occurs first. However, the stay shall not
36 be imposed or continued unless the court is satisfied that
37 the public interest will not suffer and that the licensed
38 hospital or agency is unlikely to prevail ultimately on the
39 merits. The application for the stay shall be accompanied
40 by proof of service of a copy of the application on the

1 respondent. Service shall be made in the manner
2 provided by Title 5 (commencing with Section 405) of
3 Part 2 or Chapter 5 (commencing with Section 1010) of
4 Title 14 of Part 2.

5 (2) The standard set forth in this subdivision for
6 obtaining a stay shall apply to any administrative order or
7 decision of an agency that issues licenses pursuant to
8 Division 2 (commencing with Section 500) of the
9 Business and Professions Code or pursuant to the
10 Osteopathic Initiative Act or the Chiropractic Initiative
11 Act. With respect to orders or decisions of other state
12 agencies, the standard in this subdivision shall apply only
13 when the agency has adopted the proposed decision of
14 the administrative law judge in its entirety or has adopted
15 the proposed decision but reduced the proposed penalty
16 pursuant to subdivision (b) of Section 11517 of the
17 Government Code; otherwise the standard in subdivision
18 (g) shall apply.

19 (3) If an appeal is taken from a denial of the writ, the
20 order or decision of the hospital or agency shall not be
21 stayed except upon the order of the court to which the
22 appeal is taken. However, in cases where a stay is in effect
23 at the time of filing the notice of appeal, the stay shall be
24 continued by operation of law for a period of 20 days from
25 the filing of the notice. If an appeal is taken from the
26 granting of the writ, the order or decision of the hospital
27 or agency is stayed pending the determination of the
28 appeal unless the court to which the appeal is taken shall
29 otherwise order. Where any final administrative order or
30 decision is the subject of proceedings under this section,
31 if the petition shall have been filed while the penalty
32 imposed is in full force and effect, the determination shall
33 not be considered to have become moot in cases where
34 the penalty imposed by the administrative agency has
35 been completed or complied with during the pendency
36 of the proceedings.

37 (i) Any administrative record received for filing by
38 the clerk of the court may be disposed of as provided in
39 Sections 1952, 1952.2, and 1952.3.

(j) Effective January 1, 1996, this subdivision shall apply to state employees in State Bargaining Unit 5. This subdivision shall apply to state employees in State Bargaining Unit 8. For purposes of this section, the court is not authorized to review any disciplinary decisions reached pursuant to Section 19576.1 or 19576.5 of the Government Code.

(k) This section shall not apply to state employees in State Bargaining Unit 11 disciplined or rejected on probation for positive drug test results who expressly waive appeal to the State Personnel Board and invoke arbitration proceedings pursuant to a State Bargaining Unit 11 collective bargaining agreement.

SEC. 2. Section 22508.6 is added to the Education Code, to read:

22508.6. (a) Any person who is a member of the Defined Benefit Program and who subsequently became employed and continues to be employed by the state to perform service that requires membership in the Public Employees' Retirement System and who meets the requirements of subdivision (b) may elect to have that state service subject to coverage by the Defined Benefit Program and excluded from coverage by the Public Employees' Retirement System.

(b) (1) Only a person who has achieved program vesting shall be eligible to make the election under this section.

(2) A person is eligible to make the election if he or she left employment with a school district, county superintendent of schools, or community college district and began employment with the state within 30 days without any intervening employment and that change in employment occurred on or after July 1, 1991, and prior to the effective date of this section.

(3) A person is eligible to make the election if, at the time of the election, he or she is a member of the Public Employees' Retirement System subject to Second Tier benefits and is one of the following:

1 (A) Represented by a State Bargaining Unit that has
2 agreed by a memorandum of understanding to become
3 subject to Section 20309.5 of the Government Code.

4 (B) Excluded from the definition of “state employee”
5 in subdivision (c) of Section 3515 of the Government
6 Code, but performing, supervising, or managing work
7 similar to work performed by employees described in
8 subparagraph (A).

9 (C) In a position not covered by civil service and in the
10 executive branch of government, but performing,
11 supervising, or managing work similar to work performed
12 by employees described in subparagraph (A).

13 (c) The election under this section shall be made in
14 writing to each system within 90 days after the effective
15 date of this section or within 60 days after the eligible
16 member is notified by the system of his or her right to
17 make the election, whichever is later. The member’s
18 election shall be effective on the day following the date
19 on which the election is received by the Public
20 Employees’ Retirement System.

21 (d) If the election is made, the state service performed
22 from and after the date of the election shall be considered
23 creditable service for purposes of this part and the
24 provisions of Section 22801.5 shall be applicable with
25 respect to service performed prior to that date.

26 SEC. 3. Section 22717.5 is added to the Education
27 Code, to read:

28 22717.5. (a) A member shall be credited at service
29 retirement for each day of accumulated and unused leave
30 of absence for education for which full salary is allowed
31 on the member’s final day of employment with the state.

32 (b) The amount of service credit to be granted shall be
33 0.004 ~~year~~ years of service for each unused day of
34 educational leave credit.

35 (c) When the member has made application for
36 service retirement under this part, the employer shall
37 certify to the board, within 30 days following the effective
38 date of the member’s service retirement, the number of
39 days of accumulated and unused leave of absence for
40 education that the member was entitled to on the final

1 day of employment. The board may assess a penalty on
2 delinquent reports.

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

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

13 SEC. 4. Section 22801.5 is added to the Education
14 Code, to read:

15 22801.5. (a) A member who elects pursuant to
16 Section 22508.6 to have his or her state service subject to
17 coverage by the Defined Benefit Program shall receive
18 additional service credit for the time spent subject to
19 coverage by the Public Employees’ Retirement System
20 between July 1, 1991, and the effective date of the
21 election.

22 (b) A member described in subdivision (a) shall pay
23 all contributions with respect to his or her state service as
24 a member of the Public Employees’ Retirement System
25 at the contribution rate for additional service credit,
26 adopted by the board as a plan amendment, in effect at
27 the time of the election. Contributions shall be made in
28 a lump sum; or in not more than 120 monthly installments.
29 Payment shall be made or shall commence within 120
30 days after the date of the election. No installment, except
31 the final installment, shall be less than twenty-five dollars
32 (\$25). The member shall not be credited with any service
33 pursuant to this section until the contributions have been
34 paid in full.

35 (c) If the member is employed to perform creditable
36 service at the time of the election, the contributions shall
37 be based upon the compensation earnable in the current
38 school year or either of the two immediately preceding
39 school years, whichever is highest.

1 (d) If the member is not employed to perform
2 creditable service at the time of the election, the
3 contributions shall be based upon the compensation
4 earnable in the last school year of credited service or
5 either of the two immediately preceding school years,
6 whichever is highest.

7 (e) The total amount of contributions due from the
8 member under subdivision (b) shall be reduced by the
9 amount received from the Public Employees'
10 Retirement System pursuant to Section 20309.5 of the
11 Government Code. Under no circumstances shall the
12 assets received from the Public Employees' Retirement
13 System, pursuant to that section, be allocated or awarded
14 to individual members or their spouses or beneficiaries.

15 SEC. 5. Section 18670 of the Government Code is
16 amended to read:

17 18670. (a) The board may hold hearings and make
18 investigations concerning all matters relating to the
19 enforcement and effect of this part and rules prescribed
20 under this part. It may inspect any state institution, office,
21 or other place of employment affected by this part to
22 ascertain whether this part and the board rules are
23 obeyed.

24 The board shall make investigations and hold hearings
25 at the direction of the Governor or the Legislature or
26 upon the petition of an employee or a citizen concerning
27 the enforcement and effect of this part and to enforce the
28 observance of Article VII of the Constitution and of this
29 part and the rules made under this part.

30 (b) Effective January 1, 1996, this subdivision shall
31 apply only to state employees in State Bargaining Unit 5.
32 For purposes of subdivision (a), any discipline, as defined
33 by Section 19576.1, is not subject to either a board
34 investigation or hearing. Board review shall be limited to
35 acceptance or rejection of discipline imposed pursuant to
36 Section 19576.1.

37 (c) This subdivision shall apply only to state employees
38 in State Bargaining Unit 8. For the purposes of subdivision
39 (a), any discipline, as defined by the memorandum of

1 understanding or Section 19576.5, is not subject to either
2 a board investigation or hearing.

3 (d) This subdivision shall apply only to state
4 employees in State Bargaining Unit 11 who have been
5 disciplined or rejected on probation for positive drug test
6 results and who expressly waive appeal to the State
7 Personnel Board and invoke arbitration proceedings
8 pursuant to a collective bargaining agreement. For
9 purposes of subdivision (a) and in the context of positive
10 drug test results, any discipline, as defined by the
11 memorandum of understanding, and rejections on
12 probation are not subject to either a board investigation
13 or a hearing.

14 SEC. 6. Section 19175 of the Government Code is
15 amended to read:

16 19175. The board at the written request of a rejected
17 probationer, filed within 15 calendar days of the effective
18 date of rejection, may investigate with or without a
19 hearing the reasons for rejection. After investigation, the
20 board may do any of the following:

21 (a) Affirm the action of the appointing power.

22 (b) Modify the action of the appointing power.

23 (c) Restore the name of the rejected probationer to
24 the employment list for certification to any position
25 within the class; provided, that his or her name shall not
26 be certified to the agency by which he or she was
27 rejected, except with the concurrence of the appointing
28 power of that agency.

29 (d) Restore him or her to the position from which he
30 or she was rejected, but this shall be done only if the board
31 determines, after a hearing, that there is no substantial
32 evidence to support the reason or reasons for rejection, or
33 that the rejection was made in fraud or bad faith. At ~~any~~
34 ~~such hearing~~ *the hearing*, the rejected probationer shall
35 have the burden of proof. Subject to rebuttal by the
36 rejected probationer, it shall be presumed that the
37 rejection was free from fraud and bad faith and that the
38 statement of reasons therefor in the notice of rejection is
39 true.

1 (e) Effective January 1, 1996, this section shall not
2 apply to state employees in State Bargaining Unit 5.

3 (f) Except as provided in subdivision (g), this section
4 shall not apply to state employees in State Bargaining
5 Unit 11 who have been rejected on probation for positive
6 drug test results and who expressly waive appeal to the
7 State Personnel Board and invoke arbitration
8 proceedings pursuant to a collective bargaining
9 agreement.

10 (g) Whenever a written request is made under this
11 section by a probationer in State Bargaining Unit 11 who
12 has been rejected for positive drug test results and the
13 memorandum of understanding for employees in State
14 Bargaining Unit 11 has expired, the state employer shall
15 follow the appeal procedures contained in the expired
16 memorandum of understanding for state employees in
17 State Bargaining Unit 11 until a successor agreement is
18 negotiated between the Department of Personnel
19 Administration and the exclusive representative.

20 SEC. 7. Section 19576.6 is added to the Government
21 Code, to read:

22 19576.6. This section shall apply only to state
23 employees in State Bargaining Unit 11 who have been
24 disciplined for positive drug test results and who
25 expressly waive appeal to the State Personnel Board and
26 invoke arbitration proceedings pursuant to a collective
27 bargaining agreement.

28 (a) Notwithstanding Section 19576, the State
29 Personnel Board shall not have the authority stated in
30 subdivision (a) of that section.

31 (b) Whenever an answer is filed by an employee and
32 the memorandum of understanding for employees in
33 State Bargaining Unit 11 has expired, the state employer
34 shall follow the appeal procedures contained in the
35 expired memorandum of understanding for state
36 employees in State Bargaining Unit 11 until a successor
37 agreement is negotiated between the Department of
38 Personnel Administration and the exclusive
39 representative.

(c) 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 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. 8. 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

1 be notified of the action, and the board itself may decide
 2 the case upon the record, including the transcript, with
 3 or without taking any additional evidence, or may refer
 4 the case to the same or another authorized representative
 5 to take additional evidence. If the case is so assigned to an
 6 authorized representative, he or she shall prepare a
 7 proposed decision as provided in subdivision (b) upon
 8 the additional evidence and the transcript and other
 9 papers that are part of the record of the prior hearing. A
 10 copy of the proposed decision shall be furnished to each
 11 party. The board itself shall decide no case provided for
 12 in this subdivision without affording the parties the
 13 opportunity to present oral and written argument before
 14 the board itself. If additional oral evidence is introduced
 15 before the board itself, no board member may vote unless
 16 he or she heard the additional oral evidence.

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

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

27 (f) This section shall not apply to minor discipline, as
 28 defined in a memorandum of understanding or by
 29 Section 19576.5, for state employees in State Bargaining
 30 Unit 8.

31 (g) This section shall not apply to state employees in
 32 State Bargaining Unit 11 who have been disciplined for
 33 positive drug test results and who expressly waive appeal
 34 to the State Personnel Board and invoke arbitration
 35 proceedings pursuant to a collective bargaining
 36 agreement.

37 SEC. 9. Section 19816.20 of the Government Code is
 38 amended to read:

39 19816.20. Notwithstanding Section 18717, this section
 40 shall apply to state employees in state bargaining units

1 that have agreed to these provisions in a memorandum
2 of understanding between the state employer and the
3 recognized employee organization, as defined in Section
4 3513, state employees who are excluded from the
5 definition of “state employee” in paragraph (c) of Section
6 3513, and officers or employees of the executive branch
7 of state government who are not members of the civil
8 service.

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

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

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

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

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

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

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

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

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

37 (2) The conditions of employment require that the
38 member be capable of responding to emergency
39 situations and provide a level of service to the public such

1 that the safety of the public and of property is not
2 jeopardized.

3 (d) For classes or positions that are found to meet this
4 criteria, the department may agree to provide safety
5 membership by a memorandum of understanding
6 reached pursuant to Section 3517.5 if the affected
7 employees are subject to collective bargaining, or by
8 departmental approval for state employees who are
9 either excluded from the definition of "state employee"
10 in subdivision (c) of Section 3513 or are officers or
11 employees of the executive branch of state government
12 who are not members of the civil service. The
13 department shall notify the retirement system of its
14 determination, as prescribed in Section 20405.1.

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

19 SEC. 10. Section 19876.5 of the Government Code is
20 amended to read:

21 19876.5. State employees in state bargaining units 1, 4,
22 15, 18, and 20 who suffer a job-related injury or illness and
23 become eligible for vocational rehabilitation under
24 Section 139.5 of the Labor Code on or after January 1,
25 1993, shall first be subject to an evaluation to determine
26 what type of state employment can be performed. The
27 evaluation shall include vocational rehabilitation when
28 deemed appropriate, based on a medical evaluation and
29 previous experience. Disability benefits shall be
30 contingent on the employee's agreement to cooperate
31 and participate in a reasonable and appropriate
32 vocational rehabilitation plan necessary to continue state
33 employment. This section shall not apply to any
34 job-related or job-incurred injury or illness that occurs on
35 or after January 1, 2000.

36 SEC. 11. Section 20309.5 is added to the Government
37 Code, to read:

38 20309.5. (a) Any person who is a member of the
39 Defined Benefit Program of the State Teachers'
40 Retirement Plan and who subsequently became

1 employed, on or after July 1, 1991, and who continues to
2 be employed by the state to perform service that requires
3 membership in the Public Employees' Retirement
4 System under Section 21071 and who meets the
5 requirements of subdivision (b) of Section 22508.6 of the
6 Education Code may elect to have his or her state service
7 subject to coverage by the Defined Benefit Program of
8 the State ~~Teacher's~~ Teachers' Retirement Plan and
9 excluded from coverage by the Public Employees'
10 Retirement System.

11 (b) Upon an election being made pursuant to
12 subdivision (a), the Public Employees' Retirement
13 System shall transfer to the Teachers' Retirement Fund
14 an amount equal to the actuarial accrued liability of the
15 system for the service rendered by the person making the
16 election on or after July 1, 1991, to the date of the election,
17 inclusive. The actuarial accrued liability shall be
18 calculated based on the actuarial assumptions of the
19 system for the most recently completed actuarial
20 valuation as of the date of the election.

21 SEC. 12. Section 20395 of the Government Code is
22 amended to read:

23 20395. "State peace officer/firefighter member"
24 means all members who are full-time permanent
25 employees represented in Corrections Unit No. 6,
26 Protective Services and Public Safety Unit No. 7, and
27 Firefighters Unit No. 8 and are employed in class titles
28 that are designated as peace officer as defined in Chapter
29 4.5 (commencing with Section 830) of Title 3 of Part 2 of
30 the Penal Code or are firefighters whose principal duties
31 consist of active firefighting/fire suppression.

32 A member who is employed in a position that is
33 reclassified from state miscellaneous to state peace
34 officer/firefighter pursuant to this section, may make an
35 irrevocable election in writing to remain subject to the
36 miscellaneous service retirement benefit and the normal
37 rate of contribution by filing a notice of the election with
38 the board within 90 days of notification by the board. A
39 member who so elects shall be subject to the reduced
40 benefit factors specified in Section 21353 or 21354.1, as

1 applicable, only for service also included in the federal
2 system.

3 SEC. 13. Section 20405.1 of the Government Code is
4 amended to read:

5 20405.1. Notwithstanding Section 20405, this section
6 shall apply to state employees in state bargaining units
7 that have agreed to these provisions in a memorandum
8 of understanding between the state employer and the
9 recognized employee organization, as defined in Section
10 3513, state employees who are excluded from the
11 definition of “state employee” by subdivision (c) of
12 Section 3513, and officers or employees of the executive
13 branch of state government who are not members of the
14 civil service.

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

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

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

37 (d) Any person designated as a state safety member
38 pursuant to this section may elect, within 90 days of
39 notification by the board, to remain subject to the
40 miscellaneous or industrial service retirement benefit

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

6 SEC. 14. Section 20407.5 is added to the Government
7 Code, to read:

8 20407.5. (a) Notwithstanding Section 20407, any
9 person designated as a state safety member pursuant to
10 Section 20407 who elected to remain subject to the
11 miscellaneous service retirement benefit and
12 contribution rate as provided in that section may elect
13 instead to be subject to the state safety service retirement
14 benefit and contribution rate.

15 (b) This section shall ~~be applicable~~ *apply* to those
16 officers and employees of the State Department of
17 Mental Health described in Section 20407 who are
18 represented by State Bargaining Unit 18 and who became
19 safety members effective January 1, 1998, when the Napa
20 State Hospital and the Metropolitan State Hospital were
21 designated as forensic facilities.

22 (c) This section shall also ~~be applicable~~ *apply* to any
23 member who is excluded from the definition of state
24 employee in subdivision (c) of Section 3513 and who is
25 directly associated with employees represented by State
26 Bargaining Unit 18.

27 (d) The election provided under this section shall be
28 filed with the board by the member within 90 days after
29 notification by the board that the member has the right
30 to elect to be subject to the state safety member service
31 retirement formula and contribution rates. If the election
32 is not made by the member, he or she shall remain subject
33 to the miscellaneous service retirement benefit and
34 contribution rate.

35 SEC. 15. Section 21159 of the Government Code is
36 amended to read:

37 21159. (a) Notwithstanding any other provision of
38 law, a state member shall not be retired for industrial
39 disability for an illness or injury that occurs on or after
40 January 1, 1993, unless the member is incapacitated for

1 the performance of duty in any employment with the
2 state employer and the disability is of permanent or
3 extended and uncertain duration, as determined by the
4 Department of Personnel Administration. This section
5 shall only apply to state safety, state industrial, and state
6 miscellaneous members employed in any state
7 bargaining units for which a memorandum of
8 understanding has been agreed to by the state employer
9 and the recognized employee organization to become
10 subject to this section. The Director of the Department
11 of Personnel Administration may adopt rules regarding
12 job placement and other related activities necessary for
13 the administration of this section and Section 21195.

14 (b) A state member who, because of the enactment of
15 this section is no longer eligible to retire for industrial
16 disability and accepts alternate employment with the
17 state in which the compensation is less than that received
18 in the position held at the time of the illness or injury,
19 shall, upon certification of the Department of Personnel
20 Administration to the board, become entitled to benefits
21 under the partial disability retirement program set forth
22 in Section 21160.

23 (c) The employee shall have the right of appeal to the
24 Department of Personnel Administration regarding: (1)
25 the requirement to participate or (2) the exclusion from
26 participating in the program described in this section and
27 Section 21160.

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

32 (e) The appointing power of the affected employee
33 shall reimburse the Department of Personnel
34 Administration for any costs associated with the
35 administration of this provision.

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

39 SEC. 16. Section 21160 of the Government Code is
40 amended to read:

1 21160. (a) Any state member who is subject to
2 Section 21159 and does not qualify for industrial disability
3 retirement under this part, or is reinstated from industrial
4 disability retirement pursuant to Section 21195, and
5 accepts another job in state service, shall be paid a partial
6 disability retirement program benefit payment from this
7 system in an amount, to be calculated by the Department
8 of Personnel Administration and certified to the board,
9 that, when added to the salary earned by the employee
10 in the current state position, would be equal to the state
11 salary earned by the member at the time of becoming
12 unable to perform the duties of his or her previous
13 position. This supplemental payment shall not result in
14 the member being deemed to be retired.

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

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

22 SEC. 17. Section 21161 of the Government Code is
23 amended to read:

24 21161. (a) A partial disability retirement program is
25 established by Section 21160 for state employees subject
26 to Section 21159. The benefits paid under this program
27 shall be paid pursuant to Sections 21159 and 21160 and
28 shall not be considered compensation for purposes of
29 Section 20630.

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

33 SEC. 18. Section 21195 of the Government Code is
34 amended to read:

35 21195. (a) Notwithstanding any other section in
36 Article 6 (commencing with Section 21150) or in this
37 article, the Department of Personnel Administration may
38 reinstate a person who has retired for industrial disability
39 pursuant to Section 21410, within 12 months after the
40 effective date of retirement, if it has identified an

1 available position with duties that the employee is able to
2 perform. Upon reinstatement, the person shall become
3 entitled to benefits under the partial disability retirement
4 program pursuant to Section 21160.

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

8 SEC. 19. Section 22754.2 of the Government Code, as
9 added by Chapter 91 of the Statutes of 1998, is repealed.

10 SEC. 20. Section 22825.01 of the Government Code is
11 amended to read:

12 22825.01. (a) As used in this section, the following
13 definitions shall apply:

14 (1) A “rural area” means an area in which there is no
15 board-approved health maintenance organization plan
16 available for enrollment by state employees or annuitants
17 who live in the area.

18 (2) “Coinsurance” means the provision of a medical
19 plan design in which the plan or insurer and state
20 employee or annuitant share the cost of hospital or
21 medical expenses at a specified ratio.

22 (3) A “deductible” means the annual amount of
23 out-of-pocket medical expenses that state employees or
24 annuitants must pay before the insurer or self-funded
25 plan begins paying for expenses.

26 (4) “Department” means the Department of
27 Personnel Administration.

28 (5) “Program” means the Rural Health Care Equity
29 Program.

30 (b) (1) The Rural Health Care Equity Program is
31 hereby established for the purpose of funding the
32 subsidization and reimbursement of premium costs,
33 deductibles, coinsurance, and other out-of-pocket health
34 care costs, which would otherwise be covered if the state
35 employee or annuitant was enrolled in a board-approved
36 health maintenance organization plan, paid by
37 employees and annuitants living in rural areas, as
38 authorized by this section. The program shall be
39 administered by the department or by a third-party
40 administrator approved by the department in a manner

1 consistent with all applicable state and federal laws. The
2 board shall determine the rural area for each subsequent
3 fiscal year at the same meeting when the board approves
4 premiums for health maintenance organizations.

5 (2) Separate accounts shall be maintained within the
6 program for (A) employees, as defined in subdivision (c)
7 of Section 3513; (B) excluded employees, as defined in
8 subdivision (b) of Section 3527; and (C) annuitants as
9 defined in subdivision (e) of Section 22754.

10 (c) Moneys in the Rural Health Care Equity Program
11 shall be allocated to the separate accounts as follows:

12 (1) As the employer's contribution with respect to
13 each employee, as defined in subdivision (c) of Section
14 3513, who lives in a rural area and who is otherwise
15 eligible, an amount to be determined through the
16 collective bargaining process.

17 (2) As the employer's contribution with respect to
18 each excluded employee, as defined in subdivision (b) of
19 Section 3527, who lives in a rural area and who is
20 otherwise eligible, an amount equal to, but not to exceed,
21 the amount given to eligible state employees, as defined
22 in subdivision (c) of Section 3513, who live in a rural area.

23 (3) As the employer's contribution with respect to
24 each annuitant, as defined in subdivision (e) of Section
25 22754, who lives in a rural area, is not a Medicare
26 participant, and who is otherwise eligible, an amount not
27 to exceed five hundred dollars (\$500) per year.

28 (4) As to the state's contribution with respect to each
29 state annuitant, as defined in subdivision (e) of Section
30 22754 who lives in a rural area, participates in a
31 board-approved, Medicare-coordinated health plan,
32 participates in a board-approved health plan, and is
33 otherwise eligible, an amount equal to the Medicare Part
34 B premiums incurred by the annuitant, not to exceed
35 seventy-five dollars (\$75) per month. The state shall not
36 reimburse for penalty amounts.

37 (5) As to an employee who enters state service or
38 leaves state service during a fiscal year, contributions for
39 the employee shall be made on a pro rata basis. A similar
40 computation shall be used for anyone entering or leaving

1 the bargaining unit, including a person who enters the
2 bargaining unit by promotion in mid-fiscal year.

3 (d) Each fund of the State Treasury, other than the
4 General Fund, shall reimburse the General Fund for any
5 sums allocated pursuant to subdivision (c) for employees
6 whose compensation is paid from that fund. That
7 reimbursement shall be accomplished using the following
8 methodology:

9 (1) On or before December 1 of each year, the
10 Department of Personnel Administration shall provide a
11 listing of active state employees who participated in the
12 Rural ~~Area Health Subsidy~~ *Health Care Equity* Program
13 in the immediately preceding fiscal year to each
14 employing department.

15 (2) On or before January 15 of each year, every
16 department that employed an active state employee
17 identified by the Department of Personnel
18 Administration as a participant in the Rural ~~Area Health~~
19 ~~Subsidy~~ *Health Care Equity* Program shall provide the
20 Department of Personnel Administration with a listing of
21 the funds used to pay each employee's salary, along with
22 the proportion of each active state employee's salary
23 attributable to each fund.

24 (3) Using the information provided by the employing
25 departments, the Department of Personnel
26 Administration shall compile a listing of Rural ~~Area~~
27 ~~Health Subsidy~~ *Health Care Equity* Program payments
28 attributable to each fund. On or before February 15 of
29 each year, the Department of Personnel Administration
30 shall transmit this list to the Department of Finance.

31 (4) The Department of Finance shall certify to the
32 Controller the amount to be transferred from the
33 unencumbered balance of each fund to the General
34 Fund.

35 (5) The Controller shall transfer to the General Fund
36 from the unencumbered fund balance of each impacted
37 fund the amount specified by the Department of
38 Finance.

39 (6) To ensure the equitable allocation of costs, the
40 Director of the Department of Personnel Administration

1 or the Director of Finance may require an audit of
2 departmental reports.

3 (e) For any sums allocated pursuant to subdivision (c)
4 for annuitants, funds, other than the General Fund, shall
5 be charged a fair share of the state's contribution in
6 accordance with the provisions of Article 2 (commencing
7 with Section 11270) of Chapter 3 of Part 1 of Division 3 of
8 Title 2. On or before July 31 of each year, the Department
9 of Personnel Administration shall provide the
10 Department of Finance with the total costs allocated
11 pursuant to subdivision (c) for annuitants in the
12 immediately preceding fiscal year. The reported costs
13 shall not include expenses that have been incurred but
14 not claimed as of July 31.

15 (f) Notwithstanding any other provision of law and
16 subject to the availability of funds, moneys within the
17 Rural Health Care Equity Program shall be disbursed for
18 the benefit of an employee who lives in a rural area and
19 who is otherwise eligible. The disbursements shall, where
20 there is no board-approved health maintenance
21 organization plan available in an area that is open for
22 enrollment for the employee, (1) subsidize the preferred
23 provider plan premiums for the employee, by an amount
24 equal to the difference between the weighted average of
25 board-approved health maintenance organization
26 premiums and the lowest board-approved preferred
27 provider plan premium available under this part and (2)
28 reimburse the employee for a portion or all of his or her
29 incurred deductibles, coinsurances, and other
30 out-of-pocket health-related expenses, ~~which~~ *that* would
31 otherwise be covered if the employee ~~—was~~ *were* enrolled
32 in a board-approved health maintenance organization
33 plan.

34 These subsidies and reimbursements shall be provided
35 according to a plan determined by the department,
36 which may include, but is not limited to, a supplemental
37 insurance plan, a medical reimbursement account, or a
38 medical spending account plan.

39 (g) Notwithstanding any other provision of law and
40 subject to the availability of funds, moneys within the

1 Rural Health Care Equity Program shall be disbursed for
2 the benefit of eligible annuitants, as defined in
3 subdivision (e) of Section 22754, who live in rural areas
4 and who are otherwise eligible. The disbursements shall,
5 where there is ~~not~~ *no* board-approved health
6 maintenance organization plan available and open to
7 enrollment by the annuitant, either (1) reimburse the
8 annuitant if he or she is not a Medicare participant, for
9 some or all of his or her deductibles, not to exceed five
10 hundred dollars (\$500) per fiscal year, or (2) reimburse
11 Medicare Part B premiums incurred by the annuitant,
12 not to exceed seventy-five dollars (\$75) per month,
13 exclusive of penalties. These reimbursements shall be
14 provided by the department.

15 The state shall not reimburse for penalty amounts.

16 (h) Any moneys remaining in any account of the
17 program at the end of any fiscal year shall remain in the
18 account for use in subsequent fiscal years until the
19 account is terminated. Moneys remaining in any account
20 of the program upon termination, after payment of all
21 outstanding expenses and claims incurred prior to the
22 date of termination, shall be deposited in the General
23 Fund.

24 (i) The Legislature finds and declares that the Rural
25 Health Care Equity Program is established for the
26 exclusive benefit of employees, annuitants, and family
27 members.

28 (j) This section shall cease to be operative on January
29 1, 2005, or on such earlier date as the board makes a formal
30 determination that HMOs are no longer the most
31 cost-effective health care plans offered by the board.

32 SEC. 21. Section 10295 of the Public Contract Code is
33 amended to read:

34 10295. (a) All contracts entered into by any state
35 agency for (1) the acquisition of goods or elementary
36 school textbooks, (2) services, whether or not the services
37 involve the furnishing or use of goods or are performed
38 by an independent contractor, (3) the construction,
39 alteration, improvement, repair, or maintenance of
40 property, real or personal, or (4) the performance of

1 work or services by the state agency for or in cooperation
2 with any person, or public body, are void unless and until
3 approved by the department. Every contract shall be
4 transmitted with all papers, estimates, and
5 recommendations concerning it to the department and,
6 if approved by the department, shall be effective from
7 the date of the approval.

8 (b) This section applies to any state agency that by
9 general or specific statute is expressly or impliedly
10 authorized to enter into transactions referred to in this
11 section.

12 (c) This section does not apply to the following:

13 (1) Any transaction entered into by the Trustees of the
14 California State University or by a department under the
15 State Contract Act or the California State University
16 Contract Law.

17 (2) Any contract of a type specifically mentioned and
18 authorized to be entered into by the Department of
19 Transportation under Section 14035 or 14035.5 of the
20 Government Code, Sections 99316 to 99319, inclusive, of
21 the Public Utilities Code, or the Streets and Highways
22 Code.

23 (3) Any contract entered into by the Department of
24 Transportation that is not funded by money derived by
25 state tax sources but, rather, is funded by money derived
26 from federal or local tax sources.

27 (4) Any contract entered into by the Department of
28 Personnel Administration for state employee benefits,
29 occupational health and safety, training services, or
30 combination thereof .

31 (5) Any contract let by the Legislature.

32 (6) Any contract entered into under the authority of
33 Chapter 4 (commencing with Section 11770) of Part 3 of
34 Division 2 of the Insurance Code.

35 SEC. 22. The Legislature hereby declares its intent
36 that Sections 19876.5, 21159, 21160, 21161, and 21195 of the
37 Government Code, as amended by this act, shall be given
38 retroactive effect to January 1, 2000.

1 SEC. 23. The sum of sixty-five million four hundred
2 fourteen thousand two hundred eighty-eight dollars
3 (\$65,414,288) is hereby appropriated as follows:

4 (a) Five million dollars (\$5,000,000) from the General
5 Fund to the Controller for allocation to the Work and
6 Family Fund, a continuously appropriated fund, for
7 expenditure by the Department of Personnel
8 Administration for the purposes of establishing and
9 maintaining work and family programs for state
10 employees. These programs may include, but are not
11 limited to, financial assistance to aid in the development
12 of child care centers administered by either nonprofit
13 corporations formed by state employees or child care
14 providers, or to provide grants, subsidies, or both grants
15 and subsidies for child care and elder care. Other
16 programs may include enhancement or supplementation
17 of existing employee assistance program services and
18 other work and family programs.

19 (b) Forty-seven million six hundred thousand dollars
20 (\$47,600,000) from unallocated special funds for
21 expenditure in the 1999–2000 fiscal year in augmentation
22 and for the purposes of state employee compensation as
23 provided in Item 9800-001-0494 of Section 2.00 of the
24 Budget Act of 1999 (Chapter 50, Statutes of 1999).

25 (c) Twelve million six hundred thirty-nine thousand
26 two hundred eighty-eight dollars (\$12,639,288) from the
27 General Fund to the Department of Personnel
28 Administration for the purpose of funding the Rural ~~Area~~
29 ~~Health—Subsidy~~ *Health Care Equity* Program, as
30 established by Section 22825.01 of the Government Code,
31 as added by Chapter 743 of the Statutes of 1999.

32 The funds appropriated pursuant to this subdivision
33 shall be used for the subsidization and reimbursement of
34 premium costs, deductibles, coinsurance, and other
35 out-of-pocket health care costs of ~~state employees active~~
36 *state employees and annuitants* living in rural areas. The
37 funds appropriated by this subdivision shall be available
38 for expenditure until January 1, 2005.

39 (d) The sum of one hundred seventy-five thousand
40 dollars (\$175,000) from the General Fund in

1 augmentation of Item 8380-001-0001 of Section 2.00 of the
2 Budget Act of 1999 (Chapter 50 of the Statutes of 1999).
3 The funds appropriated pursuant to this subdivision shall
4 be used to contract with a third-party administrator to
5 provide recordkeeping services for the Rural ~~Area Health~~
6 ~~Subsidy~~ *Health Care Equity* Program, as established by
7 Section 22825.01 of the Government Code, as added by
8 Chapter 743 of the Statutes of 1999.

9 SEC. 24. This act is an urgency statute necessary for
10 the immediate preservation of the public peace, health,
11 or safety within the meaning of Article IV of the
12 Constitution and shall go into immediate effect. The facts
13 constituting the necessity are:

14 In order that the provisions of this act relating to state
15 employees may become effective at the earliest possible
16 time, it is necessary that this act go into immediate effect.

