

AMENDED IN SENATE JUNE 8, 2000

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 incorporate additional changes in Section 10295 of the Public Contract Code proposed by AB 1441, to become operative if both this bill and AB 1441 are enacted and become effective on or before January 1, 2001, and this bill is enacted last.*

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

Vote: 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



1 of the proceedings before the inferior tribunal,
2 corporation, board, or officer may be filed with the
3 petition, may be filed with respondent's points and
4 authorities, or may be ordered to be filed by the court.
5 Except when otherwise prescribed by statute, the cost of
6 preparing the record shall be borne by the petitioner.
7 Where the petitioner has proceeded pursuant to Section
8 68511.3 of the Government Code and the Rules of Court
9 implementing that section and where the transcript is
10 necessary to a proper review of the administrative
11 proceedings, the cost of preparing the transcript shall be
12 borne by the respondent. Where the party seeking the
13 writ has proceeded pursuant to Section 1088.5, the
14 administrative record shall be filed as expeditiously as
15 possible, and may be filed with the petition, or by the
16 respondent after payment of the costs by the petitioner,
17 where required, or as otherwise directed by the court. If
18 the expense of preparing all or any part of the record has
19 been borne by the prevailing party, the expense shall be
20 taxable as costs.

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

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

38 (d) Notwithstanding subdivision (c), in cases arising
39 from private hospital boards or boards of directors of
40 districts organized pursuant to The Local Hospital



1 District Law, Division 23 (commencing with Section
2 32000) of the Health and Safety Code or governing bodies
3 of municipal hospitals formed pursuant to Article 7
4 (commencing with Section 37600) or Article 8
5 (commencing with Section 37650) of Chapter 5 of
6 Division 3 of Title 4 of the Government Code, abuse of
7 discretion is established if the court determines that the
8 findings are not supported by substantial evidence in the
9 light of the whole record. However, in all cases in which
10 the petition alleges discriminatory actions prohibited by
11 Section 1316 of the Health and Safety Code, and the
12 plaintiff makes a preliminary showing of substantial
13 evidence in support of that allegation, the court shall
14 exercise its independent judgment on the evidence and
15 abuse of discretion shall be established if the court
16 determines that the findings are not supported by the
17 weight of the evidence.

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

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

37 (g) Except as provided in subdivision (h), the court in
38 which proceedings under this section are instituted may
39 stay the operation of the administrative order or decision
40 pending the judgment of the court, or until the filing of



1 a notice of appeal from the judgment or until the
2 expiration of the time for filing the notice, whichever
3 occurs first. However, no such stay shall be imposed or
4 continued if the court is satisfied that it is against the
5 public interest. The application for the stay shall be
6 accompanied by proof of service of a copy of the
7 application on the respondent. Service shall be made in
8 the manner provided by Title 5 (commencing with
9 Section 405) of Part 2 or Chapter 5 (commencing with
10 Section 1010) of Title 14 of Part 2. If an appeal is taken
11 from a denial of the writ, the order or decision of the
12 agency shall not be stayed except upon the order of the
13 court to which the appeal is taken. However, in cases
14 where a stay is in effect at the time of filing the notice of
15 appeal, the stay shall be continued by operation of law for
16 a period of 20 days from the filing of the notice. If an
17 appeal is taken from the granting of the writ, the order
18 or decision of the agency is stayed pending the
19 determination of the appeal unless the court to which the
20 appeal is taken shall otherwise order. Where any final
21 administrative order or decision is the subject of
22 proceedings under this section, if the petition shall have
23 been filed while the penalty imposed is in full force and
24 effect, the determination shall not be considered to have
25 become moot in cases where the penalty imposed by the
26 administrative agency has been completed or complied
27 with during the pendency of the proceedings.

28 (h) (1) The court in which proceedings under this
29 section are instituted may stay the operation of the
30 administrative order or decision of any licensed hospital
31 or any state agency made after a hearing required by
32 statute to be conducted under the Administrative
33 Procedure Act, as set forth in Chapter 5 (commencing
34 with Section 11500) of Part 1 of Division 3 of Title 2 of the
35 Government Code, conducted by the agency itself or an
36 administrative law judge on the staff of the Office of
37 Administrative Hearings pending the judgment of the
38 court, or until the filing of a notice of appeal from the
39 judgment or until the expiration of the time for filing the
40 notice, whichever occurs first. However, the stay shall not



1 be imposed or continued unless the court is satisfied that
2 the public interest will not suffer and that the licensed
3 hospital or agency is unlikely to prevail ultimately on the
4 merits. The application for the stay shall be accompanied
5 by proof of service of a copy of the application on the
6 respondent. Service shall be made in the manner
7 provided by Title 5 (commencing with Section 405) of
8 Part 2 or Chapter 5 (commencing with Section 1010) of
9 Title 14 of Part 2.

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

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



1 been completed or complied with during the pendency
2 of the proceedings.

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

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

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

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

21 22508.6. (a) Any person who is a member of the
22 Defined Benefit Program and who subsequently became
23 employed and continues to be employed by the state to
24 perform service that requires membership in the Public
25 Employees' Retirement System and who meets the
26 requirements of subdivision (b) may elect to have that
27 state service subject to coverage by the Defined Benefit
28 Program and excluded from coverage by the Public
29 Employees' Retirement System.

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

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



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

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

8 (B) Excluded from the definition of "state employee"
9 in subdivision (c) of Section ~~3515~~ 3513 of the Government
10 Code, but performing, supervising, or managing work
11 similar to work performed by employees described in
12 subparagraph (A).

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

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

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

30 SEC. 3. Section 22717.5 is added to the Education
31 Code, to read:

32 22717.5. (a) A member shall be credited at service
33 retirement for each day of accumulated and unused leave
34 of absence for education for which full salary is allowed
35 on the member's final day of employment with the state.

36 (b) The amount of service credit to be granted shall be
37 0.004 years of service for each unused day of educational
38 leave credit.

39 (c) When the member has made application for
40 service retirement under this part, the employer shall



1 certify to the board, within 30 days following the effective
2 date of the member’s service retirement, the number of
3 days of accumulated and unused leave of absence for
4 education that the member was entitled to on the final
5 day of employment. The board may assess a penalty on
6 delinquent reports.

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

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

17 SEC. 4. Section 22801.5 is added to the Education
18 Code, to read:

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

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

39 (c) If the member is employed to perform creditable
40 service at the time of the election, the contributions shall



1 be based upon the compensation earnable in the current
2 school year or either of the two immediately preceding
3 school years, whichever is highest.

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

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

18 SEC. 5. Section 18670 of the Government Code is
19 amended to read:

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

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

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



1 (c) This subdivision shall apply only to state employees
2 in State Bargaining Unit 8. For the purposes of subdivision
3 (a), any discipline, as defined by the memorandum of
4 understanding or Section 19576.5, is not subject to either
5 a board investigation or hearing.

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

17 SEC. 6. Section 19175 of the Government Code is
18 amended to read:

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

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

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



1 and bad faith and that the statement of reasons therefor
2 in the notice of rejection is true.

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

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

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

22 SEC. 7. Section 19576.6 is added to the Government
23 Code, to read:

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

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

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



1 Personnel Administration and the exclusive
2 representative.

3 (c) Notwithstanding any other law or rule, if the
4 provisions of this section are in conflict with the
5 provisions of the memorandum of understanding
6 reached pursuant to Section 3517.5, the memorandum of
7 understanding shall be controlling without further
8 legislative action, except that if the provisions of the
9 memorandum of understanding require the expenditure
10 of funds, the provisions shall not become effective unless
11 approved by the Legislature in the annual Budget Act.

12 SEC. 8. Section 19582 of the Government Code is
13 amended to read:

14 19582. (a) Hearings may be held by the board, or by
15 any authorized representative, but the board shall render
16 the decision that in its judgment is just and proper.

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

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

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



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

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

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

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

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

39 SEC. 9. Section 19816.20 of the Government Code is
40 amended to read:

1 19816.20. Notwithstanding Section 18717, this section
 2 shall apply to state employees in state bargaining units
 3 that have agreed to these provisions in a memorandum
 4 of understanding between the state employer and the
 5 recognized employee organization, as defined in Section
 6 3513, state employees who are excluded from the
 7 definition of “state employee” in paragraph (c) of Section
 8 3513, and officers or employees of the executive branch
 9 of state government who are not members of the civil
 10 service.

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

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

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

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

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

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

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

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

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

39 (2) The conditions of employment require that the
 40 member be capable of responding to emergency



1 situations and provide a level of service to the public such
2 that the safety of the public and of property is not
3 jeopardized.

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

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

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

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

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

39 20309.5. (a) Any person who is a member of the
40 Defined Benefit Program of the State Teachers’



1 Retirement Plan and who subsequently became
2 employed, on or after July 1, 1991, and who continues to
3 be employed by the state to perform service that requires
4 membership in the Public Employees' Retirement
5 System under Section 21071 and who meets the
6 requirements of subdivision (b) of Section 22508.6 of the
7 Education Code may elect to have his or her state service
8 subject to coverage by the Defined Benefit Program of
9 the State Teachers' Retirement Plan and excluded from
10 coverage by the Public Employees' 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 apply to those officers and
16 employees of the State Department of Mental Health
17 described in Section 20407 who are represented by State
18 Bargaining Unit 18 and who became safety members
19 effective January 1, 1998, when the Napa State Hospital
20 and the Metropolitan State Hospital were designated as
21 forensic facilities.

22 (c) This section shall also apply to any member who is
23 excluded from the definition of state employee in
24 subdivision (c) of Section 3513 and who is directly
25 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 Health Care Equity Program in the immediately
13 preceding fiscal year to each employing department.

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

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

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

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

38 (6) To ensure the equitable allocation of costs, the
39 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, that would
31 otherwise be covered if the employee were enrolled in a
32 board-approved health maintenance organization plan.

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

38 (g) Notwithstanding any other provision of law and
39 subject to the availability of funds, moneys within the
40 Rural Health Care Equity Program shall be disbursed for



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

14 The state shall not reimburse for penalty amounts.

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

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

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

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

33 10295. (a) All contracts entered into by any state
34 agency for (1) the acquisition of goods or elementary
35 school textbooks, (2) services, whether or not the services
36 involve the furnishing or use of goods or are performed
37 by an independent contractor, (3) the construction,
38 alteration, improvement, repair, or maintenance of
39 property, real or personal, or (4) the performance of
40 work or services by the state agency for or in cooperation



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

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

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

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

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

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

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

30 (5) Any contract let by the Legislature.

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

34 *SEC. 21.5. Section 10295 of the Public Contract Code*
35 *is amended to read:*

36 10295. (a) All contracts entered into by any state
37 agency for ~~(a) (1) the hiring or purchase of equipment,~~
38 ~~supplies, materials, acquisition of goods~~ or elementary
39 school textbooks, ~~(b) (2) services,~~ whether or not the
40 services involve the furnishing or use of ~~equipment,~~



1 ~~materials or supplies~~ *goods* or are performed by an
2 independent contractor, ~~(e)~~ (3) the construction,
3 alteration, improvement, repair, or maintenance of
4 property, real or personal, or ~~(d)~~ (4) the performance of
5 work or services by the state agency for or in cooperation
6 with any person, or public body, are void unless and until
7 approved by the department. Every ~~such~~ contract shall
8 be transmitted with all papers, estimates, and
9 recommendations concerning it to the department and,
10 if approved by the department, shall be effective from
11 the date of the approval. ~~This~~

12 (b) *This* section applies to any state agency that by
13 general or specific statute is expressly or impliedly
14 authorized to enter into transactions referred to in this
15 section. ~~This~~

16 (c) *This* section does not apply to ~~any~~ *the following*:

17 (1) Any transaction entered into by the Trustees of the
18 California State University, *by the Board of Governors of*
19 *the California Community Colleges*, or by a department
20 under the State Contract Act or the California State
21 University Contract Law, ~~any~~.

22 (2) Any contract of a type specifically mentioned and
23 authorized to be entered into by the Department of
24 Transportation under Section 14035 or 14035.5 of the
25 Government Code, Sections 99316 to 99319, inclusive, of
26 the Public Utilities Code, or the Streets and Highways
27 Code, ~~any~~.

28 (3) Any contract entered into by the Department of
29 Transportation that is not funded by money derived by
30 state tax sources but, rather, is funded by money derived
31 from federal or local tax sources, ~~any~~.

32 (4) Any contract entered into by the Department of
33 Personnel Administration for state ~~employees in state~~
34 ~~bargaining units that have agreed to this section in a~~
35 ~~memorandum of understanding for~~ employee benefits,
36 occupational health and safety, training services, or
37 combination thereof ~~any~~.

38 (5) Any contract let by the Legislature, ~~or any~~.



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

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

8 SEC. 23. The sum of sixty-five million four hundred
9 fourteen thousand two hundred eighty-eight dollars
10 (\$65,414,288) is hereby appropriated as follows:

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

26 (b) Forty-seven million six hundred thousand dollars
27 (\$47,600,000) from unallocated special funds for
28 expenditure in the 1999–2000 fiscal year in augmentation
29 and for the purposes of state employee compensation as
30 provided in Item 9800-001-0494 of Section 2.00 of the
31 Budget Act of 1999 (Chapter 50, Statutes of 1999).

32 (c) Twelve million six hundred thirty-nine thousand
33 two hundred eighty-eight dollars (\$12,639,288) from the
34 General Fund to the Department of Personnel
35 Administration for the purpose of funding the Rural
36 Health Care Equity Program, as established by Section
37 22825.01 of the Government Code, as added by Chapter
38 743 of the Statutes of 1999.

39 The funds appropriated pursuant to this subdivision
40 shall be used for the subsidization and reimbursement of



1 premium costs, deductibles, coinsurance, and other
2 out-of-pocket health care costs of active state employees
3 and annuitants living in rural areas. The funds
4 appropriated by this subdivision shall be available for
5 expenditure until January 1, 2005.

6 (d) The sum of one hundred seventy-five thousand
7 dollars (\$175,000) from the General Fund in
8 augmentation of Item 8380-001-0001 of Section 2.00 of the
9 Budget Act of 1999 (Chapter 50 of the Statutes of 1999).
10 The funds appropriated pursuant to this subdivision shall
11 be used to contract with a third-party administrator to
12 provide recordkeeping services for the Rural Health Care
13 Equity Program, as established by Section 22825.01 of the
14 Government Code, as added by Chapter 743 of the
15 Statutes of 1999.

16 *SEC. 24. Section 21.5 of this bill incorporates*
17 *amendments to Section 10295 of the Public Contract*
18 *Code proposed by both this bill and AB 1441. It shall only*
19 *become operative if (1) both bills are enacted and*
20 *become effective on or before January 1, 2001, but this bill*
21 *becomes operative first, (2) each bill amends Section*
22 *10295 of the Public Contract Code, and (3) this bill is*
23 *enacted after AB 1441, in which case Section 10295 of the*
24 *Public Contract Code, as amended by Section 21 of this*
25 *bill, shall remain operative only until the operative date*
26 *of AB 1441, at which time Section 21.5 of this bill shall*
27 *become operative.*

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

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

