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## APPENDIX

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**COUNTY, CITY, AND CITY AND COUNTY CHARTERS  
AND CHARTER AMENDMENTS**

**as transmitted by the Secretary of State for inclusion in the official statutes in  
accordance with Section 3, Article XI, of the California Constitution as amended  
by vote of electors on November 5, 1974.**

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**CHARTER AMENDMENTS—1981**

Charter Chapter Number	City—County	Date of Election	Date of Filing
1	City of Anaheim	Nov. 4, 1980	Jan. 9, 1981
2	City of Redondo Beach	Nov. 4, 1980	Jan. 16, 1981
3	City of Los Alamitos	Nov. 4, 1980	Jan. 22, 1981
4	County of San Mateo	Nov. 4, 1980	Jan. 22, 1981
5	City of Alameda	Nov. 4, 1980	Jan. 23, 1981
6	City of Merced	Nov. 4, 1980	March 6, 1981
7	City of San Luis Obispo	March 3, 1981	May 4, 1981
8	City of Fresno	March 3, 1981	April 30, 1981
9	City of Bakersfield	March 3, 1981	April 27, 1981
10	City of Los Angeles	April 14, 1981	May 21, 1981
11	City of Inglewood	April 7, 1981	May 26, 1981
12	City of San Bernardino	May 5, 1981	May 18, 1981
13	City of Grass Valley	May 5, 1981	May 28, 1981
14	City of Richmond	May 12, 1981	June 3, 1981
15	City of Santa Monica	April 14, 1981	June 1, 1981
16	City of Oakland	Nov. 4, 1980	June 25, 1981
17	City of Chico	April 7, 1981	June 8, 1981
18	City of Albany	April 21, 1981	June 26, 1981
19	County of Los Angeles	Nov. 4, 1980	June 8, 1981
20	City of Salinas	June 2, 1981	July 9, 1981
21	City of Loma Linda	June 2, 1981	July 9, 1981
22	City of Anaheim	June 2, 1981	July 20, 1981
23	City of Los Angeles	June 2, 1981	June 17, 1981
24	City of Riverside	Nov. 3, 1981	Nov. 17, 1981
25	City of Santa Clara	Nov. 3, 1981	Nov. 20, 1981
26	City of Santa Cruz	Nov. 3, 1981	Nov. 27, 1981
27	City of Richmond	Nov. 3, 1981	Nov. 30, 1981
28	City of Monterey	Nov. 3, 1981	Dec. 4, 1981
29	County of San Diego	Nov. 3, 1981	Dec. 11, 1981
30	City of Stockton	Nov. 3, 1981	Dec. 4, 1981
31	City and County of San Francisco	Nov. 3, 1981	Dec. 24, 1981
32	County of San Bernardino	Nov. 3, 1981	Dec. 28, 1981

## Charter Chapter 1—City of Anaheim

*Amendments to the Charter of the City of Anaheim*

[Filed with the Secretary of State January 9, 1981.]

Article V Section 500 is amended to read as follows:

Section 500, CITY COUNCIL. TERMS.

The elective officers of the City shall consist of a City Council of five members elected from the City at large at the times and in the manner provided in this Charter who shall serve for a term of four years and until their respective successors qualify.

The five members of the City Council in office at the time this Charter provision takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Three members of the City Council shall be elected at the general municipal election held in June, 1982, and each fourth year thereafter. Two members of the City Council shall be elected at the general election held in June, 1984, and each fourth year thereafter.

The term of each member of the City Council, including the Mayor, shall commence on the first Tuesday following his or her election. Ties in voting among candidates for office, including the office of Mayor, shall be settled by the casting of lots.

Article XIII Section 1300 is amended to read as follows:

Section 1300. GENERAL MUNICIPAL ELECTIONS

General municipal elections for the election of officers, except members of the Board of Education, and for such other purposes as the City Council may prescribe shall be held in the City on the first Tuesday after the first Monday in June in each even-numbered year. However, in the event the state legislature hereafter prescribes a different day for the holding of the statewide primary election, general municipal elections shall be held upon such day in each even-numbered year as prescribed for the statewide primary election. The first such general municipal election shall be held on the first Tuesday after the first Monday in June, 1982.

Certified to be a true copy by John Seymour, Mayor, and Linda D. Roberts, City Clerk.

Date of Special Municipal Election: November 4, 1980.

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 Charter Chapter 2—City of Redondo Beach
*Amendment to the Charter of the City of Redondo Beach*

[Filed with the Secretary of State January 16, 1981.]

Section 18.4 is added to Article XVIII, Elections, to read as follows:

ARTICLE XVIII, Elections

Section 18.4.

A majority (more than half) of the votes cast for all candidates for each

City elective office is required for the election of a candidate for such office. If a candidate is not elected to each of the City offices appearing on the general municipal ballot, a runoff election shall be held at a time which shall not be more than seventy (70) days after the general municipal election. Each City office for which a candidate was not elected at the general municipal election shall appear on the runoff election ballot and only the names of those candidates for each such office who receive the two (2) highest vote counts for that office shall appear on the runoff election ballot.

This section shall not apply to the election of members of the Board of Education. Members of the Board of Education shall continue to be elected by a plurality of the votes cast as provided for in this Chapter.

Certified to be a true copy by David K. Hayward, Mayor, and Fred M. Arnold, City Clerk.

Date of Special Municipal Election: November 4, 1980.

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### Charter Chapter 3—City of Los Alamitos

#### *Amendments to the Charter of the City of Los Alamitos*

[Filed with the Secretary of State January 22, 1981.]

Article V Section 501 is amended to read as follows:

**SECTION 501. ELIGIBILITY:** To be eligible to hold the office of councilmember the person must meet the requirements as set forth in the state law of the State of California, and, if the Council is divided into districts as hereinafter provided, he/she shall also be a resident and elector of the district within the City of Los Alamitos wherein he/she lives for a period of thirty (30) days prior to the date his/her nomination papers are filed.

Article VI, Section 602 is amended to read as follows:

**SECTION 602. ELECTION OF MAYOR:** The Council shall elect one of its members to act as Mayor. Said election shall be by roll call vote.

Article VI, Section 604 is amended to read as follows:

**SECTION 604. ELECTION OF MAYOR PRO TEMPORE:** The Council shall elect one of its members to act as Mayor Pro Tempore. Said election shall be by roll call vote.

Article VI, Section 609 is amended to read as follows:

**SECTION 609. PROCEEDINGS AND QUORUM:** A majority of the then members of the Council shall constitute a quorum for the transaction of business at any meeting, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as the Council may by ordinance prescribe. In the event all members of the Council are absent from any meeting, the City Clerk may declare the same adjourned to a stated day and hour in

the manner provided by law. The Council shall judge all returns of City elections. It shall establish rules for the conduct of its proceedings and may evict any member or any other person for disorderly conduct at any meeting and may prosecute any member or other person for such conduct.

Each member of the Council and the City Clerk shall have the power to administer oaths and affirmations in any investigation or proceedings pending before the Council. The Council shall have the power to issue subpoenas, to compel by subpoena the attendance of witnesses and the production of documents and other evidence, to examine witnesses under oath and to take and hear evidence, in relation to any matter pending before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of any subpoena or the refusal to testify upon other than legal grounds shall constitute a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable.

No action for the payment of money shall be taken at other than a regular or adjourned regular meeting.

The City Clerk shall call the roll and cause the ayes and noes to be entered in the minutes upon demand of any member or in the case of any action for the adoption of an ordinance, the payment of any money, the incurring of any debts, the appointment or removal of any officer, the granting of any franchise, the disposing of or leasing of City property, and the ordering or confirmation of any assessment for public improvements.

Article VII, Section 701 is amended to read as follows:

**SECTION 701. RESIDENCE:** The City Manager shall establish such residence as the City Council may require pursuant to ordinance or resolution.

Article VI, Section 614 is repealed.

Article VIII, Section 801 is amended to read as follows:

**SECTION 801. ADMINISTRATIVE DEPARTMENTS:** The City Council may provide by ordinance not inconsistent with this Charter, for the organization, conduct and operation of the several offices and departments of the City as established by this Charter, and for the creation of additional departments, divisions, offices, and agencies and for their consolidation, alteration or abolition. Each new department created by the City Council shall be headed by a department head.

The City Council, by ordinance or resolution, may assign additional functions or duties to officers, departments or agencies not inconsistent with this Charter. Where the positions are not incompatible, the City Council may combine in one person the powers and duties of two or more offices created or authorized by this Charter. The City Council shall provide for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

Article VIII, Section 804 is amended to read as follows:

**SECTION 804. CITY ATTORNEY, POWERS AND DUTIES.** To become eligible for City Attorney, or Assistant City Attorney, the person appointed shall be an attorney at law, duly licensed as such under the laws of the State of California and shall have engaged in the practice of local



government law for at least three years prior to his appointment. The City Attorney shall have power and be required to perform the duties and responsibilities and the City Council may from time to time determine by ordinance or resolution.

Article XII, Section 1206 is amended to read as follows:

Amend Article XII, Section 1206 to read as follows:

**SECTION 1206. CONTRACTS ON PUBLIC WORKS:** Every project involving an expenditure of more than Ten Thousand Dollars (\$10,000.00) for the construction or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds shall be let by the City Council by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten (10) days before the time for opening bids. Projects for the construction, resurfacing, maintenance or repair of streets, drains or sewers are excepted from the requirements of this paragraph, and the bidding requirements of the State of California, if such work is performed by a City or County of Orange Department.

All bids must be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified, then in an amount less than ten percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract within the time specified in the notice inviting bids or in the specifications referred to herein, the amount of the bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The City Council may reject any and all bids presented and may advertise at its discretion.

The City Council, after rejecting bids, or if no bids are received, may declare and determine that in its opinion, based on estimates approved by the City Manager, the work in question may be purchased more economically on the open market, and after the adoption of a resolution to this effect by a majority vote of the Council, the Council may proceed to have said work done in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids, if such work shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by an absolute majority of the Council and containing a declaration of the facts constituting such urgency.

The Charter of the City of Los Alamitos is amended to substitute both masculine and feminine gender references in each and every instance where the masculine gender is used, and where the term "Councilman" or "Councilmember" is used the term "Councilmember" will be used.

Article V, Section 502 is amended to read as follows:

**SECTION 502. VACANCIES:** A vacancy in the City Council from whatever cause arising shall be filled either by appointment of the City Council or by election.

The City Council shall determine whether to fill a vacancy by election or by appointment; provided, however, if the City Council determines to fill a vacancy by appointment but fails to do so within 60 days after the vacancy occurs, the Council shall forthwith cause an election to be held to fill the vacancy.

A person elected to fill a vacancy shall hold office for the entire unexpired term of the former incumbent.

A person appointed to fill a vacancy shall serve for the entire unexpired term of the former incumbent unless there remain two years or more of said unexpired term on the date of appointment. In such case, the City Council shall decide by majority vote prior to such appointment whether the appointment shall be for the entire unexpired term or only until the next general municipal election. If the seat is filled by appointment only until the next general municipal election, then at said election the seat shall be filled by vote of the people.

If at said next general municipal election there are four or more Council seats to be filled, the three persons each receiving the largest number of votes shall each serve a term of four years while the person(s) elected to fill the remaining seat(s) shall serve for a term of two years.

If a member of the City Council is absent from all regular meetings of the City Council for a period of sixty days consecutively from and after the last regular City Council meeting attended by such members, unless by permission of the City Council expressed in its official minutes or as provided in Section 1404, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of his/her district, his/her office shall become vacant and shall be so declared by the City Council.

Certified to be a true copy by Kenneth Zommick, Mayor and Michael A. Graziano, City Clerk.

Date of General Election: November 4, 1980.

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#### Charter Chapter 4—County of San Mateo

### *Amendments to the Charter of the County of San Mateo*

[Filed with the Secretary of State January 22, 1981.]

Section 506 of Article V is amended to read as follows:

**506. Disciplinary Action.** Employees in the classified and unclassified service may be suspended without pay, demoted or dismissed. No permanent employee in the classified service may be suspended, demoted or dismissed except for reasonable cause.

Section 202 of Article II is amended to read as follows:

202. Election. Supervisors are elected by district. The five supervisorial districts shall be apportioned by ordinance pursuant to general law.

Candidates for the office of Supervisor shall be electors in the district which they seek to represent. If a Supervisor ceases to reside in that district, the seat becomes vacant.

Except as otherwise provided in this Charter, Supervisors shall be nominated and elected pursuant to general law for a term of four years. Supervisors shall not be eligible for election to nor serve more than three consecutive terms in office, provided that service prior to January 1981 shall not be counted toward such three-term restriction.

Certified to be a true copy by James V. Fitzgerald, Chairman of the Board of Supervisors, and Minerva L. Takis, Clerk of the Board of Supervisors.

Date of General Election: November 4, 1980.

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Charter Chapter 5—City of Alameda

*Amendments to the Charter of the City of Alameda*

[Filed with the Secretary of State January 23, 1981 ]

Section 4-1 is amended to read:

Sec. 4-1. The Auditor shall have, at the time of his/her election, a degree in accounting or business administration and five years accounting experience.

Section 4-2 is amended to read:

Sec. 4-2. The Auditor shall provide for periodic audits of the City's financial operations, books and records to assure that the City's financial transactions, accounts and records are maintained in accordance with the requirements of the City Charter, state and federal laws and generally accepted accounting principles and practices. The Auditor shall be responsible for the acts thereof on an official bond.

Section 5-1 is amended to read:

Sec. 5-1. The Treasurer shall have had, at the time of his/her election, five years experience in administering investment programs.

Section 5-2 is amended to read:

Sec. 5-2. The Treasurer shall have custody of all moneys belonging to the City. The Treasurer shall be responsible for the acts thereof on an official bond.

Sections 4-3, 4-4, 4-5, 4-6, 4-7 and 5-3 are repealed.

Section 17-14 is added to read:

Sec. 17-14. No contract required to be in writing and imposing any financial obligation upon the city shall be binding or of any force unless there remains an unexpended and unapplied balance of the appropriation or fund applicable thereto sufficient to pay and fully discharge the City's

obligation under such contract as certified by the Board or Officer making the same. Said unexpended and unapplied balance shall be used for no other purpose except the payment and discharge of the respective contracts.

Section 17-15 is added to read:

17-15. No demand shall be approved unless it is made upon appropriations authorized therefor and there are sufficient moneys otherwise unappropriated in the fund against which the payment of the demand is made.

Section 17-16 is added to read:

17-16. All moneys received shall be posted to the fund for which their appropriation has been authorized.

Section 17-17 is added to read:

17-17. No additional financial burdens may be imposed on the taxpayers of the City as a result of binding fact finding, arbitration or parity without approval of the voters as set forth in this Section. Any other provision of this Charter notwithstanding, no wages, benefits or employee related expenses shall be paid by the City that have not been approved by a resolution of the City Council until additional revenues and appropriations therefor have been approved by a vote of the people pursuant to Proposition 13 (Cal. Const. Art. XIII A, Sec. 4) and Proposition 4 (Cal. Const. Art. XIII B, Sec. 4). The City Council shall not be required to call such an election more than once a year and may consolidate said elections with elections held for other purposes.

Article XXVII, consisting of Sections 27-1 through 27-4, is added to read:

#### ARTICLE XXVII

##### Compulsory Arbitration for Fire Department Employee Disputes

Sec. 27-1. Declaration of Policy. It is hereby declared to be the policy of the City of Alameda that strikes by fire fighters are not in the public interest and should be prohibited, and that a method should be adopted for peacefully and equitable resolving disputes that might otherwise lead to such strikes.

Sec. 27-2. Prohibition Against Strikes. If any fire fighter employed by the City of Alameda willfully engages in a strike against the City, said employee shall be dismissed from his or her employment and may not be reinstated or returned to City employment except as a new employee. No officer, board, council or commission shall have the power to grant amnesty to any employee charged with engaging in a strike against the City.

Sec. 27-3. Obligation to Negotiate in Good Faith. The City, through its duly authorized representatives, shall negotiate in good faith with the recognized fire department employee organization on all matters relating to the wages, hours, and other terms and conditions of City employment, including the establishment of procedures for the resolution through binding arbitration of grievances over the interpretation or application of any negotiated agreement. Unless and until agreement is reached through negotiations between the City and the recognized employee organization for the fire department or a determination is made through the arbitration procedure hereinafter provided, no existing benefit or condition of em-

ployment for the members of the fire department bargaining unit shall be eliminated or changed.

Sec. 27-4. Impasse Resolution Procedures. All disputes or controversies pertaining to wages, hours, or terms and conditions of employment which remain unresolved after good faith negotiations between the City and the fire department employee organization shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the City or by the recognized fire department employee organization.

Representatives designated by the City and representatives of the recognized fire department employee organization shall each select one arbitrator to the Board of Arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the Arbitration Board shall be selected by agreement between the two arbitrators selected by the City and the employee organization, and shall serve as the neutral arbitrator and Chairman of the Board. In the event that the arbitrators selected by the City and the employee organization cannot agree upon the selection of the third arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, then either party may request the State of California Conciliation Service to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the arbitrators selected by the City and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) to act as the third arbitrator, they shall alternately strike names from the list of nominees until only one name remains and that person shall then become the third arbitrator and chairman of the Arbitration Board.

Any arbitration convened pursuant to this article shall be conducted in conformance with, subject, and governed by Title 9 of Part 3 of the California Code of Civil Procedure.

At the conclusion of the arbitration hearings, the Arbitration Board shall direct each of the parties to submit, within such time limit as the Board may establish, a last offer of settlement on each of the issues in dispute. The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms with those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment, including, but not limited to, changes in the average consumer price index for goods and services, the wages, hours, and other terms and conditions of employment of other employees performing similar services, and the financial condition of the City and its ability to meet the cost of the award.

After reaching a decision, the Arbitration Board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Arbitration Board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten day period the parties may meet privately, attempt to resolve their differences, and by mutual agreement amend or modify any of the decisions of the Arbitration Board. At the conclusion of the ten day period, which may be extended by mutual agreement between the parties, the decision of the

Arbitration Board together with any amendments or modifications agreed to by the parties shall be publicly disclosed and shall be binding upon the parties. The City and the recognized employee organization shall take whatever action is necessary to carry out and effectuate the award.

The expenses of any arbitration convened pursuant to this article, including the fee for the services of the Chairman of the Arbitration Board, shall be borne equally by the parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.

Certified to be true copy by C. J. Corica, Mayor, and Deen Speegle, City Clerk.

Date of General Election: November 4, 1980.

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Charter Chapter 6—City of Merced

*Amendment to the Charter of the City of Merced*

[Filed with the Secretary of State March 6, 1981.]

Section 1000 is amended to read as follows:

General Municipal Elections. General municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in said city in each odd numbered year commencing with the year 1981 on the date established under General Law for the election of governing board members of elementary school districts.

Certified to be a true copy by Robert L. Hart, Mayor, and Allan R. Schell, City Clerk.

Date of Consolidated General Election: November 4, 1980.

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Charter Chapter 7—City of San Luis Obispo

*Amendments to the Charter of the City of San Luis Obispo*

[Filed with the Secretary of State May 4, 1981 ]

Article III is amended to read as follows:

ARTICLE III. MUNICIPAL ELECTIONS

SECTION 302. General Municipal Elections.

General municipal elections to fill elective offices shall be held in the City on the first Tuesday after the first Monday in November in each odd numbered year.

SECTION 404. Terms of Office.

(A) The term of the Mayor shall be two years, and the terms of the

Council members shall be four years.

(B) Terms shall commence on the first day of December at twelve o'clock noon following the election and each shall serve until a successor is elected or appointed and qualified. Ties in voting shall be settled by the casting of lots.

(C) Any other provisions in this Charter to the contrary notwithstanding:

1. The terms of office of the Mayor elected at the March 3, 1981, general municipal election and the Council members elected at the March 6, 1979 general municipal election shall be extended from two years and four years respectively, until a successor is elected or appointed and qualified following the November 8, 1983 general municipal election;

2. The terms of office of the Council members elected at the March 3, 1981 general municipal election shall be extended from four years until a successor is elected or appointed and qualified following the November 5, 1985, general municipal election;

3. The approximate eight month periods of term extension set forth in subsections 1 and 2 shall not be counted in determining the disability to serve set forth in Section 405 of this Charter.

Article VI is amended to read as follows:

#### ARTICLE VI. LEGISLATIVE ACTIONS

##### SECTION 602. Requirements of Ordinances.

(A) With the sole exception of ordinances which take effect upon adoption referred to in this article, no ordinance shall be passed by the Council on the day of its introduction nor within five (5) days thereafter, nor until its publication at least once in full in a newspaper of the City of San Luis Obispo at least three (3) days before its adoption; and in case of amendment being made thereto before the final adoption of the ordinance, the amended portion or portions of said ordinance must in like manner be republished at least one day before its adoption as amended, provided that no less than a full section shall be published. The correction of typographical or clerical errors shall not constitute an amendment within the meaning of the foregoing sentence.

(B) The publication of ordinances as required by subdivision (A) may be satisfied by the publication of a summary of the proposed ordinance in lieu of publication of the full text as required in subdivision (A). At the time the proposed ordinance is introduced, the Council shall determine whether the full text of the ordinance shall be published or whether a summary shall be published; if the Council fails to so determine, the full text shall be published. If the Council determines that a summary shall be published, the summary shall be approved by the City Attorney. A copy of the full text of the proposed ordinance shall be on file in the office of the City Clerk on and after the first business day following its introduction, and shall be available to any interested member of the public.

Certified to be a true copy by Melanie C. Billig, Mayor, and Pamela Voges, Acting City Clerk.

Date of General Municipal Election: March 3, 1981.

## Charter Chapter 8—City of Fresno

*Amendments to the Charter of the City of Fresno*

[Filed with the Secretary of State April 30, 1981.]

Section 1223 is added to the Charter to read as follows:

**SECTION 1223. REVENUE BONDS.** Notwithstanding anything contained in the preceding Sections 1218 to 1222, the Council may issue revenue bonds for any lawful purpose, in such manner and upon such terms and conditions as it may fix and establish by the provisions of a procedural ordinance. Such bonds shall be payable only out of revenues specified by the Council and shall not constitute an indebtedness of the City. This section shall be deemed to provide a complete, additional and alternative method for doing the things authorized by such preceding sections, and shall be regarded as supplemental and additional to the powers conferred thereby or by other laws.

Section 1224 is added to the Charter to read as follows:

**SECTION 1224. PROHIBITION ON TAXING UTILITIES USERS.** The city shall not tax any person for using any utility service, including but not limited to, intrastate telephone communication service, gas delivered through mains or pipes, and electrical energy. This prohibition shall take effect for the tax year beginning on July 1, following the passage of this amendment and shall also apply to each fiscal year thereafter.

Section 1000 of the Charter is amended to read as follows:

**SECTION 1000. UNCLASSIFIED AND CLASSIFIED SERVICE.** The Administrative Service of the City shall be divided into Unclassified and Classified Service:

(a) The Unclassified Service shall be comprised of the following officers, employees, and positions:

(1) The Chief Administrative Officer, his deputies, if any, the City Clerk, the City Attorney, his deputies, if any, and all management employees serving in a class which contains one or more positions at the division head level and above, including the heads of all departments created by the Council;

(2) Positions in any class or grade created for special or temporary purposes for a period of not longer than one year within any two consecutive fiscal years;

(3) Persons employed to render professional scientific, technical, or expert services of any occasional or exceptional character;

(4) Part-time employees paid on an hourly or per diem basis.

(b) The Classified Service shall be comprised of all positions not specifically included by this section in the Unclassified Service.

Certified to be a true copy by Daniel K. Whitehurst, Mayor and Jacqueline L. Ryle, City Clerk.

Date of Special Municipal Election: March 3, 1981.



## Charter Chapter 9—City of Bakersfield

***Amendments to the Charter of the City of Bakersfield***

[Filed with the Secretary of State April 27, 1981.]

Section 2 is amended to read as follows:

Section 2. The boundaries of the City of Bakersfield shall be as established from time to time by ordinance.

Section 3 is amended to read as follows:

Section 3. The City of Bakersfield shall be divided into seven political subdivisions which shall be known as wards and shall be established by ordinance and altered from time to time to reflect as nearly as possible equal population.

Sections 4 through 10 are repealed, being replaced by ordinance.

Section 11.1 is amended to read as follows:

Section 11.1. In addition to the methods provided by State law for alteration of City wards upon annexation of territory to the City or otherwise, the Council shall, by ordinance, from time to time alter the boundaries of the respective wards in order that each ward shall contain, as nearly as possible, equal population therein, based upon the latest Federal decennial census. The Council may, by ordinance, from time to time alter the boundaries of the respective wards in order that each ward shall contain, as nearly as possible, equal population therein, based upon the Federal mid-decade census.

Section 15 is amended to read as follows:

Section 15. Councilmen shall be elected for a term of four years and shall serve until their successors are elected or appointed and have qualified.

Section 17 is amended to read as follows:

Section 17. Members of the council and candidates thereof shall be residents of the City and of the ward which they represent or seek to represent and qualified electors at the time nomination papers are issued. Council members shall not hold any other public office incompatible with their duties and shall not be interested in any contract, job, work or service of the municipality as such interest is or may be defined by California state law. No member of the Council shall, except insofar as necessary in the performance of the duties of his office, directly or indirectly take any part in the appointment, promotion or dismissal of any officer or employee in the service of the City, other than officers or employees of the Council.

Section 19 is amended to read as follows:

Section 19. On the second regular meeting following the General Municipal Election, the newly elected and qualified Council members shall assume the duties of their office. Any four Council members or the Mayor may call special meetings of the Council upon notice to each member. Such notice shall state the subjects to be considered at the meeting, and no other subjects shall be there considered. All meetings of the Council

shall be public except those meetings exempted by law from being open to the public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

The Council shall determine its own rules and order of business, appoint its own committees and shall keep a minute book of its proceedings.

Section 20(f) is amended to read as follows:

Section 20(f). The Mayor shall be a resident of the City and a qualified elector at the time nomination papers are issued. In all other respects, his qualifications shall be as set forth in Section 17 of this Charter.

Section 20.1 of the Charter is repealed.

Section 43 is amended to read as follows:

Section 43. Except as otherwise specified in this Charter, the qualifications of officers and employees of the City shall be as follows: Each elective officer must be a citizen of the United States, of the State of California and of the City of Bakersfield. Residence within the limits of any territory which has been or may hereafter become annexed to the City of Bakersfield shall, after any such annexation has been accomplished, be deemed and construed to have been within the City. Appointive officers, police officers and all members of any board or commission authorized by this Charter and the City Council must be citizens of the United States, provided that each member of any board or commission must also be a resident of the City at the time of appointment. Residence requirements for all other officers and employees of the City shall be as established by the City Council.

Sections 44, 46 and 47 of the Charter are repealed.

Sections 54 and 56 of the Charter are repealed.

Section 68 is amended to read as follows:

Section 68. The candidate, not later than the first presentation to the clerk of his petition of nomination, and not earlier than thirty days before such presentation, shall file with the City Clerk a declaration of his candidacy, in a form specified by ordinance adopted by the City Council or, if no ordinance has been adopted, in accordance with the provisions of the Elections Code of the State of California pertaining to Municipal Elections.

Section 69 is amended to read as follows:

#### Form of Nomination Petition

Section 69. The petition for nomination shall consist of not less than twenty-five nor more than fifty individual certificates, which shall be in a form specified by ordinance adopted by the City Council or, if no ordinance has been adopted by the City Council, in a form in accordance with the provisions of the Elections Code of the State of California pertaining to Municipal Elections.

Sections 109, 113.9 and 113.10 of the City Charter are repealed.

Sections 142 and 144 of the Charter are repealed.

Article XI, consisting of Sections 145 through 155, of the Charter, is repealed.

Certified to be a true copy by Mary K. Shell, Mayor, and Philip Kelmar, City Clerk.

Date of General Municipal Election: March 3, 1981.

## Charter Chapter 10—City of Los Angeles

*Amendment to the Charter of the City of Los Angeles*

[Filed with the Secretary of State May 21, 1981.]

Section 22 is amended to read as follows:

**Section. 22. Council Meetings**

The Council, except as otherwise in this Charter provided, is the governing body of the City.

Meetings and records of the proceedings of the Council and of the committees of the Council shall be open to the public except as otherwise provided by law. The Council shall hold regular meetings in City Hall at least three days each week. The Council shall adopt a schedule for its regular meetings and for regular meetings of its standing committees, and, by resolution, may establish periods when each will be in recess.

The Council and its committees may each hold special meetings in the City Hall or elsewhere in the City provided that notice prescribed by law is duly given. The presiding officer, or a majority of the members of the Council or of a Council committee may, respectively, call a meeting of the Council or of the Council committee.

Certified to be a true copy by John Ferraro, President, City Council and Rex E. Layton, City Clerk.

Date of Primary City Election: April 14, 1981.

## Charter Chapter 11—City of Inglewood

*Amendments to the Charter of the City of Inglewood*

[Filed with the Secretary of State May 26, 1981 ]

Section 1.5 of Article VII is amended to read as follows:

**SECTION 1.5.** A majority of the votes cast for all candidates for each City elective office is required for election to such office. If a candidate is not elected to any City office to be filled at any municipal election, a runoff election shall be held no more than seventy days after such election. The runoff election ballot shall list only those candidates who receive the two highest vote counts for each City office unfilled at the municipal election.

This Section shall not apply to the election of members of the Board of Education, who shall continue to be elected by a plurality of the votes cast for such offices at general municipal elections as provided in Article XXVI of this Charter.

Article XXXIII as repealed and added reads as follows:

**ARTICLE XXXIII  
PURCHASE OF SUPPLIES AND CONTRACTS FOR PUBLIC  
PROJECTS**

**SECTION 1.** The City Council shall, by ordinance, prescribe the procedures and requirements for the purchase of supplies and equipment and for award of bids for public projects in a manner which preserves the integrity of the competitive bidding process, insures the protection of public funds, but at the same time provides the opportunity to effect economies in the operation of the City which are in the best interests of the public.

**SECTION 2.** The purchasing ordinance contemplated in Section 1 above shall contain a formal contract and bid procedure which shall provide, at a minimum, the following:

- (a) A dollar limitation to which the formal procedures shall attach.
- (b) A notice requirement providing for publication of a notice inviting bids, posting said notice on the public bulletin board in City Hall and mailing the notice to those prospective bidders on the City's bidders list.
- (c) A requirement for bidders' security and other bond requirements as necessary to protect the interests of the public.
- (d) A public bid opening procedure under the supervision of the City Clerk.
- (e) An award procedure and an alternative thereto in the event the City Council chooses to reject the bids.

(f) A procedure for resolving tie bids.

**SECTION 3.** The purchasing ordinance shall also contain an informal bidding procedure which shall provide, at a minimum, the following:

- (a) A dollar amount to which the informal procedures shall attach.
- (b) A notice requirement providing that written bid notices be submitted no less than 10 days in advance of bid opening and establishing sub-categories consisting of bids which must be sealed and bids which need not be sealed.
- (c) A bid opening procedure.

**SECTION 4.** Except as provided herein all purchases made and contracts awarded pursuant to the purchasing ordinance shall be to the lowest responsible bidder as that term is defined hereinbelow. Contracts for professional services and other limited exceptions may be specifically identified in the ordinance and declared exempt from competitive bidding requirements provided such exemptions are consistent with the intent expressed in Section 1 of this Article.

**SECTION 5.** Notwithstanding any provision in this charter to the contrary, the City Council may by a vote of  $\frac{3}{4}$ ths of those members present authorize the purchase of materials, supplies, equipment and services or order work performed by City or non-city forces upon a finding supported by competent information or data that such purchase or work is urgently or imminently necessary for the preservation of life, health, property or the protection of the public welfare.

**SECTION 6.** The ordinance to be enacted by the City Council shall

further provide a procedure for the disposition of surplus, obsolete or unclaimed property.

SECTION 7. The expression "lowest responsible bidder" shall be deemed to mean the lowest bidder whose offer best responds in quality, fitness, and capacity to the requirements of the proposed work or usage.

SECTION 8. No amendment to the purchasing ordinance adopted pursuant to Section 1 above shall be considered for adoption by the City Council, until such time as a noticed public hearing regarding the proposed amendment has been held and concluded. The public must be given notice of said hearing by publication at least once in a newspaper of general circulation in the City of Inglewood at least 30 days prior to the date on which the City Council is scheduled to consider adoption. Notwithstanding any provision in this charter to the contrary, four affirmative votes shall be required for adoption of such an amendment and no such amendment shall be effective sooner than 12 months after the effective date of the last previous amendment.

Section 1 of Article VII is amended to read as follows:

Section 1: Except as otherwise provided in this Charter, an election to be known as a general municipal election shall be held in said City of Inglewood on the first Tuesday in April of each odd numbered year for the filling of such elective offices, the terms of the incumbents of which expire in such year.

Beginning in 1982, the regular election for Mayor shall be conducted in every other even numbered year on the first Tuesday after the first Monday in November; provided, however, that the first Mayor to be so elected shall not begin his term of office until the conclusion of the then incumbent's term. Thereafter, each Mayor duly elected pursuant to this Charter shall hold office for four years and until his successor is elected and qualified.

Certified to be a true copy by Lee Weinstein, Mayor and Iris A. Crochet, City Clerk.

Date of General Municipal Election: April 7, 1981.

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Charter Chapter 12—City of San Bernardino

*Amendment to the Charter of the City of  
San Bernardino*

[Filed with the Secretary of State May 18, 1981.]

Article X, Section 186, Subdivision Third is amended by adding the following at the end of the subdivision:

(c) Fire Department-Paramedics. The Mayor and Common Council may authorize additional salary to be paid to local safety members of the Fire Department, assigned to duty as paramedics, during the period of such assignment.

(d) Fire and Police Departments-Education/Longevity Incentive Pay. The Mayor and Common Council may authorize additional salary to be paid to local safety members of the Police Department and the Fire Department who have completed educational or longevity requirements specified by the Mayor and Common Council.

Certified to be a true copy by W. R. Holcomb, Mayor and Shauna Clark, City Clerk.

Date of Special Municipal Election: May 5, 1981.

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Charter Chapter 13—City of Grass Valley

*Amendment to the Charter of the City of Grass Valley*

[Filed with the Secretary of State May 28, 1981.]

Article VI, Section 12 is amended to read as follows:

**SECTION 12: COMPENSATION**

Each Councilman's salary shall be established by ordinance within the monetary limitations established in Section 36516 Government Code of the State of California. Any ordinance enacted pursuant to this provision shall apply to each Councilman thirty days after its passage.

Certified to be a true copy by Frank E. Knuckey, Mayor, and Nellie L. Martin, City Clerk.

Date of General Municipal Election: May 5, 1981.

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Charter Chapter 14—City of Richmond

*Amendment to the Charter of the City of Richmond*

[Filed with the Secretary of State June 3, 1981.]

Adds Section 24 to Article XII of the Charter:

Sec. 24. Notwithstanding any other provision of this Article, any employee who retired prior to July 1, 1981, or his eligible dependents shall, commencing on July 1, 1981, receive an increase in their pensions equal to two percent (2%) per annum for each year or fraction thereof, the employee was retired prior to July 1, 1981, with a maximum increase of twenty-six percent (26%). For example, if an employee retired on December 1, 1979, and his current pension is \$300 per month, he or his eligible dependents would be entitled to a four percent (4%) increase in pension benefits effective July 1, 1981, which would amount to a total of \$312 per month.

Certified to be a true copy by Thomas J. Corcoran, Mayor and Harlan J. Heydon, City Clerk.

Date of General Municipal Election: May 12, 1981.

## Charter Chapter 15—City of Santa Monica

***Amendments to the Charter of the City of Santa Monica***

[Filed with the Secretary of State June 1, 1981.]

Article XIX is hereby added to the City Charter to read as follows:

**XIX. POLICE AND PROTECTIVE SERVICES**

**Section 1900: Statement of Purpose.** This Article is intended to promote and facilitate additional police and other protective services necessary to reduce major crime in this City. It is intended to conflict with and be in lieu of all other measures regarding crime reduction submitted to the voters at this election.

**Section 1901: Crime Prevention Program.** Within nine months of the effective date of this Article, the City Council shall adopt, by ordinance, a comprehensive crime prevention program, intended to reduce major crime in the City. This program shall include, among other things, provisions for the optimum use of existing and additional police and other law enforcement resources, plans to improve the safety of streets and neighborhoods, and ways to encourage public involvement in the reduction of crime. Following the adoption of the comprehensive crime prevention program, the City Council shall appropriate the funds, if available, necessary to implement the comprehensive crime prevention program.

**Section 1902: Expenditure Limitation Increase.**

A. The City's expenditure limit for each of fiscal years 1981–82, 1982–83, 1983–84 and 1984–85 is increased by \$3,000,000. This increase shall be adjusted each year for changes in population and cost of living as provided by State Law.

B. Appropriation of funds that may be made available for spending by reason of Section A shall be made for providing increased police and other protective services intended to control major crime and for no other purpose.

C. The primary intention of this Section is to provide additional police and other protective services within the existing framework of City government.

Certified to be a true copy by Ruth Yanatta Goldway, Mayor and Ann M. Shore, City Clerk.

Date of General Municipal Election: April 14, 1981.

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 Charter Chapter 16—City of Oakland
***Amendment to the Charter of the City of Oakland***

[Filed with the Secretary of State June 25, 1981.]

Section 304 is amended to read as follows:

**SECTION 304. Board of Education.**

a) The Board of Education shall consist of seven District School Directors nominated and elected by the qualified electors of their respective districts for a term of four years. The District School Directors shall be elected at the times and in the manner in this Charter provided for members of the Council and shall be required to have the same qualifications. The School Directors' Districts shall have the same boundaries as the seven Council Districts.

The provisions of the Education Code of the State of California shall apply as to matters not provided for in this Charter.

b) Notwithstanding any other provisions of this section, the respective terms of office of the directors of the Board of Education shall be as follows:

1) Directors elected to 4-year terms in 1979 shall continue to serve until expiration of their terms in 1983.

2) At the 1981 General Municipal Election three (3) school director seats shall be filled by vote of the electorate; the three district director seats to be filled at the 1981 General Election (which must coincide with city councilmanic district enumeration) shall be decided upon by resolution of the Board of Education no later than December 31, 1980.

3) The three district directors elected in 1981 shall serve 2-year terms, ending in 1983.

4) At the 1982 General Municipal Election, district school directors seats in Districts 1, 3, 5 and 7 shall be filled for 4-year terms and 4-year terms thereafter.

5) At the 1985 General Municipal Election seats in Districts 2, 4 and 6 shall be filled for 4-year terms and for 4-year terms thereafter.

Certified to be a true copy by Lionel J. Wilson, Mayor, and Arrece Jameson, City Clerk.

Date of Special Municipal Election: November 4, 1980.

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Charter Chapter 17—City of Chico

*Amendments to the Charter of the City of Chico*

[Filed with the Secretary of State June 8, 1981 ]

Section 106 is amended to read as follows:

Section 106. Continuance of present councilmembers, officers and employees.

All Councilmembers, officers and employees, when this Charter takes effect, shall continue to hold and exercise their respective offices or em-



ployment under the terms of this Charter until the election or appointment and qualification of their successors.

The office of treasurer shall continue in effect until the vacancy occurs or until the expiration of the present term. Thereafter the duties of the treasurer shall be assumed by the finance officer as provided in Section 908 of this Charter.

Section 400 is amended to read as follows:

Section 400. Enumeration.

The elective officers of the city shall be seven councilmembers.

Section 401 is amended to read as follows:

Section 401. Terms generally.

Councilmembers shall hold office for a term of four years from and after 7:30 p.m. of the first Tuesday in May following the date of their election and until successors are elected and qualified, provided, however, that if the election of any councilmember is not finally determined on said date, for any reason, then such councilmember shall take office at the commencement of the first meeting held by the council after such councilmember's election has become finally determined. Any uncertainty as to which outgoing councilmember has not been succeeded shall be determined by the remainder of the council at its meeting held on the first Tuesday in May following the date of election.

Section 402 is amended to read as follow:

Section 402. Elected at large.

Councilmembers of the city shall be elected at large at the general municipal elections provided for in Article V, Section 500, of this Charter.

Section 403 is amended to read as follows:

Section 403. Eligibility of candidates.

Candidates for city councilmember shall have all of the following qualifications at the time of filing nomination papers: (a) reside in the city, such residency having been for such period of time, if any, provided by state law for general law cities; (b) be over the age of twenty-one years; and (c) be a qualified voter as defined by the Elections Code of the State of California.

Section 404 is repealed.

Section 405 is amended to read as follows:

Section 405. Same-Forfeiture of office for failure to attend meetings or conviction of certain crimes, etc.

If a member of the city council is absent three (3) consecutive regular meetings, such member shall forfeit such member's office unless excused by the council for cause and so recorded in its official minutes. If a member of the city council is adjudged legally incompetent, or ceases to be an elector of the city, or is convicted of a crime involving moral turpitude, such member's office shall become vacant and shall be so declared by the council.

Section 406 is amended to read as follows:

Section 406. Same-Vacancies.

A vacancy in an elective municipal office, from whatever cause arising, shall be filled by appointment by the city council, such appointee to hold office until the first Tuesday in May following the next general municipal

election and until such appointee's successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term. In the event the council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have been declared vacant, it shall cause an election to be held forthwith to fill such vacancy.

Section 409 is amended to read as follows:

Section 409. Oath of office.

An elective officer of the city, before entering upon the duties of the office to which such officer was elected, shall take the oath of office as provided for in the Constitution of the State of California and shall file the same with the city clerk.

Section 500 is amended to read as follows:

Section 500. General municipal elections.

General municipal elections for the election of councilmembers of the city, and for such other purposes as the council may prescribe, shall be held in the city on the first Tuesday after the first Monday in April of each odd-numbered year; provided, however, that the council may, by resolution adopted on or before December 1st of the year immediately preceding the year in which a general municipal election is to be held, order the election on the second Tuesday rather than the first Tuesday following the first Monday in April of such year.

Section 504 is amended to read as follows:

Section 504. Returns and notifications of election.

The returns from each election precinct shall be filed with the city clerk, and no person shall be permitted access to them until canvassed by the council. After having been canvassed, they shall be sealed up by the clerk for six (6) months and no person shall have access to them except on order of a court of competent jurisdiction.

After the results of an election are declared, the clerk shall certify the results of the election in writing and serve a copy of same personally, or by mail, upon each person elected.

Section 600 is amended to read as follows:

Section 600. Membership.

The council shall consist of seven (7) councilmembers elected from the city at large in the manner provided for in Article IV, Elective Officers.

Section 601 is amended to read as follows:

Section 601. Remuneration.

Each councilmember shall be remunerated at the rate of fifteen dollars (\$15.00) per council meeting attended, but the maximum amount of remuneration in any month shall not exceed sixty dollars (\$60.00). The mayor shall receive, in addition to this remuneration as a councilmembers, the sum of twenty-five dollars (\$25.00) per month. Councilmembers may, upon order of the council, be reimbursed for reasonable and necessary out-of-town expenses actually incurred in the service of the city.

Section 603 is amended to read as follows:

Section 603. Mayor, vice-mayor, mayor pro tempore.

At its meeting on the first Tuesday in May in each odd-numbered year, the council shall choose one of its members as presiding officer to be

known as the mayor, and another to be known as vice-mayor, to serve for a term of two years. Should a vacancy occur in either office, the council shall elect a successor to serve for the remainder of the unexpired term.

The mayor shall preside over the sessions of the council and shall sign official documents when the signature of the mayor is required by law. The mayor shall be recognized as the official head of the city for all public and ceremonial purposes and by the Governor for military purposes. In times of emergency, the mayor may take command of the police, maintain order and enforce laws for a period not exceeding forty-eight hours, and the mayor shall be the judge of what constitutes such public dangers or emergencies; such command may be continued for a longer period by a majority of the city council at a special meeting called for that purpose.

The mayor shall exercise such other powers and perform such other duties as may be prescribed by law or ordinance or by resolution of the council, except as limited by this Charter. The mayor shall possess no veto power.

The vice-mayor shall, in the absence of the mayor, assume all of the mayor's powers and duties. When both the mayor and vice-mayor are absent, the council may choose one of its own members to act as mayor pro tempore.

Section 608 is amended to read as follows:

Section 608. Councilmembers ineligible to other city positions.

No councilmember shall be eligible to appointment on any board or commission provided for in this Charter except as designated in the Charter or state laws.

No member of the council shall hold any other municipal office or hold any office or employment the compensation of which is paid out of the municipal moneys; nor shall such member be elected or appointed to any office created or the compensation of which is increased by the council, while a member of the council, until one (1) year after the expiration of the term for which such member was elected.

Section 611 is amended to read as follows:

Section 611. Same-Adoption and publication.

a. No ordinance, other than an emergency ordinance, shall be adopted by the council within five days after its introduction, nor at other than a regular or an adjourned regular meeting. At the time of introduction, an ordinance shall become a part of the proceedings of said meeting in the custody of the city clerk's office available for inspection and review by all interested persons during regular business hours and until such time as said ordinance is adopted and inserted in the records of the city for adopted ordinances as provided in this Charter. The city clerk need not so maintain a copy of any ordinance not adopted within six months of its introduction. No ordinance may be adopted more than six months after its introduction unless the same is again introduced as hereinabove provided. An ordinance may be introduced and adopted by the reading of the title only, provided that upon the request of any councilmember, and with the consent of a majority of the council present, an ordinance shall be read in full.

b. An ordinance altered or amended after its introduction and before

adoption shall be re-introduced and shall not be adopted within five days of its re-introduction. Corrections of typographical errors or clerical errors which do not change the intent expressed in the ordinance shall not be deemed alterations or amendments within the meaning of this subsection.

c. Every ordinance must be published once in the official newspaper of the city, or in such other form as it may be sent to the voters. One copy of every ordinance introduced shall be posted by the clerk within twenty-four hours after introductory reading on the public bulletin board in the municipal building of the city, and another copy thereof shall be available in the council chambers during each meeting at which said ordinance is considered by the council for review by all persons interested therein.

d. The clerk shall thereafter note on the posted copy and all copies maintained in the clerk's office and council chambers any corrections, alterations or amendments which may occur after the time of the introductory reading.

e. Failure of the clerk to post said ordinance, make said ordinance available, or make corrections thereon as provided in subsections (c) and (d) hereof, shall not affect the validity of any ordinance otherwise regularly adopted.

f. Where the council is authorized to act by resolution, such resolution shall be read by title only, except that it shall be read in full upon request of a councilmember with the consent of a majority of the councilmembers present. The title of a resolution need only refer to the general subject matter of the resolution, and defects therein shall not affect the validity of the resolution.

Section 700 is amended to read as follows:

Section 700. Qualification.

There shall be a city manager who shall be the chief administrator of the city. The city manager shall be appointed by the council and shall serve at its pleasure. The city manager shall not be removed from office except by the affirmative vote of at least four (4) members of the council. The city manager shall be chosen on the basis of executive and administrative qualifications. The city manager need not be a resident of the city or state at the time of appointment.

Section 701 is amended to read as follows:

Section 701. Duties and authority generally.

The city manager shall be the chief executive officer and the head of the administrative branch of the city government. The city manager shall be responsible to the council for the administration of all units of the city government under the city manager's jurisdiction and for carrying out policies adopted by the council. The city manager shall be charged with the preservation of the public peace, welfare, health, the safety of persons and property, the enforcement of law, and the development and utilization of the city's resources.

The city manager shall:

a. Appoint, discipline and remove, subject to the personnel system ordinance of the city, all officers and employees of the city except as otherwise provided by this Charter. The city manager may authorize the head of any department or office to appoint, discipline or remove subordinates in such department or office.

b. Prepare the budget annually, submit it to the council, and be responsible for its administration after its adoption.

c. Prepare and submit to the council as of the end of the fiscal year, a complete report on the finances, physical inventory, and administrative activities of the city for the preceding year.

d. Keep the council advised of the financial condition and future needs of the city and make such recommendations on any matter as may to the city manager seem desirable.

e. Perform such other duties as may be prescribed by this Charter or required of the city manager by the council not inconsistent with this Charter.

The city manager may have the privilege to take part in the discussion of all matters coming before the council, but shall not vote.

Section 902 is amended to read as follows:

Section 902. Oath of office.

Every officer, employee, department head and appointed official of the city, before entering upon the duties of the office for or to which such officer, employee, department head or official was employed, appointed or elected, shall take the oath of office as provided for in the Constitution of the State of California, and shall file the same with the city clerk.

Section 903 is amended to read as follows:

Section 903. Official bonds.

The city council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by law to give such bond. All shall be executed by responsible corporate surety, shall be approved as to form by the city attorney, and shall be filed with the city clerk. Premiums on official bonds shall be paid by the city.

There shall be no personal liability upon, or any right to recover against, a superior officer, or such superior officer's bond, for any wrongful act or omission of such superior officer's subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

Section 906 is amended to read as follows:

Section 906. Qualifications, powers and duties of city attorney.

The city attorney shall be an attorney at law, duly admitted to practice by the Supreme Court of the State of California, and licensed by said state to practice therein, and shall have been engaged in the practice of law in the state for a period of not less than five (5) years immediately prior to appointment. The city attorney shall:

a. Represent and advise the city council, city officers, boards and commissions in all matters of law pertaining to their offices.

b. Represent and appear for the city in any or all actions or proceedings in which the city is concerned or is a party, and represent and appear for any city officer, employee, board or commission, or former city officer, employee, board or commission, in any or all actions and proceedings in which any such officer, employee, board or commission is concerned or is a party arising out of any act or omission committed in the course and scope of the employment or performance of the official duties of such officer, employee, board or commission.

c. Attend all regular meetings of the city council, unless excused therefrom, and give advice or render an opinion in writing whenever requested to do so by the city council by any of the boards, commissions or officers of the city, provided that the city attorney may require such request to be submitted in writing.

d. Approve the form of all contracts made by and all bonds given to the city, endorsing such contracts or bonds with such approval.

e. Prepare or approve any and all proposed ordinances or resolutions for the city and amendments thereto.

Section 906.1 is amended to read as follows:

Section 906.1. Assistant city attorney.

The city council, with the approval of the city attorney, shall have the power to appoint an assistant city attorney, who shall have been duly licensed to practice law in the State of California. Such assistant city attorney may exercise such powers and have such duties of the city attorney as the latter shall delegate to the assistant city attorney, but final responsibility to the city council for the services of the assistant city attorney to the city shall rest with the city attorney. The city council shall fix the compensation of the assistant city attorney.

Section 907 repealed.

Section 908 is amended to read as follows:

Section 908. Finance officer.

The finance officer shall be responsible for administration of the financial affairs of the city. Upon the expiration of the term of the present city treasurer, or in the event of a prior vacancy the finance officer shall have custody of all public funds belonging to the city or to any office, department, board or commission or agency thereof, and in this respect the finance officer shall be the treasurer of the city.

The finance officer shall deposit all such funds in compliance with the provisions of the Constitution and laws of the State of California governing the collection, handling, depositing and securing of public funds.

The finance officer shall submit to the council through the city manager monthly statements of receipts, disbursements and balances in such form as to show the exact financial condition of the city. At the end of each fiscal year the finance officer shall submit a complete and detailed financial statement.

Section 909 is amended to read as follows:

Section 909. Compensation of officers, department heads and employees.

The compensation of all city officers and department heads, except as otherwise provided in this Charter, shall be fixed by the council by resolution, and the compensation of all other city employees shall be determined in accordance with the personnel system ordinance. The council may provide additional compensation to the city attorney for handling litigation and all special proceedings. No officer, department head or employee, except the city attorney, shall be allowed any fees, perquisites, emoluments or compensation for the performance of the duties of the employment or office for or to which such officer, department head or employee was employed, appointed, or elected, other than reimbursement for

necessary expenses, and the compensation as determined in the manner herein provided, and all moneys, except rewards, collected by the city attorney in connection with the city attorney's official duties shall be paid into the city treasury weekly, and the city attorney shall report the same to the city finance officer.

Section 910 is amended to read as follows:

Section 910. Conflict of interest of councilmembers and city officers.

Except as otherwise provided by state law, no councilmember or other officer of the city shall be financially interested except by testate or intestate succession or intervivos gifts in any contract, sale, purchase, lease or transfer of real or personal property, to which the city is a party.

Section 1000 is amended to read as follows:

Section 1000. Generally.

There shall be the boards and commissions enumerated in this article which shall have the powers and duties herein stated, but no power herein granted shall be deemed to be equal to, or greater than, that of the council. By ordinance, the council may create such additional boards and commissions as in its judgment are required and may grant to them such powers and duties as are consistent with the provisions of this Charter.

a. Unless otherwise provided by this Charter, the number of members to comprise any board or commission shall be determined by ordinance of the council, provided, however, that no board or commission shall consist of less than five (5) members.

b. Each board or commission may prescribe its own procedural rules and regulations which shall be consistent with this Charter, copies of which shall be kept on file in the office of the city clerk where they shall be available for public inspection. Such rules and regulations, after adoption, shall be published at least once in the official newspaper of the city. All rules and regulations, except emergency rules and regulations, shall become effective thirty (30) days after publication. Emergency rules and regulations shall become effective immediately upon adoption and shall remain effective for a period not to exceed forty-five (45) days.

c. Each board or commission shall submit to the city manager a complete inventory of the assets of the city under its control and supervision at the time of submission of its budget requests.

d. Each board or commission shall have the management and disbursement of funds regularly received and appropriated for conduct of said board or commission within the limits of its annual budget as adopted by the council; provided, however, that all bills, demands and claims by said respective board or commission shall be presented to the council for payment out of the appropriate fund. All revenues accrued from the operation of said board or commission shall be deposited with the finance officer and credited to the appropriate fund.

e. Each board or commission shall have the right and power to enter into leases and contracts in connection with the operation of properties under its supervision, provided, however, that any lease in excess of fifteen (15) years, including option rights, shall first require prior approval by resolution of the council. A board or commission shall not have the right, however, to sell or convey title of any real property.

f. Each board or commission shall have the power to appoint a chief administrative officer and fix such administrative officer's compensation subject to the approval of the council. The administrative officer shall have the authority to appoint, discipline or remove, subject to the personnel system ordinance of the city, all authorized personnel under such administrative officer's supervision.

Section 1008 is repealed.

Section 1008.1 is repealed.

Section 1008.2 is repealed.

Section 1008.3 is repealed.

Section 1008.4 is repealed.

Section 1104 is amended to read as follows:

Section 1104. Funds and tax limits.

There are hereby created the general, park, library and airport funds. All monies accruing to such funds shall be used only for the purposes for which such funds are established; provided, however, that all monies accruing to the library fund may be used for museums, art galleries or academies of science, as well as library purposes.

Section 1105 is repealed:

Section 1106 is amended to read as follows:

Section 1106. Special taxes.

Whenever the council shall determine that the public interest demands an expenditure for municipal purposes which cannot be provided for out of the ordinary revenues of the city, it may submit to the qualified voters at a regular or special election, a proposition to provide for such expenditure, by levying a special tax, but no such special tax shall be levied unless authorized by the affirmative vote of a majority of the electors voting at such an election or as otherwise provided by the Constitution of the State of California.

Section 1109 is amended to read as follows:

Section 1109. Independent audit.

At the beginning of each fiscal year, the council shall engage an independent certified public accountant, or public accountant licensed by the State Board of Accountancy, to act as auditor for the city, such engagement to be at the pleasure of the council. The auditor shall perform an annual audit of the books, financial records and related documents of the city in accordance with generally accepted auditing standards. On or prior to December 1st of each year, unless an extension is granted by the council, the auditor shall submit to the council a report on the audit for the preceding fiscal year in such detail as the council may direct.

In addition to the regular annual audit, the auditor shall perform such other professional services as the council may require.

Certified to be a true copy by Margaret R. Worley, Mayor and Barbara A. Evans, City Clerk.

Date of General Municipal Election: April 7, 1981.



## Charter Chapter 18—City of Albany

*Amendments to the Charter of the City of Albany*

[Filed with the Secretary of State June 26, 1981.]

Section 4(a) is amended to read as follows:

Any person who shall have served two successive terms as a member of the Council shall be ineligible to serve again in the office until an intervening period of two years has elapsed. For the purposes hereof, any person who serves as a Councilmember for two years or more of an unexpired term, shall be considered to have served a term. (Effective May 1981)

Section 5 is amended to read as follows:

The Council shall meet at eight o'clock p.m. on the first Monday following a general municipal election and canvass the returns thereof. The new members shall then be inducted into office, whereupon the Council, as thus newly constituted, shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Council shall also designate one of its members as Vice-Mayor, and he shall perform the duties of the Mayor during his absence or disability. The officials so chosen shall hold their respective offices subject to the pleasure of the Council.

The regular meetings of the Council shall be held every Monday of each week, at eight o'clock p.m., except in case Monday is a holiday, in which event the Council may select another day for the meeting during that week. But any regular meeting may be adjourned to a date certain, which adjourned meeting shall be a regular meeting for all purposes. Special meetings may be called in a manner consistent with the laws of the State of California.

All meetings of the Council shall be convened in the Council Chambers of the City Hall but may thereafter be adjourned to such other location as may be selected by the Council. All meetings of the Council shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet at the City Hall, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if he should fail to act, by four members of the Council.

The Council shall adopt rules for conducting its proceedings and may punish or evict any person for disorderly conduct at any meeting. The Council shall cause the City Clerk to keep an accurate record of all its proceedings.

Section 8 is amended to read as follows:

All officers and department heads, except as otherwise provided, shall be appointed by the City Council and shall hold office at the pleasure of the City Council. The City Treasurer, City Attorney and Chief of Police shall be elected from the City at large, and shall hold office for four (4) years and until their successors are elected and qualified. The Council shall establish by ordinance the administrative offices of the City and shall designate the department heads of the City. The City Council shall be empowered to create, abolish, or reorganize departments and divisions as necessary for the proper administration of the City business, but not incon-

sistent with other sections of this Charter.

Section 3.05 added to the charter reading as follows: entitled 'Administrative Officer':

The Administrative Officer shall be the administrative head of the government of the City. As such, the Administrative Officer shall be responsible to the Council for the efficient implementation of its policy and effective administration of all the affairs of the City government which the office controls. Any action, determination or omission of the Administrative Officer or staff shall be subject to review by the Council, but no individual Councilmember or the Mayor shall overrule, change or modify any such action, determination or omission except by affirmative vote of at least three (3) members of said Council at a duly constituted session.

The Administrative Officer shall advise and make recommendations to the Council concerning any conditions or governmental situations which need Council direction or policy determination.

The Administrative Officer will insure that the Council as a whole or as individuals are permitted timely and complete freedom of access to requested information.

The Administrative Officer shall be chosen on the basis of executive and administrative qualifications, as defined by ordinance.

Section 16 is amended to read as follows:

There shall be a City Attorney. The qualifications for the City Attorney shall be established by the City Council, which qualifications shall be established within ninety (90) days from ratification. The City Attorney shall be the legal advisor of the Council, and all other City officials on matters appertaining to their official duties. He shall draft all ordinances, resolutions, contracts or other legal documents or proceedings required by the Council, or other officials, except as may be otherwise provided, and shall perform such other legal services from time to time as the Council may require. He shall attend all meetings of the Council unless excused therefrom by the Council or the Mayor.

Section 30 is amended to read as follows:

As used in this section, 'public project' means:

(a) A project for the erection, improvement, and repair of public buildings and works.

(b) Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow.

(c) Street or sewer work except maintenance or repair.

(d) Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

When the expenditure required for a public project exceeds the applicable limit under the general laws of the State of California, or such lower limit as established by ordinance of the City Council, it shall be contracted for and let to the lowest responsible bidder after notice.

It shall be unlawful to split or separate into smaller work orders or projects any public work project for the purpose of evading the provisions of this section requiring public work to be done by contract after competitive bidding.

The notice inviting bids shall set a date for the opening of bids. The first

publication or posting of the notice shall be at least ten (10) days before the date of the opening of bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation published in the City, or if there is none, it shall be posted in at least three (3) public places in the City that have been designated by ordinance as the places for posting public notices. The notice shall distinctly state the project to be done.

In its discretion, the Council may reject any bids presented and readvertise. If two or more bids are the same and the lowest, the Council may accept the one it chooses. If no bids are received the Council may have the project done without further complying with this section.

After rejecting bids, the Council may pass a resolution by a four-fifths vote of its members declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the project done in this manner stated without further complying with this section.

If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, the Council may pass a resolution by a four-fifths vote of its members declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property. Upon adoption of the resolution, it may expend any sum required in the emergency without complying with this section.

#7. That the Albany City Charter be amended to delete Section 17.

#8. That the Albany City Charter be amended to delete Section 46, entitled 'Compensation of Council Members Sitting as Members of Board of Equalization'.

That Section 33 is amended to read as follows:

Not later than June 1st, an officer designated by the Council shall submit to the Council an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments in such form as the Council may prescribe.

Sufficient copies of such estimate shall be prepared and submitted that there may be copies on file in the office of the Council for inspection by the public unless the council shall publish the same in a newspaper.

After duly considering the estimate and preparing the budget, the Council shall pass an ordinance or resolution levying the annual tax.

That a Table of Contents, set out as follows, be added to the Albany City Charter identifying and renumbering the Charter sections as follows:

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Certified to be a true copy by Ruth J. Ganong, Vice Mayor and Jacqueline L. Bucholz, City Clerk.

Date of Special Municipal Election: April 21, 1981.

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Charter Chapter 19—County of Los Angeles

*Amendment to the Charter of the County of Los Angeles*

[Filed with the Secretary of State, June 8, 1981.]

Section 11(7) is added to read as follows:

No ordinance controlling rents of residential rental units shall be enacted to control the rent of any rental unit located in a structure for which a certificate of occupancy was issued after November 1, 1980. This section shall be in effect until November 1, 2000 upon which date it shall expire.

Certified to be a true copy by Edmund D. Edelman, Chairman, Board of Supervisors and James S. Mize, Executive Officer-Clerk of the Board of Supervisors.

Date of General Election: November 4, 1980.

## Charter Chapter 20—City of Salinas

*Amendments to the Charter of the City of Salinas*

[Filed with the Secretary of State July 9, 1981.]

Section 7 is amended to read as follows:

Sec. 7. General Municipal Elections.

General municipal elections of officers and for such other purposes as the Council may prescribe, shall be held in the City of Salinas on the first Tuesday following the first Monday in June of each odd-numbered year, except as otherwise provided herein.

In 1983 and every second year thereafter, the Council shall provide an election for the purpose of electing qualified electors to those Council offices whose terms are about to expire by limitation or with respect to which a vacancy exists by resignation or otherwise. Provided, that with respect to any such election to be held any year, the Council may by resolution or ordinance provide for the consolidation of the election with any election to be conducted in the County of Monterey, State of California, or at an earlier date in any such year for the purpose of consolidation with any election to be conducted in the County of Monterey when such earlier date is established as a regular election date by the Elections Code of the State of California.

Section 14 is repealed.

Same—Observe Official Conduct.

Section 15 is repealed.

Same—Power to Suspend Officials for Misconduct.

Section 16 is repealed.

Same—To Supervise Contracts.

Section 18 is repealed.

Same—Statement of City Affairs.

Section 19 is repealed.

Same—Power to Administer Oaths.

Section 27 is repealed.

Same—General Municipal Elections.

Section 113 is amended to read as follows:

Sec. 113. Prohibitions Against Officers and Employees. No officer or employee of the city shall be directly or indirectly interested in any contract, work or business, the consideration, price or profits of which are payable in whole or in part from the city treasury and are affected by any official act of said officer or employee; or in the sale of any article, the price or purchase of which by or for the city depends directly or indirectly upon the official act of such officer or employee.

No officer or employee of the city shall be financially interested, directly or indirectly, in the granting of any city franchise, right, or privilege.

Any officer or employee of the city violating the provisions of this section, shall forfeit his office or employment; and all contracts made, or rights, franchises, or privileges granted, in violation of this section shall be void.

Certified to be a true copy by James R. Woods, Mayor and Evelyn Reynolds, City Clerk.

Date of General Municipal Election: June 2, 1981.

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Charter Chapter 21—City of Loma Linda

*Charter of the City of Loma Linda*

General Law City shall continue in existence as a Chartered City

[Filed with the Secretary of State July 9, 1981.]

WE, the people of the City of Loma Linda, County of San Bernardino, State of California, do ordain and establish this Charter as the organic law of the City of Loma Linda under and by virtue of the Constitution of the State of California.

ARTICLE I

Status of City

Section 100. Name of City. The general law city, in existence prior to the effective date of this Charter, known as the "City of Loma Linda", shall be deemed, for all purposes, to continue in existence, as a chartered city from and after the effective date of this Charter, said city, as a chartered city, shall continue to be known as the "City of Loma Linda", and shall hereafter be referred to and termed the City.

Section 101. Boundaries. The boundaries of the City, as a chartered city, shall be identical to the boundaries of said City, a general law city, as were lawfully in existence as of the effective date of this Charter. After the effective date of this Charter, the boundaries may be altered only as authorized by general law.

Section 102. Effective Date of Charter. This Charter shall be effective from and after the date upon which a favorable vote of the electors occurs and when accepted and filed by the Secretary of State of the State of California.

ARTICLE II

Succession

Section 200. Rights and Liabilities. The City shall be deemed, for all purposes, to be the successor in interest to the former city. The said City shall continue to own, possess, hold and control all rights, including, but not limited to, rights in and to personal and real property of every kind and nature owned, possessed, controlled, or held by said former city, as of the effective date of this Charter. The City shall be subject to all debts, obligations, liabilities, duties and contracts of the said former city, as such existed as of the effective date of this Charter.

Section 201. Validation of Prior Acts. All lawful acts heretofore taken by, or on behalf of, the said former city, by its City Council, or any commission, committee, board, officer, or employee thereof, shall continue in full force and effect from and after the effective date of this Charter, until they shall have been duly repealed, amended, changed, or superseded by prop-

er authority. The validation of such acts as provided for herein shall include, but not be limited to, all ordinances, resolutions, codes, rules and regulations or any portion thereof in force at the time this Charter takes effect, and not in conflict or inconsistent herewith.

Section 202. Continuance of Terms of Office. The members of the City Council in office at the time this Charter takes effect shall continue to hold their respective offices for the terms for which they were elected.

Section 203. Status of Officers and Employees. All officers and employees in offices or positions at the time this Charter takes effect shall continue to perform the duties of their offices, positions and employment without interruption and for the same compensation and under the same conditions until the election or appointment and qualification of their successors and subject to removal and control as herein provided.

Section 204. Pending Proceedings. Any action or proceeding, civil, criminal or administrative, pending as of the effective date of this Charter, brought by or against the City or any officer, employee, office, department, or agency thereof, shall not be effected or altered by reason of the adoption of this Charter or anything herein contained. Any such action or proceeding shall proceed to its conclusion in accordance with all rules, regulations, and laws applicable thereto.

### ARTICLE III

#### Powers of the City

Section 300. Powers. The City shall have all powers possible for a general law City to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs which may be heretofore or hereafter established, granted or prescribed to cities organized under the general laws of the State of California, and such additional powers in respect to municipal affairs as may be provided for in this Charter.

Section 301. Intergovernmental Relations. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, states, or civil divisions or agencies thereof, or the United States or any agency thereof.

Section 302. Financing. The City may finance or re-finance the acquisition, construction, improvement, furnishing, equipping, repair, reconstruction or rehabilitation of public facilities, hospitals and health care facilities, and such residential, industrial, and commercial facilities as the City Council may determine to be a proper public purpose, in whole or in part, through the issuance of bonds secured by the revenue of such facilities, or otherwise, or by means of such other methods of financing that the City Council determines to be a proper public purpose; and provided further that where the general laws of the state provide a procedure for carrying out an enforcement of the powers granted herein, such procedure shall control and be followed, unless a different procedure shall have been provided in this charter, or by ordinance.



## ARTICLE IV Definitions

Section 400. Definitions. For the purposes of this Charter, the following definitions shall apply unless from the context thereof a contrary meaning is clearly intended:

(a) “City” is the City of Loma Linda, and “department”, “board”, “commission”, “agency”, “officer”, or “employee” is a department, board, commission, agency, officer, or employee as the case may be, of the City of Loma Linda.

(b) “City Council” shall mean the legislative body of the City.

(c) “Constitution” shall mean the Constitution of the State of California.

(d) “Facilities” shall mean land, including without limitation, the acquisition, preparation, and development thereof; and all improvements thereon, including without limitation, structures, buildings, roadways, landscaping, furnishings, equipment, machinery, and appurtenances.

(e) “General Law” shall mean an enactment of the Legislature of the State of California which lawfully governs, allows, or regulates activities of a general law city as defined in Sec. 34102 of the Government Code of the State of California.

(f) “Law” includes ordinance.

(g) “May” is permissive.

(h) “Municipal Affair” shall mean those matters which have been, and continue to be held to be such by courts of record in the State of California.

(i) “Shall” is mandatory.

(j) “State” is the State of California.

(k) The masculine, feminine, and neuter genders shall be interchangeable, as shall be the singular and plural.

Section 401. Reference to Laws. Whatever reference is made in this Charter to any law or Code provision enacted by the Legislature of the State, or to any constitutional provision, said reference shall mean, and include, any amendment thereto, enacted after the effective date of this Charter; provided, however, if any such law is repealed in whole or in part, the City Council, by ordinance, may enact provisions consistent with this Charter, covering the substance of such repealed legislation.

## ARTICLE V Violations

Section 500. Violations. A violation of this Charter, or any ordinance of the City, shall constitute an infraction. Any person violating any such provisions or failing to comply with any of the requirements of this Charter or any ordinance of the City, shall be guilty of an infraction. Any person convicted of an infraction under the provisions hereof shall be punishable by (1) a fine not exceeding Fifty Dollars (\$50.00) for a first violation; (2) a fine not exceeding One Hundred (\$100.00) for a second violation of the same ordinance within one (1) year; and (3) a fine not exceeding Two Hundred Fifty Dollars (\$250.00) for each additional violation of the same ordinance within one (1) year. Each such person shall be guilty of a separate offense for each and every day during any portion of

which any violation of any provision of this Charter or any City ordinance is committed, continued, or permitted by such person and shall be punishable accordingly.

ARTICLE VI  
Validity

Section 600. Validity. If any provision of this Charter, or the application thereof to any person or circumstance, is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Certified to be a true copy by Ardyce H. Koobs, Mayor and Robert R. Mitchell, City Clerk.

Date of Special Municipal Election: June 2, 1981.

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Charter Chapter No. 22—City of Anaheim

*Amendments to the Charter of the City of Anaheim*

[Filed with the office of the Secretary of State July 20, 1981 ]

Article XII Section 1210 is amended to read as follows:

Section 1210. REVENUE BONDS

Bonds which are payable only out of such revenues as may be specified in such bonds may be issued when the City Council by ordinance shall have established a procedure for the issuance of such bonds. Such bonds, payable only out of revenues, shall not constitute an indebtedness or general obligation of the City. No such bonds payable out of revenues shall be issued without the assent of a majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the qualified electors of the City.

It shall be competent for the City to make contracts and covenants for the benefit of the holders of any such bonds payable only from revenues and which shall not constitute a general obligation of the City for the establishment of a fund or funds, for the maintaining of adequate rates or charges, for restrictions upon further indebtedness payable out of the same fund or revenues, for restrictions upon transfer out of such fund, and other appropriate covenants. Money placed in any such special fund for the payment of principal and/or interest on any issue of such bonds or to assure the application thereof to a specific purpose shall not be expended for any other purpose whatever except for the purpose for which such special fund was established and shall be deemed segregated from all other funds of the City and reserved exclusively for the purpose for which such special fund was established until the purpose of its establishment shall have been fully accomplished.

Notwithstanding the foregoing, the City may sell and issue at any time and from time to time revenue bond anticipation notes (including renewal revenue bond anticipation notes) in anticipation of the revenue bonds

authorized by the voters on June 2, 1981; provided that the aggregate principal amount of such revenue bond anticipation notes and revenue bonds outstanding in accordance with their terms at any one time shall not exceed \$92 million. Such revenue bond anticipation notes may be sold, issued and secured in such a manner and subject to such terms and conditions as the City Council may prescribe by ordinance; provided that such revenue bond anticipation notes shall not constitute an indebtedness or general obligation of the City of Anaheim and are not to be secured by the taxing power of said City.

Section 1210.1 is added to read as follows:

Electric and water refunding revenue bonds may be issued to purchase, redeem or retire any bonds heretofore or hereafter issued pursuant to Section 1210 or this Section 1210.1, whenever the City Council determines that (1) costs of the City will be reduced by the refunding of any bonds, or (2) issuance of the refunding bonds will otherwise be financially advantageous to the City.

If as a result of the issuing of refunding bonds pursuant to this Section 1210.1, the water or electric utility of the City shall, in any Fiscal Year, realize a reduction in principal and interest on debt issued to finance such utility when the principal and interest paid on the refunding bonds in such Fiscal Year is compared to the principal and interest that would have been payable on the refunded bonds in such Fiscal Year, the City Council shall, not later than the last day of the next succeeding Fiscal Year, adjust rates of such utility, if necessary, to reflect fully such reduction in principal and interest payments as a reduction in costs of service of such utility.

All provisions of Section 1210 are applicable to refunding bonds, except that notwithstanding Section 1210 no additional election shall be required to authorize their issuance.

Certified to be a true copy by John Seymour, Mayor and Linda D. Roberts, City Clerk.

Date of Special Municipal Election: June 2, 1981.

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Charter Chapter 23—City of Los Angeles

*Amendments to the Charter of the City of Los Angeles*

[Filed with the Secretary of State June 17, 1981 ]

Section 180 of Article XVII is amended to read as follows:

The Board of Pension Commissioners shall administer the fire and police pension system of the City.

With respect to the management, administration and investment of the assets of the funds created by virtue of the provisions of Section 186 of this Article, the provisions of this section are the same as those of Section 190.07 of this Charter as of the effective date of this section and they are hereby incorporated herein by express reference. Should the provisions of Section 190.07 be amended at any time, or should they be repealed, the provisions

of this section shall be deemed amended or repealed, as the case may be, the same as said Section 190.07.

Section 180.1 of Article XVII is repealed.

Section 190.07, Article XVIII, Investments, is amended to read as follows:

The Board shall manage and administer the New System Service Pension Fund and the New System General Pension Fund and shall invest the assets of those funds subject to the limitations contained in this section. Whenever the Board shall have determined that it would be in the best interest of the New System, the Board may, in its discretion, appoint qualified persons including, but not limited to the Board's investment counselors or advisors, or contract for services to assist the Board and may delegate authority to such persons within guidelines established by the Board with respect to such investment activities as are authorized by this section, including transactions necessary in conjunction with such investment activities.

The Board shall establish methods for the valuation of its assets for the purpose of adhering to the investment limitations set forth herein.

The moneys in the funds of the New System shall be kept on deposit in the City Treasury or be invested as hereinafter provided.

The Board shall adopt rules and regulations, and may change, amend or repeal the same, with respect to its investment policies which, however, shall be subject to the limitations contained in this section and not inconsistent with the provisions thereof and shall have authority over the administration and investment of the funds and notwithstanding anything in this Charter to the contrary, the procedures to be followed in connection with such investment, including, within guidelines established by said Board, all matters relating to the purchase, sale, payment for, transfer, exchange, registration, delivery, receipt, custody and service of securities acquired by such funds, including holding securities on behalf of the Board for the purpose of safekeeping and lending of securities. All securities and other documents purchased or otherwise obtained by reason of transactions made by the Board pursuant to the provisions of this section, regardless of the form, description or legal effect of any of the same, may, at the sole discretion of the Board, be placed in either the custody of the City Treasurer or one or more qualified custodians to act as agent or agents of the Board.

All percentage limitations for investments in any investment category referred to in this section shall be applicable only as of the date an investment is made and shall not be a limitation for any other purposes.

The Board shall retain one or more competent counselors or advisors registered under the Investment Advisors Act of 1940 or any successor legislation thereto, and shall invest the moneys of the New System, including the purchase, sale or exchange of securities only upon the recommendation or advice of said investment counselors or advisors. However, the Board may purchase and sell United States Treasury bills without the recommendation of said investment counselors or advisors.

Authority to Invest in Equity-type Securities and to Enter into Transactions Involving Equities.

The Board, upon the terms and conditions and within the limitations

hereunder set forth, may invest up to but not exceeding seventy percent of the assets of the funds of the New System in equity-type securities such as common stocks, preferred stocks, convertible preferred stocks, and convertible bonds and debentures, but not limited thereto, as more specifically provided in this section. Except as otherwise herein provided, common stocks to be eligible for investment must be registered on a national securities exchange as provided in the Federal Securities Exchange Act, any amendment thereto and any subsequent legislation in place thereof, except for common stocks of banks which are members of the Federal Deposit Insurance Corporation or any successor thereof, and insurance companies. Furthermore, the corporation issuing such stock must have paid a dividend on its common stock in each of the 5 fiscal years next preceding the date of investment, provided, that if such corporation acquired its property or assets or any substantial portion thereof within such period by consolidation or merger with, or by purchase or otherwise from any other corporation or unincorporated business enterprise, the dividends of the several predecessor or constituent corporations or enterprises may be consolidated and adjusted in accordance with generally accepted accounting principles in order to ascertain whether such requirements have been met. Except as provided in the following paragraph, any preferred stock, convertible preferred stock or convertible bond or debenture shall be eligible for investment by the Board only if the common stock of the issuing corporation is eligible for investment under the terms of this paragraph.

Twenty-five percent of those assets of the funds invested in equity-type securities may be invested in common stocks, preferred stocks, convertible preferred stocks, and convertible bonds and debentures, irrespective of whether the common stock of the respective issuing corporation is eligible for investment under the terms of the preceding paragraph.

Not more than 2% of the assets of the funds shall be invested in the common stock of a single corporation nor shall the total number of shares of common stock held in any single corporation by the funds exceed 5% of the issued and outstanding shares of common stock of such corporation.

The Board shall have the authority to participate in securities lending transactions with respect to its equity-type securities.

The Board may participate in option transactions by the writing of covered call option contracts that are listed on a national securities exchange and the termination of such contracts by repurchase.

Authority to Invest in Debt-type Securities and to Enter into Transactions Involving Debt-type Securities.

The Board may invest one hundred percent of the assets of the funds in debt-type securities, such as bonds or debentures but not limited thereto, which, at the date of investment, shall be rated, either provisionally or finally, within the three highest classifications established by at least two standard rating services, or which then shall be legal for investment by commercial banks or public retirement systems in the State of California.

Notwithstanding the provisions of the preceding paragraph, the Board may invest up to but not exceeding twenty percent of the assets of the funds, in debt-type securities such as bonds or debentures but not limited

thereto, in which in the informed opinion of the Board it is prudent to invest retirement funds.

The Board may invest up to thirty-five percent of the assets of the funds in short-term money market instruments such as certificates of deposit, commercial paper, bankers' acceptances and repurchase agreements but not limited thereto, in which in the informed opinion of the Board it is prudent to invest retirement funds. A "short-term" money market instrument shall be understood to mean one which matures within one year of the date of purchase. The provisions contained in this paragraph shall not be a limitation on the Board's authority to invest the assets of the funds in United States Treasury bills and federal government agency securities.

The Board shall have the authority to participate in securities lending transactions with respect to its debt-type investment securities.

Section 190.071 of Article XVIII is repealed.

Section 220.1 of Article XXII, Subsection (1), paragraph (e) (third unnumbered paragraph) is amended to read:

That said Board of Administration, subject to such rules, regulations and instructions as may from time to time be prescribed by the Board of Water and Power Commissioners, shall have the power and authority to administer and invest those certain funds which pertain to said plan and system and which are hereinafter more particularly specified in subdivision (f) hereof, and in connection therewith the Board of Administration may, in its discretion, appoint qualified persons, including but not limited to the Board's investment counselors or advisors, or may contract for the services of persons, to assist the Board in administering and investing such funds, and may delegate authority to such persons for such purposes within guidelines established by the Board. Notwithstanding anything in this Charter to the contrary, the Board of Administration shall also have exclusive power and authority over the procedures to be followed in connection with such investments including, without limitation, all matters relating to the purchase, sale, payment for, transfer, exchange, registration, delivery, receipt, custody, and servicing of securities acquired by such funds, including but not limited to, the holding of securities on behalf of the Board of Administration for the purposes of safekeeping and lending of such securities; provided, however, that any money in such funds shall be kept on deposit with the Treasurer of the City, or be invested as hereinafter provided. (References to "such funds" as used hereinafter in the following subparagraphs mean the funds set forth in subdivision (f).)

(i) The Board of Administration shall retain one or more competent counselors or advisors registered under the Investment Advisors Act of 1940 or any successor legislation thereto, and shall invest the moneys of such funds, including the purchase, sale or exchange of securities only upon the recommendation or advice of said investment counselors or advisors. However, the Board may purchase and sell United States Treasury Bills without the recommendation of said investment counselors or advisors.

(ii) The Board shall establish methods for the valuation of the assets of each such funds for the purpose of adhering to the investment limitations set forth herein. All percentage limitations for investments in any invest-

ment categories referred to in this section shall be applicable only as of the date the investment is made and shall not be a limit for any other purposes.

(iii) The Board of Administration, upon the terms and conditions and within the limitations hereunder set forth, may invest up to but not exceeding seventy percent of the assets of each of such funds in equity-type securities such as common stocks, preferred stocks, convertible preferred stocks and convertible bonds and debentures, but not limited thereto, as more specifically provided in this section. Except as otherwise herein provided, common stocks to be eligible for investment must be registered on a national securities exchange as provided in the Federal Securities Exchange Act, any amendment thereto and any subsequent legislation in place thereof, except for common stocks of banks which are members of the Federal Deposit Insurance Corporation or any successor thereof, and insurance companies. Furthermore, the corporation issuing such stock must have paid a dividend on its common stock in each of its 5 fiscal years next preceding the date of investment, provided, that if such corporation acquired its property or assets or any substantial portion thereof within such period by consolidation or merger with, or by purchase or otherwise from any other corporation or unincorporated business enterprise, the earnings and dividends of the several predecessor or constituent corporations or enterprises may be consolidated and adjusted in accordance with generally accepted accounting principles in order to ascertain whether such requirements have been met. Except as provided in the following subparagraph, any preferred stock, convertible preferred stock or convertible bonds or debenture shall be eligible for investment by the Board only if the common stock of the issuing corporation is eligible for investment under the terms of this subparagraph.

(iv) Twenty-five percent of those assets of each of such funds invested in equity-type securities may be invested in common stocks, preferred stocks, convertible preferred stocks, and convertible bonds and debentures, irrespective of whether the common stock of the respective issuing corporation is eligible for investment under the terms of the preceding subparagraph (iii).

(v) Not more than 2% of the assets of each of such funds shall be invested in the common stock of a single corporation nor shall the total number of shares of common stock held in any single corporation by all of the funds exceed 5% of the issued and outstanding shares of common stock for such corporation.

(vi) The Board of Administration may participate in option transactions by the writing of covered call option contracts that are listed on a national securities exchange and the termination of such contracts by repurchase.

(vii) The Board of Administration may invest one hundred percent of the assets of each of such funds in debt-type securities, such as bonds or debentures but not limited thereto which, at the date of investment, shall be rated, either provisionally or finally, within the 3 highest classifications established by at least 2 standard rating services, or which shall be legal for investment by commercial banks, by public funds in the State of California, or legal for investment by savings banks in the State of New York, or

the State of Massachusetts; or in bonds issued by the Department of Water and Power, whether in its own name or in the name of the City of Los Angeles, and made payable out of the Water Revenue Fund or the Power Revenue Fund.

(viii) Notwithstanding the provisions of the preceding subparagraph (vii), the Board of Administration may invest up to but not exceeding twenty percent of the assets of each of such funds in debt-type securities, such as bonds or debentures but not limited thereto, in which, in the informed opinion of the Board, it is prudent to invest retirement funds.

(ix) The Board of Administration may invest up to thirty-five percent of the assets of each of such funds in short-term money market instruments, such as certificates of deposit, commercial paper, bankers' acceptances and repurchase agreements but not limited thereto, in which in the informed opinion of the Board it is prudent to invest retirement funds. A "short-term money market instrument" shall be understood to mean one which matures within one year of the date of purchase. The provisions contained in this paragraph shall not be a limitation on the Board's authority to invest the asset of such funds in United States Treasury bills and federal government agency securities.

(x) The Board of Administration shall have the authority to participate in securities lending transactions with respect to either its equity-type or debt-type investment securities.

(xi) The Board of Administration may invest in bonds or notes secured by first mortgages or first deeds of trust on real property to the extent of not to exceed fifteen percent of the assets of each of such funds. The Board of Administration may contract for servicing any mortgages and deeds of trust in which it has invested only with banks and corporations that have and maintain a net worth of at least one million dollars.

(xii) In investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the assets of each of such funds the Board of Administration shall exercise the same degree of judgment, care, good faith, reasonable prudence, discretion and intelligence as is required of a trustee by the provisions of subdivisions (1) and (2) of Section 2261 of the Civil Code of the State of California.

Section 504. Retirement Fund, of Article XXXIV is amended to read as follows:

That there be and there is hereby created and established a fund to be known as "City Employees' Retirement Fund" for the payment of administration expense, retirement allowances and other benefits of the retirement system, which fund shall consist of all money paid into said fund in accordance with the provisions of this article, and earnings from investments.

The Board shall manage and administer the City Employees' Retirement Fund and shall invest the assets of said fund subject to the limitations contained in this section. Whenever the Board shall have determined that it would be in the best interest of the City Employees' Retirement System, the Board may, in its discretion, appoint qualified persons including, but not limited to the Board's investment counselors or advisors, or contract for services to assist the Board, and may delegate authority to such persons



within guidelines established by the Board with respect to such investment activities as are authorized by this section, including transactions necessary in conjunction with such investment activities.

The Board shall establish methods for the valuation of its assets for the purpose of adhering to the investment limitations set forth herein.

The moneys in the fund shall be kept on deposit in the City Treasury or be invested as hereinafter provided. All payments from said fund shall be made only upon demands prepared and approved in accordance with the provisions of this Charter. No part of said fund shall be transferred to any other fund, in any manner or for any purpose except in the payment of an obligation of the retirement system as provided in this article.

The Board shall adopt rules and regulations, and may change, amend or repeal the same, with respect to its investment policies which, however, shall be subject to the limitations contained in this section and not inconsistent with the provisions thereof and shall have authority over the administration and investment of the funds and notwithstanding anything in this Charter to the contrary, the procedures to be followed in connection with such investment, including, within guidelines established by said Board, all matters relating to the purchase, sale, payment for, transfer, exchange, registration, delivery, receipt, custody and service of securities acquired by such fund, including holding securities on behalf of the Board for the purpose of safekeeping and lending of securities. All securities and other documents purchased or otherwise obtained by reason of transactions made by the Board pursuant to the provisions of this section, regardless of the form, description or legal effect of any of the same, may, at the sole discretion of the Board, be placed in either the custody of the City Treasurer or one or more qualified custodians to act as agent or agents of the Board.

All percentage limitations for investments in any investment category referred to in this section shall be applicable only as of the date an investment is made and shall not be a limitation for any other purposes.

The Board shall retain one or more competent counselors or advisors registered under the Investment Advisors Act of 1940 or any successor legislation thereto, and shall invest the moneys of the fund including the purchase, sale or exchange of securities only upon the recommendation or advice of said investment counselors or advisors. However, the Board may purchase and sell United States Treasury bills without the recommendation of said investment counselors or advisors.

Authority to Invest in Debt-type Securities and to Enter into Transactions Involving Debt-type Securities.

The Board, upon the same terms and conditions contained in the first paragraph of Section 1372 of the California Financial Code as of the effective date of this section, may invest one hundred percent of the fund in debt-type securities, such as bonds or debentures but not limited thereto, which shall be legal investments for commercial banks or pension and retirement funds under the provisions of said paragraph.

Notwithstanding the provisions of the preceding paragraph, the Board may invest up to but not exceeding twenty percent of the assets of the fund, in debt-type securities, such as bonds or debentures but not limited

thereto, in which in the informed opinion of the Board it is prudent to invest retirement funds.

The Board may invest up to thirty-five percent of the assets of the fund in short-term money market instruments, such as certificates of deposit, commercial paper, bankers' acceptances and repurchase agreements but not limited thereto, in which in the informed opinion of the Board it is prudent to invest retirement funds. A "short-term" money market instrument shall be understood to mean one which matures within one year from the date of purchase. The provisions contained in this paragraph shall not be a limitation on the Board's authority to invest the assets of the fund in United States Treasury bills and federal government agency securities.

Debt-type securities owned by the Board may be exchanged for other debt-type securities when the General Manager of the City Employees' Retirement System, in concurrence with the recommendation of investment counsel, and within guidelines established by the Board, determines it would be to the advantage of the fund to exchange such securities.

The Board shall have the authority to participate in securities lending transactions with respect to its debt-type investment securities.

Authority to Invest in Equity-type Securities and to Enter into Transactions Involving Equities.

The Board, upon the terms and conditions and within the limitations hereunder set forth, may invest up to but not exceeding seventy percent of the assets of the fund in equity-type securities such as common stocks, preferred stocks, convertible preferred stocks, and convertible bonds and debentures, but not limited thereto, as more specifically provided in this section. Except as otherwise herein provided, common stocks to be eligible for investment must be registered on a national securities exchange as provided in the Federal Securities Exchange Act, any amendment thereto and any subsequent legislation in place thereof, except for common stocks of banks which are members of the Federal Deposit Insurance Corporation or any successor thereof, and insurance companies. Furthermore, the corporation issuing such stock must have paid a dividend on its common stock in each of the 5 fiscal years next preceding the date of investment, provided, that if such corporation acquired its property or assets or any substantial portion thereof within such period by consolidation or merger with, or by purchase or otherwise from any other corporation or unincorporated business enterprise, the dividends of the several predecessor or constituent corporations or enterprises may be consolidated and adjusted in accordance with generally accepted accounting principles in order to ascertain whether such requirements have been met. Except as provided in the following paragraph, any preferred stock, convertible preferred stock or convertible bond or debenture shall be eligible for investment by the Board only if the common stock of the issuing corporation is eligible for investment under the terms of this paragraph.

Twenty-five percent of those assets of the fund invested in equity-type securities may be invested in common stocks, preferred stocks, convertible preferred stocks, and convertible bonds and debentures, irrespective of whether the common stock of the respective issuing corporation is eligible for investment under the terms of the preceding paragraph.

Not more than 2% of the assets of the fund shall be invested in the common stock of a single corporation nor shall the total number of shares of common stock held in any single corporation by the fund exceed 5% of the issued and outstanding shares of common stock of such corporation.

The Board shall have the authority to participate in securities lending transactions with respect to its equity-type securities.

The Board may participate in option transactions by the writing of covered call option contracts that are listed on a national securities exchange and the termination of such contracts by repurchase.

Section 60 is amended to read as follows:

Sec. 60. (a) The Treasurer may, as he deems advisable, deposit the money under his supervision and control, in such institutions and upon such terms as the laws of the State of California may permit, and the evidence of such deposits shall be counted and considered the same as cash in the City Treasury.

(b) Notwithstanding other provisions of this Charter, the Board of Harbor Commissioners and the Board of Water and Power Commissioners may grant to the Treasurer the authority to combine money in funds under their respective controls with other City money for the purpose of investment, at his discretion, in the manner that he is authorized to invest money in other City funds. Interest earned from the investment of such department money shall be paid by the Treasurer to the department fund from which the money was derived in proportion to the share of the total investment supplied by such fund. The computation of the proportionate shares shall be by a method proposed by the Treasurer subject to the approval of the two boards.

Section 146.1 is added to the Charter to read as follows:

Section 146.1. Short Term Revenue Certificates

Subsection a. In addition to the powers conferred by Section 146 of this Charter, the Harbor Department shall also have the power to borrow money and incur indebtedness from time to time for any of the purposes for which it can issue bonds or notes pursuant to Section 146, which such indebtedness shall be evidenced by revenue certificates issued in the manner and subject to the limitations hereinafter set forth in this Section 146.1.

Subd. (1). Certificates issued by the Department pursuant to this Section 146.1 may be negotiable or nonnegotiable, and all certificates shall be, and shall recite upon their face that they are, payable both as to principal and interest out of the harbor revenue fund and not out of any other fund or moneys of the Department or the City. Such recital, however, shall not preclude payment from the proceeds of sale or other certificates issued pursuant to this Section or from amounts drawn on bank lines of credit pursuant to subsection b of this Section or from any other lawfully available source of funds.

Subd (2) In order to exercise the power to borrow money pursuant to this Section 146.1, the Board shall adopt a resolution authorizing the sale and issuance of certificates for such purpose, which resolution shall specify—

Clause (i)—the purpose or purposes for which the proposed certificates are to be issued:

Clause (ii)—the maximum principal amount of the certificates which may be outstanding at any one time;

Clause (iii)—the maximum interest cost, to be determined in the manner specified in said resolution, to be incurred through the issuance of such certificates; and

Clause (iv)—the obligations to certificate holders while certificates are outstanding, which obligations may include such of those specified in Clauses (i) through (iv), inclusive, of subsection (m) of Section 146 of this Charter as the Board shall make applicable to certificate holders.

Subd. (3). The Board may also provide, in its discretion—

Clause (i)—for the sale and issuance of such certificates at such times, in such manner (either through public or private sale), in such amounts, with such maturities not exceeding one year from date of issue, at such rate of discount or interest, and with such other terms and conditions, as may be deemed appropriate by the General Manager of the Department or such other officer or officers as may be designated by the Board;

Clause (ii)—for the appointment of one or more banks or trust companies, either inside or outside the State of California, as depository for safekeeping and as agent for the delivery of, and the payment of, said certificates;

Clause (iii)—for the employment of one or more persons or firms to assist the Department in the sale of said certificates;

Clause (iv)—for the refunding of such certificates from time to time without further action by the Board, unless and until the Board specifically revokes such authority to refund; and

Clause (v)—for such other terms and conditions as the board may deem appropriate.

Subd. (4). Certified copies of such resolution shall be transmitted to the offices of the Mayor and of the City Clerk for information only and such resolution shall not be subject to approval by the Mayor of Council but shall take effect upon its adoption by the Board, subject only to the right of referendum as herein provided.

Subd. (5). Upon any such resolution taking effect subject to the right of referendum, the Board shall cause the same to be published by at least one insertion in some daily newspaper published and of general circulation in the City of Los Angeles. At any time within 30 days after such publication a referendary petition, demanding the submission of such resolution to a vote of the qualified electors of the City for their assent to the issuance of the proposed certificates, may be filed with the City Clerk. Except as in this Section 146.1 otherwise expressly provided, all of the provisions of this Charter relating to referendum with respect to ordinances shall apply to any referendum under the provisions of this subsection. Upon presentation to the Council by the City Clerk of a referendary petition, the resolution which is the subject thereof shall be of no effect unless and until the same shall have been assented to by the voters.

Subd. (6) If no such referendary petition is presented within the aforesaid period of 30 days, then upon the expiration of said period, or if the proposition of issuing the certificates shall have been assented to by

the voters, then upon such proposition having been assented to, the said resolution shall take full and final effect, and the General Manager of the Department may proceed in accordance with the provisions of this Section 146.1 and issue certificates within the terms of said resolution.

Subd. (7). From and after the full and final effective date of such resolution, the General Manager of the Department shall submit a written report to the Board at its first meeting following the issuance of certificates specifying the total principal amount of certificates then outstanding, the interest cost thereon, the Department's current outstanding debt, and such other information as the Board may request.

Subsection b. The Board may arrange for bank credit for the purpose of providing an additional source of repayment for indebtedness incurred under this Section. Amounts drawn on available bank lines of credit may be evidenced by negotiable or nonnegotiable promissory notes or other evidences of indebtedness.

Subsection c. No amount shall be borrowed under the authority of this Section 146.1 which, when added to the amount of all notes or other evidences of indebtedness issued pursuant to the authority of subsection (r) of Section 146 and then outstanding, shall exceed 50% of the gross revenues from the operation and conduct of the Harbor Department during the preceding fiscal year.

Subsection d. This Section 146.1 is complete authority for the issuance of certificates and the obtaining of bank credit hereunder, and no action or proceeding not required by this Section shall be necessary for the valid authorization of such indebtedness. The powers conferred by this Section are in addition and supplemental to, and are not in substitution for, and the limitations imposed by this Section shall not affect the powers conferred by Section 146 or any other section of this Charter.

Section 270. Filling Vacancies in the Offices of Mayor, City Attorney, Controller and Member of the City Council is added to the charter to read as follows:

A. Notwithstanding the provisions of Sections 267 and 268 of this Charter, vacancies in the offices of Mayor, City Attorney, Controller and Member of the City Council shall be filled by either appointment or election in the manner set forth in this section.

B. The City Council may fill a vacancy by appointing a person to hold the office for the portion of the unexpired term remaining through the next June 30 of an odd numbered year. If, however, the vacancy is filled after the first date fixed by law for filing a declaration of intention to become a candidate at the next primary nominating election, the person appointed shall hold the office for the remainder of the unexpired term.

C. Instead of filling a vacancy by appointment, the City Council may call a special election by ordinance for the purpose of filling such vacancy for the remainder of the unexpired term. The Council shall provide in such ordinance for the consolidation of such election with any other election and for the procedure for nominating candidates, including the amount of the filing fee, if any, to be paid by candidates and other matters pertaining to such election. If no candidate at such special election receives a majority of the votes cast therein, the City Council shall call

another special election by ordinance for the purpose of determining who shall be elected to the subject office as between the two candidates receiving the highest number of votes at the prior election. The time for holding such election, and its consolidation with any other election and other matters pertaining to such election, shall be provided for in such ordinance. The votes at each of such special elections shall be canvassed and the result thereof declared in the same manner provided by law as in a regular election. In the case of a tie vote the Council shall decide which candidate receiving an equal number of votes is elected to so fill such vacancy in office.

D. In the event the City Council fills a vacancy by appointment, it shall, except as provided in Subsection B, also call a special election or elections to fill the remainder, if any, of the unexpired term, as set forth in Subsection C, and shall consolidate such election or elections with the primary nominating election and the general municipal election next succeeding the appointment.

E. No person may be appointed or elected to fill a vacancy who does not possess the necessary qualifications set forth in Section 307 of this Charter. Any person appointed or elected to fill a vacancy may be removed from office by the recall in the same manner as if he or she had been otherwise elected to said office.

Section 271. Filling Vacancies in the Office of Members of the Board of Education is added to the charter to read as follows:

A. Notwithstanding the provisions of Sections 267 and 268.5 of this Charter, vacancies in the office of Members of the Board of Education shall be filled by either appointment or election in the manner set forth in this section

B. The Board of Education may fill a vacancy by appointing a person to hold the office for the portion of the unexpired term remaining through the next June 30 of an odd numbered year. If, however, the vacancy is filled after the first date fixed by law for filing a declaration of intention to become a candidate at the next primary nominating election, the person appointed shall hold the office for the remainder of the unexpired term.

C. Instead of filling a vacancy by appointment, the Board of Education may contract with the City of Los Angeles for the calling and conducting of a special election or elections for the purpose of filling such vacancy for the remainder of the unexpired term. Such contract shall be subject to approval by the City Council, and shall contain a provision that the Los Angeles Unified School District shall pay for all costs incurred in conducting the special election or elections. Unless otherwise specified in the contract, within 30 days of the City Council's approval of the contract for calling and conducting a special election pursuant to this section, the Council shall adopt an ordinance calling a special election for the purpose of filling such vacancy and provide in such ordinance the time for holding the election, whether consolidation with any other scheduled election will be sought; the procedures for nominating candidates, including the amount of the filing fee, if any, to be paid by candidates; and other matters pertaining to such election. If no candidate at such special election re-

ceives a majority of the votes cast therein, the City Council shall call another special election by ordinance for the purpose of determining who shall be elected to the office as between the two candidates receiving the highest number of votes at the prior election. The time for holding such election and any other matter pertaining to such election shall be provided for in such ordinance. The votes at any such special election shall be canvassed and the results thereof declared in the same manner provided by law as in a regular election.

D. In the event the Board of Education fills a vacancy by appointment, it shall, except as provided in Subsection B, also contract with the City of Los Angeles for the calling and conducting of a special election or elections to fill the remainder of the unexpired term, if any, as set forth in Subsection C, and the City Council shall consolidate such election or elections with the primary nominating election and the general municipal election next succeeding the appointment.

E. No person may be appointed or elected to fill a vacancy who does not possess the necessary qualification for election to the office of Member of the Board of Education. Any person appointed or elected to fill a vacancy may be removed from office by the recall in the same manner as if he or she had otherwise been elected to said office.

Certified to be a true copy by John Ferraro, President, City Council and Rex E. Layton, City Clerk.

Date of City General Election: June 2, 1981.

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## Charter Chapter 24—City of Riverside

### *Revised Charter of the City of Riverside*

[Filed with the Secretary of State November 17, 1981.]

Charter is amended to read as follows:

#### ARTICLE I. INCORPORATION AND SUCCESSION.

##### Sec. 100. Name and boundaries.

The City of Riverside, hereinafter termed the city, shall continue to be a municipal corporation under its present name of "City of Riverside." The boundaries of the city shall be the boundaries as established at the time this Charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

##### Sec. 101. Succession to rights and liabilities.

The City of Riverside shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall be subject to all its debts, obligations, liabilities and contracts.

##### Sec. 102. Continuance of ordinances, rules and regulations.

All lawful comprehensive codes, ordinances, resolutions, rules and regulations, or portions thereof, in force at the time this Charter takes effect,

and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Sec. 103. Continuance of present officers and employees.

The occupants of offices provided for in this Charter and employees, at the time this Charter takes effect, shall continue to perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the appointment or election, and qualification, of their successors, but subject to the provisions of this Charter.

Sec. 104. Effective date of Charter.

This Charter shall take effect upon its acceptance and filing by the Secretary of State.

## ARTICLE II. POWERS OF CITY.

Sec. 200. Generally.

The city shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, heretofore or hereafter established, granted or prescribed by any law of the state, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

## ARTICLE III. FORM OF GOVERNMENT.

Sec. 300. Designated.

The municipal government established by this Charter shall be known as the "council-manager" form of government.

## ARTICLE IV. CITY COUNCIL AND MAYOR.

Sec. 400. Enumerated; number, term and manner of election; wards.

(a) The elective officers of the city shall consist of a City Council of seven members, elected from wards, and a mayor elected from the city at large, at the times and in the manner provided in this Charter, who shall serve for a term of four years and until their respective successors qualify. The terms of all officials, so elected, shall be deemed to have commenced on the first Tuesday following the general municipal election.

(b) The members of the City Council shall be elected by wards by the registered voters of the respective wards only. One member of the City Council shall be elected by each ward, and only the registered voters of each ward shall vote for the member of the City Council to be elected by that ward. In those wards where there are more than two candidates, only a candidate receiving a majority of the total votes cast for the office shall be declared elected.

(c) If in an election for a member of the City Council for any ward, or for the office of mayor, no candidate receives a majority of the total votes



cast for the office, the City Council shall, immediately upon the determination of that fact, call a special election to be held not less than forty-five days nor more than seventy days from the date of the general municipal election. The two candidates receiving the highest number of votes for the office in the general municipal election shall be declared the candidates for the special election.

(d) Elected officials shall take office on the first Tuesday following their elections.

(e) The qualifications of candidates and electors and the procedure governing general municipal elections shall apply to any special election called pursuant to this section and the notice of such election shall be published at least thirty days prior to the date of such special election.

Sec. 401. Eligibility to hold the office: member of the City Council; mayor.

(a) A person is not eligible to hold the office of a member of the City Council of the City of Riverside unless such person is a qualified elector within the territory comprising the ward by which such person is elected or for which such person is appointed at the time of such election or appointment and continues to be a qualified elector of said ward.

If the residence of any member of the City Council is changed to a place outside the boundaries of the ward from which such member was elected or for which such member was appointed, the office of such member shall become vacant. The existence of the vacancy shall be declared and filled as provided by Section 404 of this Charter.

(b) A person is not eligible to hold the office of mayor unless such person is a qualified elector of the city at the time of such election or appointment and continues to be a qualified elector of the city.

If the residence of the mayor changes to a place outside the boundaries of the city, the office of the mayor shall become vacant. The existence of the vacancy shall be declared and filled as provided by Section 404 of this Charter.

Sec. 402. Wards established.

The City of Riverside is hereby and by ordinance shall be divided into seven wards, designated as First Ward, Second Ward, Third Ward, Fourth Ward, Fifth Ward, Sixth Ward, and Seventh Ward.

The boundaries of wards shall be reviewed at least every ten years upon the completion of the federal decennial census or more frequently as may be determined necessary upon receipt of official census data; and the boundaries of such wards shall be adjusted by the City Council as necessary to provide for substantially equal numbers of residents in each ward. Such boundary adjustment during a councilmember's term shall not result in disqualification for membership on the council during such term.

Sec. 403. Compensation.

The members of the City Council shall receive compensation for their services as such, and in addition shall receive reimbursement for their necessary expenses on order of the City Council for Council-authorized traveling and other expenses when on official duty. Each member shall receive as compensation such amount as may be fixed by ordinance, after a noticed, public hearing, notice of which has been given by publication

at least 15 days prior to such hearing.

The mayor shall receive compensation for services in such amount and at such stated times as shall be prescribed by ordinance.

Five affirmative votes of the City Council are necessary to establish a level of compensation for the City Council and the mayor.

Once a level of compensation for City Council members and the mayor is established, such level will not be permitted to change automatically by linking such compensation to an external factor; every change in such compensation must be approved by five affirmative votes of the City Council.

**Sec. 404. Vacancies.**

A vacancy in an elective office, from whatever cause arising, except in the event of a successful recall, shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next general municipal election and until such appointee's successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term.

If a member of the City Council or the mayor is absent from three consecutive regular meetings of the city council, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, the office of such person shall become vacant.

The City Council shall declare the existence of any vacancy. In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall have been so declared vacant, it shall cause an election to be held forthwith to fill such vacancy.

**Sec. 405. Duties of Mayor; mayor pro tem.**

The mayor shall be the presiding officer at all meetings of the City Council and shall have a voice in all its proceedings but shall not vote except to break a City Council tie-vote which exists for any cause. The Mayor shall be the official head of the city for all ceremonial purposes. The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the city government to the people, and of informing the people of any major change in policy or program. The Mayor shall advise the City Council on all matters of policy and public relations and perform such other duties as may be prescribed by this Charter. At the first City Council meeting of each year in January the mayor shall deliver a state of the city message presenting the programs and priorities of the mayor for the forthcoming year.

The City Council shall designate one of its members as mayor pro tempore, who shall serve in such capacity at the pleasure of the City Council. In the absence of the Mayor, the Mayor Pro-tempore shall assume the duties of the Mayor. The Mayor Pro-tempore shall conduct the Council meetings and shall vote only as a member of the Council, not as Mayor Pro-tempore. In the event of a tie vote, the Mayor Pro-tempore shall not have a tie breaking vote and the Council vote shall be recorded as a negative or 'nay' vote. With regards to the veto power, the Mayor Pro-tempore shall not have the power to veto acts of the City Council.

**Sec. 406. City powers vested in Council; exceptions.**

All powers of the city shall be vested in the City Council except as

otherwise provided in this Charter.

Sec. 407. Interference in administrative service.

Neither the mayor nor the City Council nor any of its members shall interfere with the execution by the city manager of his powers and duties, or order, directly or indirectly, the appointment by the city manager or by any of the department heads in the administrative service of the city, of any person to an office or employment or their removal herefrom. Except for the purpose of inquiry, the mayor, the City Council and its members shall deal with the administrative service under the city manager solely through the city manager and neither the mayor nor the City Council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

Sec. 408. Meetings.

The City Council shall hold regular meetings at least twice each month at such times as it shall fix by ordinance or resolution and may adjourn or readjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day. Special meetings may be called in accordance with state law.

Meetings of City Council-appointed standing Council committees, regardless of the number of City Council members who might be on such committees, shall be open to the public and the time and place of such meetings shall be publicly announced at the City Council meeting prior to such committee meetings.

Sec. 409. Same—Location.

All meetings shall be held in the council chambers of the city hall, or in such place to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the mayor, or, if the mayor should fail to act, by four members of the City Council.

Sec. 410. Same—Quorum; proceedings.

A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the city clerk may declare the same adjourned to a stated day and hour. Notice of a meeting adjourned by less than a quorum or by the clerk shall be given in the manner provided by state law.

Sec. 411. Same—Citizen participation.

Each citizen shall have the right, personally or through counsel, to present comments at any regular meeting of the Council or a Council standing committee or offer suggestions with respect to municipal affairs.

Sec. 412. Powers of council and mayor; additional.

The City Council shall judge the qualifications of its members as set

forth by the Charter. It shall judge all election returns. It may establish, and uniformly apply rules for the conduct of its proceedings and evict any member or other person for disorderly conduct at any of its meetings.

The mayor and each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the city and be attested by the city clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

All votes of the City Council shall be by recorded roll call vote and entered in the minutes of the meeting.

Sec. 413. Adoption of ordinances and resolutions.

With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the city clerk. At the time of adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Council members present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the adoption of any ordinance or resolution, or for the making or approving of any order for the payment of money. No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes.

At any time before the adjournment of a meeting, the mayor may, by public declaration spread upon the minutes of the meeting, veto any formal action taken by vote of the City Council including any ordinance or resolution, except an emergency ordinance, the annual budget or an ordinance proposed by initiative petition. Thereupon, pending the vote to override the veto as herein provided, such ordinance, resolution or action shall be deemed neither approved nor adopted. The mayor shall, no more than 20 days following the veto, provide to Council members, in writing, reasons for the mayor's veto. If the mayor fails to provide a written veto

message within the time allotted, the original action of the council shall stand. At any regular or adjourned meeting held not less than thirty days, nor more than sixty days after veto the City Council shall reconsider such ordinance, resolution or action and vote on the question of overriding the veto. Five affirmative votes shall be required for its adoption or approval. The mayor shall have no right to veto the override of any ordinance, resolution or action.

All ordinances and resolutions shall be signed by the mayor and attested by the city clerk.

**Sec. 414. Publication of ordinances.**

The city clerk shall cause to be published at least once in a newspaper of general circulation within the city within fifteen days after its adoption the number, a title, a brief synopsis of the content of each ordinance and the statement that a full copy of the ordinance is available in the office of the city clerk.

**Sec. 415. Codification of ordinances; adoption by reference.**

Any or all ordinances of the city which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed may be compiled, consolidated, revised, indexed and arranged in a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the city clerk prior to the adoption thereof. Ordinances codified in a separate action from their adoption shall be repealed as of the effective date of their inclusion in the code. Amendments to the code shall be enacted in the same manner as ordinances.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this section. Maps, charts and diagrams also may be adopted by reference in the same manner.

**Sec. 416. Effective date of ordinances.**

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An ordinance adopted under some law or procedural ordinance providing for a different effective date.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.
- (d) An emergency ordinance adopted in the manner provided for in this article.

**Sec. 417. Violation of ordinances and penalty therefor.**

A violation of any city ordinance shall constitute a misdemeanor unless by ordinance it is made an infraction, and may be prosecuted in the name of the People of the State of California or may be redressed by civil action. The maximum fine or penalty for any violation of a city ordinance shall

be the sum of one thousand dollars, or a term of imprisonment for a period not exceeding six months, or both such fine and imprisonment.

Sec. 418. Contracts—Restrictions on duration.

The City Council shall not have the power to make or authorize any contract or lease or extension thereof for a longer period than shall be provided by the laws of the State of California with respect to general law cities unless said contract, lease or extension be approved by a majority of the qualified electors of the city voting on such question at any election. A contract, lease or extension for a longer period shall be valid without such approval if it provides for the right of acquisition by the city at the end of such period of the real or personal property leased or contracted for. This section shall not apply to airports or to any franchise granted pursuant to the provisions of this Charter or to any contract for the furnishing, or acquisition of the products, commodity or services of any public utility.

Sec. 419. Same—Execution.

The city shall not be bound by any contract except as hereinafter provided unless the same shall be made in writing, approved by the City Council and signed on behalf of the city by the mayor and city clerk or by such other officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the city when directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the city manager to bind the city, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services, or other items, if included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the city service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the city may be made by the manager of such utility or by the head of the department of public utilities upon forms approved by the city manager and at rates fixed as in this Charter provided.

The provisions of this section shall not apply to services rendered by any person in the employ of the city at a regular salary.

Sec. 420. Council tie—Mayor's vote.

Notwithstanding any other provisions of this Charter when a tie-vote exists for any cause, in order to break that tie, the mayor shall have the same voting right as a member of the City Council for or against the item before the City Council. The mayor's vote shall be deemed a City Council member's vote for all purposes, including the introduction or adoption of both ordinances and resolutions.

## ARTICLE V. CITY MANAGER

Sec. 500. Creation of office; appointment; tenure; eligibility of elective officers.

There shall be a city manager who shall be the chief administrative officer of the city. The process for the selection of a city manager shall be determined by the City Council. It shall appoint, by a majority vote, the available person that it believes to be best qualified on the basis of executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the offices as set forth in this Charter. The city manager shall serve at the pleasure of the City Council.

No person shall be eligible to receive appointment as city manager while serving as mayor or as a member of the City Council nor within one year after ceasing to hold such office.

Sec. 501. Powers and duties.

The city manager shall be the head of the administrative branch of the city government. The city manager shall be responsible to the City Council for the proper administration of all affairs of the city.

All department heads and officers of the city, except elective officers and those department heads and officers the power of whose appointment is vested by this Charter in the City Council, shall serve at the pleasure of the city manager who may appoint, suspend or remove such department heads and officers subject to the personnel merit system provisions of this Charter. However, the appointment, removal and suspension of the librarian shall be subject to the approval of the board of library trustees, the appointment (but not the suspension or removal) of the controller and the treasurer shall be subject to the approval of the City Council, and the appointment (but not the suspension or removal) of the superintendent of public utilities shall be subject to the approval of the board of public utilities. The city manager may approve or disapprove all proposed appointments and removals of subordinate employees by department heads or officers, and such appointments and removals by department heads or officers shall be subject to the approval of the city manager.

Notwithstanding the foregoing or any other provision of this Charter except Section 407, the City Council may adopt by ordinance, an employee appeal process which could affirm, overrule or modify a final administrative decision concerning an employee grievance and could provide that such action shall be final. Without limiting the foregoing general grant of powers, responsibilities and duties, the city manager shall have the power and be required to:

(a) Prepare the budget annually, submit such budget to the City Council and be responsible for its administration after its adoption.

(b) Prepare and submit to the City Council annually a capital improvements plan.

(c) Prepare and submit to the City Council as of the end of the fiscal year a comprehensive report on the finances and administrative activities of the city for such fiscal year.

(d) Keep the City Council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable to the city manager.

(e) Prepare rules and regulations governing the contracting for, procuring, purchasing, storing, distribution, or disposal of all supplies, materi-

als and equipment required by any office, department or agency of the city government and recommend them to the City Council for adoption by it.

(f) See that the laws of the state pertaining to the city, the provisions of this Charter and the ordinances of the city are enforced.

(g) Perform such other duties consistent with this Charter as may be required of the city manager by the City Council.

Sec. 502. Participation in meetings of Council, boards and commissions.

The city manager shall be accorded a seat at the City Council table and at all meetings of boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote.

Sec. 503. Manager pro tempore.

The city manager shall appoint, subject to the approval of the City Council, one of the other officers or department heads of the city to serve as manager pro tempore during any temporary absence or disability of the city manager.

#### ARTICLE VI. OFFICERS AND EMPLOYEES GENERALLY.

Sec. 600. Appointment of city attorney and city clerk by council; tenure.

In addition to the city manager, there shall be a city attorney and a city clerk who shall be appointed by and serve at the pleasure of the City Council.

Sec. 601. Organization of city operations and activities.

The City Council shall, by ordinance, provide for the organization of all city operations and activities into functional units and may modify and change the organization from time to time. This organization shall be accomplished through the creation and establishment, by ordinance, of city departments, offices and agencies, boards, commissions and committees. In establishing departments, offices, agencies, boards, commissions and committees, the Council shall provide the functions, powers and duties of each such department, office, agency, board, commission or committee created.

The Council may, by ordinance, abolish, consolidate, modify or separate any department, office, agency, board, commission or committee, and may assign, reassign, or modify any functions, powers, or duties.

No office provided in this Charter to be filled by appointment by the city manager may be consolidated with an office to be filled by appointment by the City Council. The City Council, subject to the provisions of this Charter, shall provide for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

Sec. 602. Eligibility, powers and duties of city attorney.

To become eligible for city attorney, the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least five years prior to appointment.

The city attorney shall have power and may be required to:

(a) Represent and advise the City Council and all city officers in all



matters of law pertaining to their offices.

(b) Represent and appear for the city in any or all actions or proceedings in which the city is concerned or is a party, and represent and appear for any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which any such officers or employee is concerned or is a party for any act arising out of any officer's or employee's employment or by reason of such officer's or employee's official capacity.

(c) Attend all regular meetings of the City Council and give advice or opinion in writing whenever requested to do so by the City Council or by any of the boards or officers of the city.

(d) Approve the form of all contracts made by and all bonds given to the city, endorsing the city attorney's approval thereon in writing.

(e) Prepare any and all proposed ordinances or resolutions for the city and amendments thereto.

(f) Surrender to the city attorney's successor all books, papers, files and documents pertaining to the city's affairs.

The City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the city attorney therein.

Sec. 603. Powers and duties of city clerk.

The city clerk shall have power and be required to: (a) Be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose and attend all meetings of the City Council either in person or by deputy.

(b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published in accordance with this Charter; keep all books properly indexed and open to public inspection when not in actual use.

(c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.

(d) Be the custodian of the seal of the city.

(e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the city and certify copies of official records.

(f) Have charge of all city elections.

Sec. 604. Controller.

There shall be a controller appointed by the city manager with the approval of the City Council who shall have power and shall be required to:

(a) Have charge of the administration of the financial affairs of the city under the direction of the city manager.

(b) Compile the budget expense and income estimates for the city manager.

(c) Maintain a general accounting system for the city government and each of its offices, departments and agencies.

(d) Supervise and be responsible for the disbursement of all moneys

and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve, before payment, all bills, invoices, payrolls, demands or charges against the city government and, with the advice of the city attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.

(e) Submit to the City Council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city; and, as of the end of each fiscal year, submit a complete financial statement and report.

(f) Supervise the keeping of current inventories of all property of the city by all city departments, offices and agencies.

**Sec. 605. Treasurer.**

There shall be a treasurer appointed by the city manager with the approval of the City Council who shall have power and shall be required to:

(a) Receive all taxes, assessments, license fees and other revenues of the city, or for whose collection the city is responsible, and receive all taxes or other money receivable by the city from the county, state or Federal government, or from any court, or from any office, department or agency of the city.

(b) Have custody of all public funds belonging to or under control of the city or any office, department or agency of the city government and deposit all funds coming into the treasurer's hands in such depository as may be designated by resolution of the City Council, or if no such resolution be adopted, then in such depository designated in writing by the city manager, and in compliance with all of the provisions of the state constitution and laws of the state governing the handling, depositing and securing of public funds.

(c) Disburse moneys on demands audited in the manner provided for in this Charter.

(d) Prepare and submit to the controller monthly written reports of all receipts, disbursements and fund balances; copies of said reports shall be filed with the city manager.

**Sec. 606. Administering Oaths.**

Each department head and the deputies thereof shall have the power to administer oaths and affirmations in connection with any official business pertaining to such department.

**Sec. 607. Appointive powers of department heads.**

Each department head and appointive officer shall have the power to appoint, suspend or remove such deputies, assistants, subordinates and employees as are provided for by the City Council for such department or office, subject to the provisions of this Charter and of any personnel merit system adopted hereunder.

**Sec. 608. Financial interest of city officers in contracts, sales, etc.**

No member of the City Council, department head or other officer of the city (except a member of any board or commission), shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the city is a party.

No member of any board or commission shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the city is a party and which comes before the board or commission of which such person is a member for approval or other official action or which pertains to the department, office or agency of the city with which such board or commission is connected.

Any contract, sale or transaction in which there shall be such an interest, as specified in this section, shall become void at the election of the city when so declared by resolution of the City Council.

No member of the City Council, department head or other officer of the city, or member of any board or commission, shall be deemed to be financially interested, within the meaning of the foregoing provisions, in any contract made with a corporation where such person's only interest in the corporation is that of a stockholder and the stock owned by such person shall amount to less than three percent of all the stock of such corporation issued and outstanding.

If any member of the City Council, department head or other officer of the city, or member of a board or commission, shall be financially interested as aforesaid, upon conviction thereof such person shall forfeit such office in addition to any other penalty which may be imposed for such violation of this Charter.

Sec. 609. Acceptance of another office by elective officer.

Any elective officer of the city who shall accept or retain any other elective public office shall be deemed thereby to have vacated such office under the city government.

Sec. 610. Nepotism.

The City Council shall not appoint to a salaried position under the city government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall any department head or other officer having appointive power appoint any relative of such person within such degree to any such position.

Sec. 611. Official bonds.

The City Council shall fix by ordinance or resolution the amounts and terms of the bonds of officials or employees who are required by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the city attorney, and shall be filed with the city clerk. Premiums on official bonds shall be paid by the city.

There shall be no personal liability upon, or any right to recover against, a superior officer, or such officer's bond, for any wrongful act or omission of such officer's subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

## ARTICLE VII. APPOINTIVE BOARDS AND COMMISSIONS

Sec. 700. In general.

There shall be the following enumerated boards and commissions which shall have the powers and duties herein stated, and such additional powers and duties, consistent with the provisions of this Charter, as may be granted to them by ordinance of the City Council.

In addition, the City Council may create by ordinance such additional

advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

The City Council shall establish by ordinance, the number of members, not less than seven, for each board or commission.

**Sec. 701. Appropriations.**

The City Council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions.

**Sec. 702. Appointments; terms.**

The members of each of such enumerated boards or commissions shall be nominated by the mayor and City Council and appointed by the City Council from the qualified electors of the city, none of whom shall hold any paid office or employment in the city government. They shall be subject to removal by the City Council by a motion adopted by at least four affirmative votes. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified, and may serve for not more than two consecutive full terms.

**Sec. 703. Terms of members of existing enumerated boards and commissions.**

Upon the effective date of this Charter incumbent members of boards and commissions shall be deemed reappointed and shall maintain the same terms of appointment held under the previous Charter, and all existing boards and commissions shall remain in existence until further action by the City Council consistent with this article.

All vacancies shall be filled as described in this article except that when a position on a board or commission has remained vacant for 60 days the mayor shall appoint a person to fill the vacancy.

The City Council shall provide by ordinance, as provided in Section 700, to establish the number of members of a board or commission as soon as practicable following the effective date of this Charter. If the number of members is reduced by such ordinance, the persons whose seats are to be eliminated shall be determined by the board or commission by lot. If the number of members is increased, the ordinance may provide for initial terms for new members of less than four years so that as near as possible an equal number of terms will expire each year.

**Sec. 704. Organization; meetings; subpoena power.**

At the first meeting of each board or commission after October 1 of each year each of such boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings at least once each month and such special meetings as such board or commission may require. All proceedings shall be open to the public.

Except as may be otherwise provided in this Charter, the city manager shall designate a secretary for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with this charter and copies of which shall be kept on file in the office of the city clerk where they shall be

available for public inspection. Each board or commission may request from the City Council the power to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations. The City Council, by resolution, shall have sole power to provide such power to boards and commissions.

**Sec. 705. Compensation; vacancies.**

The members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by City Council. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission is absent from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of the city, the office shall become vacant and shall be so declared by the City Council. If a position on an enumerated board or commission has remained vacant for 60 days the mayor shall appoint a person to fill the vacancy in accordance with Section 703.

**Sec. 706. Planning commission—Established; composition; participation by city engineer, city attorney and planning director.**

There shall be a planning commission. The city engineer, city attorney, and planning director or their assistants, may meet with and participate in the discussions of the planning commission but shall not have a vote.

**Sec. 707. Same—Powers and duties.**

The planning commission shall have the power and duty to:

(a) After a public hearing thereon, recommend to the City Council the adoption, amendment or repeal of the master plan, or any part thereof, for the physical development of the city.

(b) Exercise such control over land subdivisions as is granted to it by the City Council.

(c) Make recommendations concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the city.

(d) Exercise such functions with respect to zoning and land use as may be prescribed by ordinance, not inconsistent with the provisions of this Charter.

**Sec. 708. Personnel board—Composition; eligibility of members to salaried position.**

There shall be a personnel board; no member of which while a member of the board or for a period of one year after such member has ceased for any reason to be a member, shall be eligible for appointment to any salaried office or employment with the city.

**Sec. 709. Same—Powers and duties.**

The personnel board shall have the power and duty to:

(a) Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of personnel rules and regulations.

(b) Act in an advisory capacity to the City Council on matters concerning personnel administration.

Sec. 710. Board of Library Trustees.

There shall be a board of library trustees; which shall have the power and duty to:

(a) Have charge of the administration of city libraries and make and enforce such bylaws, rules and regulations as may be necessary therefor.

(b) Designate its own secretary.

(c) Consider the annual budget for library purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the city manager.

(d) Purchase and acquire books, journals, maps, publications and other supplies peculiar to the needs of the library, subject, however, to the limitations of the budget for such purposes. The expenditure and disbursement of funds for such purchases shall be made and approved as elsewhere in this Charter provided.

(e) Approve or disapprove the appointment, suspension or removal of the librarian, who shall be the department head.

(f) Accept money, personal property or real estate donated to the city for library purposes, subject to the approval of the City Council.

(g) Contract with schools, county or other governmental agencies to render or receive library services or facilities, subject to the approval of the City Council.

Sec. 711. Park and recreation commission.

There shall be a park and recreation commission; which shall have the power and duty to:

(a) Act in an advisory capacity to the City Council in all matters pertaining to parks, recreation, parkways and street trees.

(b) Consider the annual budget for parks, recreation, parkways and street tree purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the city manager.

(c) Assist in the planning of parks and recreation programs for the inhabitants of the city, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.

(d) Establish policies for the acquisition, development and improvement of parks and playgrounds and for the planting, care and removal of trees and shrubs in all parks, playgrounds and streets, subject to the rights and powers of the City Council.

## ARTICLE VIII. PERSONNEL MERIT SYSTEM.

Sec. 800. Generally.

The City Council shall by ordinance establish a personnel merit system for the selection, employment, classification, advancement, suspension and discharge of those appointive officers and employees who shall be included in the system. The system shall consist of the establishment of minimum standards of employment and qualifications for the various

classes of employment, or of a comprehensive system, as the City Council shall determine to be for the best interests of the public service. The ordinance shall designate the departments and the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of departments and appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter.

#### ARTICLE IX. RETIREMENT.

Sec. 900. Authority to continue or discontinue under state system. Plenary authority and power are hereby vested in the city, its City Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the Public Employees Retirement System, as it now exists or hereafter may be amended, to enable the city to continue as a contracting city under the Public Employee's Retirement System. The City Council may terminate any contract with the board of administration of the Public Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the city, voting on such proposition at an election at which such proposal is presented.

#### ARTICLE X. ELECTIONS.

Sec. 1000. General municipal elections.

General municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in the city on the first Tuesday following the first Monday of November of each odd numbered year.

Sec. 1001. Special municipal elections.

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

Sec. 1002. Compliance with state law.

Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of elections in cities so far as the same are not in conflict with this Charter.

Sec. 1003. Initiative, referendum and recall.

There are hereby reserved to the electors of the city the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the city so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

#### ARTICLE XI. FISCAL ADMINISTRATION.

Sec. 1100. Fiscal year.

The fiscal year of the city government shall be established by ordinance.

Sec. 1101. Budget-Submission to Council; notice of public hearing.

At least thirty-five calendar days prior to the beginning of each fiscal

year, the city manager shall submit to the City Council a proposed budget containing estimates of revenues and expenditures for each city department or office, as appropriate. After reviewing the same and making such revisions as it may deem advisable, the City Council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than twenty days prior to said hearing, by at least one insertion in a newspaper of general circulation within the city.

Copies of the proposed budget shall be available for inspection by the public in the office of the city clerk and at every public library in the city at least twenty days prior to said hearing.

Sec. 1102. Same—Public hearing.

At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Sec. 1103. Same—Further consideration, revision and adoption; availability to departments, etc.

After the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the day preceding the start of the fiscal year, it shall adopt the budget. A copy thereof, certified by the city clerk, shall be filed with the person retained by the city council to perform auditing functions for the Council. A copy shall be placed, and shall remain on file, in the office of the city clerk and copies shall be placed in all public libraries in the city where they shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of departments, offices and agencies of the city.

Sec. 1104. Same—Appropriations; transfer of funds.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative votes of at least five members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose or to appropriate available funds not included in the budget.

Sec. 1105. Centralized purchasing.

Under the control and direction of the city manager there shall be established a centralized purchasing system for all city departments and agencies, which system shall be consistent with all other provisions of this Charter.

Sec. 1106. Tax limits; special levy for library purposes.

(a) The City Council shall not levy a property tax, for municipal purposes, in excess of one dollar annually on each one hundred dollars of the assessed value of taxable property in the city, except as otherwise provided



in this section, unless authorized by the affirmative votes of two-thirds of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.

(b) There shall be levied and collected at the time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes, if not other provision for payment thereof is made:

1. A tax sufficient to meet all liabilities of the city for principal and interest of all bonds or judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the city; and,

2. A tax sufficient to meet all obligations of the city to the Public Employee's Retirement System for the retirement of city employees, due and unpaid or to become due during the ensuing fiscal year.

(c) A special levy, in addition to the above may be made annually in an amount not to exceed twenty cents on each one hundred dollars of the assessed value of taxable property in the city for library purposes. The proceeds of such special levy shall be used only for the purpose for which it is levied.

Sec. 1107. Procedure for assessment, levy and collection of taxes.

The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, may be prescribed by ordinance of the City Council.

Sec. 1108. General obligation bonded debt limit; vote required for issuing general obligation bonds; issuance of revenue bonds, notes and other evidence of indebtedness.

(a) The city shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen per cent of the total assessed valuation, for purposes of city taxation, of all the real and personal property within the city.

(b) No bonded indebtedness which shall constitute a general obligation of the city may be created unless authorized by the affirmative votes of two-thirds of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the state constitution and of this Charter.

(c) The City Council by procedural ordinance or pursuant to state law, after a public hearing, notice of which has been given by publication at least 15 days prior to such hearing, may issue revenue bonds, notes or other evidences of indebtedness without an election for any city purpose or purposes, and, any other provisions of this Charter notwithstanding, may make such covenants and exercise such powers as are deemed necessary in connection with the issuance and sale of such revenue bonds, notes or other evidences of indebtedness.

Sec. 1109. Public Works contracts.

Every project for the construction or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds, and every purchase of supplies or materials for any such project, when the total

expenditures required for the same exceed the amount set by state law for which bids are required for public works projects of a city shall be let by the City Council by contract to the lowest responsible bidder after notice by publication in a newspaper of general circulation within the city by one or more insertions, the first of which shall be at least ten days before the time for opening bids. Projects for the maintenance or repair of streets, drains or sewers are excepted from the requirements of this section if the City Council determines that such work can be performed more economically by a city department than by contracting for the doing of such work.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the city. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten per cent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the city and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The City Council may reject any and all bids presented and may readvertise in its discretion.

The City Council, without advertising for bids, or after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the city manager, the work in question may be performed better or more economically by the city with its own employees or the supplies or materials may be purchased more economically on the open market, and after the adoption of a resolution to that effect by at least five affirmative votes of the City Council may proceed to have said work done or said supplies or materials purchased in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids if such work or supplies or materials shall be deemed by the city council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by at least five affirmative votes of the City Council and containing a declaration of the facts constituting such urgency.

Projects for the extension or development of any public utility operated by the city or for the purchase of supplies or equipment for any such utility may be excepted from the requirements of this section, provided the City Council so determines by at least five affirmative votes.

Sec. 1110. Cash basis fund.

The City Council shall maintain a revolving fund, to be known as the "cash basis fund," for the purpose of placing the payment of the running expenses of the city on a cash basis. A reserve shall be built up in this fund from any available sources in an amount which the City Council deems sufficient with which to meet all lawful demands against the city for the first five months, or other necessary period, of the succeeding fiscal year

prior to the receipt of ad valorem tax revenues. Transfers may be made by the City Council from such fund to any other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis. All moneys so transferred from the cash basis fund shall be returned thereto before the end of the fiscal year.

Sec. 1111. Capital outlays fund.

A fund for capital outlays generally is hereby created, to be known as the "capital outlays fund." The City Council may create by ordinance a special fund or funds for a special capital outlay purpose. To the extent permitted by law the City Council may levy and collect taxes for capital outlays and may include in the annual tax levy a levy for such purposes in which event it must apportion and appropriate to any such fund or funds the moneys derived from such levy. It may not, in making such levy exceed the maximum tax rate provided for in this Charter, unless authorized by the affirmative votes of two-thirds of the electors voting on the proposition at any election at which such question is submitted. The City Council may transfer to any such fund any unencumbered surplus funds remaining on hand in the city at any time.

Once created, such fund shall remain inviolate for the purpose for which it was created; if for capital outlays generally, then for any such purposes, and if for a special capital outlay, then for such purpose only, unless the use of such fund for some other capital outlay purpose is authorized by the affirmative votes of a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any special capital outlay fund has been created has been accomplished, the City Council may transfer any unexpended or unencumbered surplus remaining in such fund to the fund for capital outlays generally, established by this Charter.

Sec. 1112. Presentation and approval of demands against city; limitation upon presentation of claim for damages.

Unless otherwise governed by state law, all claims for damages against the city must be verified and presented to the city clerk within one hundred days after the occurrence, event or transaction from which the damages allegedly arose, or within such shorter time as is otherwise provided by law, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected in writing by order of the City Council and the date thereof given.

All other demands against the city must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the controller within one hundred days after the last item of the account or claim accrued. The controller shall examine the same. If the amount thereof is legally due and there remains on the books an unexhausted balance of an appropriation against which the same may be charged, the controller shall approve such demand and draw a warrant on the city treasurer therefor, payable out of the proper fund. Otherwise the controller shall reject it. Objections of the controller may be overruled by the City Council and the warrant ordered drawn.

The controller shall transmit such demand, with the controller's approval or rejection thereof endorsed thereon, and warrant, if any, to the city manager. If a demand is one for an item included within an approved budget appropriation, it shall require the approval of the city manager, otherwise it shall require the approval of the City Council, following the adoption by it of an amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the city manager to approve any demand, in whole or in part, may present the same to the City Council which, after examining into the matter, may approve or reject the demand in whole or in part.

Sec. 1113. Registering warrants.

Warrants on the city treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the City Council by resolution.

Sec. 1114. Actions against city.

Except as otherwise provided or pre-empted by state law, no suit shall be brought for money or damages against the city or any board, commission or officer thereof until a claim or demand for the same has been presented as in this Charter provided and such claim and demand has been rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Failure to complete action approving or rejecting any claim or demand within forty-five days from the day the same is presented shall be deemed a rejection thereof.

Sec. 1115. Independent audit.

The City Council shall employ at the beginning of each fiscal year, a qualified certified public accountant who shall, at such time or times as may be specified by the City Council, and at such other times as such accountant shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the City Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the city manager, controller, treasurer, and city attorney, respectively, and three additional copies to be placed on file in the office of the city clerk where they shall be available for inspection by the general public.

## ARTICLE XII. DEPARTMENT OF PUBLIC UTILITIES

Sec. 1200. Created; management and control.

There shall be a department of public utilities, which shall be under the management and control of the city manager subject, however, to the powers and duties of the board of public utilities as hereafter set forth in this article. Said department shall be responsible for electric and water supplies, services and conservation, and shall include all works owned, controlled, operated, leased or contracted for by the city for supplying the city and its inhabitants with water and electric energy.

Sec. 1201. Board of Public Utilities—Composition; applicability of Article VII of Charter.

There shall be a board of public utilities. All of the provisions of Article VII of this Charter relating to boards and commissions generally, to the organization, meetings, conduct of proceedings, and expenses thereof, and to the appointment, qualifications, term of office, removal, compensation and powers of members thereof, where not inconsistent with the provisions of this article, shall apply to the board of public utilities and to its members.

Sec. 1202. Same—Powers and duties.

The board of public utilities shall have the power and duty to:

(a) Consider the annual budget for the department of public utilities during the process of its preparation and make recommendations with respect thereto to the City Council and the city manager.

(b) Within the limits of the budget of the department of public utilities, authorize any purchase of equipment, materials or supplies exceeding the amount set by state law requiring municipal public works projects to be let to bid, and authorize the acquisition, construction, improvement, extension, enlargement, diminution, or curtailment of all or any part of any public utility system. No such purchase, acquisition, construction, improvement, extension, enlargement, diminution or curtailment shall be made without such authorization.

(c) Within the limits of the budget of the department of public utilities, make appropriations from the contingency reserve fund for capital expenditures directly related to the appropriate utility function.

(d) Require of the city manager monthly reports of receipts and expenditures of the department of public utilities, segregated as to each separate utility, and monthly statements of the general condition of the department and its facilities.

(e) Establish rates for water and electrical revenue producing utilities owned, controlled or operated by the city, but subject to the approval of the City Council.

(f) Approve or disapprove the appointment of the director of public utilities, who shall be the department head.

(g) Designate its own secretary.

(h) Make such reports and recommendations in writing to the City Council regarding the department of public utilities as the City Council shall deem advisable.

(i) Exercise such other powers and perform such other duties as may be prescribed by ordinance not inconsistent with any of the provisions of this Charter.

Sec. 1203. Purchases and expenditures generally; exemption from centralized purchasing system.

The purchase of equipment, materials and supplies peculiar to the needs of the department of public utilities need not be made through the centralized purchasing system. The expenditure and disbursement of funds of the department of public utilities shall be made and approved as elsewhere in this Charter provided.

Sec. 1204. Use of revenue.

The revenue of each public utility for each fiscal year shall be kept separate and apart from all other moneys of the city by deposit in the appropriate revenue fund and shall be used for the purposes and in the order as follows:

(a) For the payment of the operating and maintenance expenses of such utility, including any necessary contribution to retirement of its employees.

(b) For the payment of interest on the revenue bonded debt of such utility. As used in this section 'revenue bonded debt of such utility' means the debt evidenced by revenue bonds, revenue notes or other evidences of indebtedness payable only out of the revenues pertaining to the utility involved, whether the same are issued under the provisions of this Charter or under the provisions of any general law of the State of California.

(c) For the payment, or provision for the payment of the principal of said debt as it may become due, and of premiums, if any, due upon the redemption of any thereof prior to maturity.

(d) For the establishment and maintenance of any reserves for (b) and (c) above.

(e) For capital expenditures of such utility.

(f) For the annual payment by each utility into the general fund in twelve (12) equal monthly installments during each fiscal year, an amount not to exceed 11.5% of the gross operating revenues, exclusive of surcharges of each specific utility for the last fiscal year ended and reported upon by independent public auditors.

Sec. 1205. Sale of public utility.

No public utility now or hereafter owned or controlled by the city shall be sold, leased or otherwise transferred unless authorized by the affirmative votes of at least two-thirds of the voters voting on such proposition at a general or special municipal election at which such proposition is submitted.

### ARTICLE XIII. FRANCHISES

Sec. 1300. Requiring; granting generally; applicability to city-owned utility.

Any person, firm or corporation furnishing the city or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or places for the operation of plants, works or equipment for the furnishing thereof, or traversing any portion of the city for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The City Council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions of such grants, or the making thereof, all subject to the provisions of this Charter.

Nothing in this section, or elsewhere in this article, shall apply to the city, or to any department thereof, when furnishing any such utility or service.

Sec. 1301. Resolution of intention to grant; notice and public hearing.

Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the City Council and be heard thereon. It shall direct the city clerk to publish said resolution at least once, within fifteen days of the passage thereof, in a newspaper of general circulation within the city. Said notice shall be published at least ten days prior to the date of hearing. At the time set for the hearing, or at any adjournment thereof, the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the City Council shall determine that any substantive change should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon.

Sec. 1302. Term of franchise.

Every franchise shall state the term for which it is granted, which shall not exceed thirty-five years.

Sec. 1303. Eminent domain.

No franchise grant shall in any way, or to any extent, impair or affect the right of the city to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity the city's right of eminent domain with respect to any public utility.

#### ARTICLE XIV. MISCELLANEOUS

Sec. 1400. Definitions.

Unless the provision or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive
- (b) "City" is the City of Riverside, and "department," "board," "commission," "agency," "officer," or "employee," is a department, board, commission, agency, officer or employee, as the case may be, of the City of Riverside.
- (c) "County" is the County of Riverside.
- (d) "State" is the State of California.
- (e) "Newspaper of general circulation within the city" as defined by state law.

Sec. 1401. Violations and penalty.

The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding one thousand dollars or by imprisonment for a period not exceeding six

months or by both such fine and imprisonment.

Sec. 1402. Severability.

If any provision of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 1403. Charter commission, requirement for.

At the first general municipal election following ten years after the effective date of this Charter, and each ten years thereafter, the City Council shall place upon the ballot the question "Shall there be appointed by the City Council in the City of Riverside a Charter committee which shall review the Charter of the city". If the majority of those casting ballots vote in the affirmative, the City Council shall create such a committee and shall appropriate adequate funds to such Charter committee for its task of determining whether or not to propose revisions to the Charter. Such committee shall be advisory to the City Council.

The City Council may submit such question more often if it desires.

Sec. 1404. Charter; amending.

This Charter, and any provision hereof, may be amended in accordance with the Constitution and laws of the State of California.

Sec. 1405. Pending actions.

No action or proceeding before any board or commission of the city, whether specifically enumerated in this Charter or not, which was commenced before the effective date of this Charter, and no right accrued in any such proceeding, is affected by the provisions of this Charter, but all proceedings taken thereafter shall conform to the provisions of this Charter.

Sec. 1406. The board of education shall consist of five members who shall be qualified electors of the Riverside Unified School District.

The manner in which, the times at which, and the terms of which the members of the board of education created pursuant to this section shall be elected or appointed, and their qualifications, compensation, and removal, shall be governed by the general provisions of law governing school district governing boards; except that in order to provide for an orderly transition, the members of the board whose term of office would have ended on January 3, 1983, shall end on the last Friday in November, 1983, and those members of the board whose terms of office would have ended on January 7, 1985, shall end on the last Friday in November, 1985.

Sec. 1407. The powers and duties of the board of education and all matters pertaining to the board of education, except as herein provided, shall be governed by the provisions of the laws of the State of California, as the same now exist or hereafter may exist.

Certified to be a true copy by AB Brown, Mayor and Alice A. Hare, City Clerk.

Date of Consolidated General and Special Municipal Election: November 3, 1981.



## Charter Chapter 25—City of Santa Clara

*Amendment to the Charter of the City of Santa Clara*

[Filed with the Secretary of State November 20, 1981 ]

Section 1321 to read as follows:

Section 1321. Revenue Bonds.

(e) The City Council shall have power to issue revenue bonds to finance the generation, production, transmission and distribution of electric energy, including the acquisition and/or construction of lands and facilities therefore, without authorization at an election. The City Council may avail itself of the procedures now or hereafter authorized by the general laws of the State of California for the issuance of such revenue bonds or the City Council may, by ordinance or resolution effective upon adoption, set up and establish a procedure for the issuance of such revenue bonds and all matters pertaining to the issuance and sale of such bonds. This section (e) does not authorize the financing of a nuclear plant, or an interest therein, unless approved by an election.

Certified to be a true copy by William A. Gissler, Mayor and A. S. Belick, City Clerk.

Date of General Municipal Election: November 3, 1981.

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 Charter Chapter 26—City of Santa Cruz
*Amendments to the Charter of the City of Santa Cruz*

[Filed with the Secretary of State November 27, 1981 ]

SECTION 603 of Article VI is amended to read as follows:

SECTION 603. SALARY. Each councilmember shall receive as compensation \$25.00 for attendance at each regular meeting of the Council, limited to \$50.00 per month. The compensation of the Mayor shall be twice that of any other councilmember.

SECTION 616 of Article VI is amended to read as follows:

SECTION 616. PLACE OF MEETING. All meetings shall be held in the Council Chambers of the City Hall, except when, by reason of special circumstances, the City Council determines, by the affirmative votes of at least four (4) of its members, that the public interest will best be served by holding a meeting elsewhere within the City. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if the Mayor should fail to act, by four members of the City Council.

SECTION 811 of Article VIII is amended to read as follows:

SECTION 811. CITY CLERK. POWERS AND DUTIES. The City Clerk shall be the Clerk of the Council, and shall have the power and be required to:

(a) Attend all meetings of the City Council and record and maintain a full and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose. Such books shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein;

(b) Maintain ordinance and resolution books, into which shall be recorded all City ordinances and resolutions with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, giving the number of said ordinance or resolution and, as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter;

(c) Be the custodian of the seal of the City;

(d) Administer oaths or affirmations, take affidavits and deposition pertaining to the affairs and business of the City and certify copies of official records;

(e) Attend to the publication of all ordinances and all public notices when so directed by the Council or City Manager;

(f) Have charge of all City elections;

(g) Perform such other duties as are required by law, ordinance, or direction of the City Manager.

SECTION 1023 of Article X is amended to read as follows:

SECTION 1023. CLAIMS AGAINST LIBRARY FUND. All claims and demands payable out of the library fund shall be approved by the board of library trustees before they can be approved or paid, and such approval shall be entered upon their minutes and endorsed upon said claims or demands. They shall be signed by the president and secretary of said board. After such approval and signing, they shall be delivered to the City Clerk and be presented by the City Clerk to the Mayor for consideration and approval.

SECTION 1301 of Article XIII is amended to read as follows:

SECTION 1301. OFFICIAL BONDS. The City Council shall fix by ordinance the amounts and terms of the official bonds of all officers or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be approved as to form by the City Attorney, and, with the exception of the bond of the City Clerk, shall be filed with the City Clerk. The Clerk's bond shall be filed with the City Manager. Premiums on official bonds shall be paid by the City.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, the employee's superior officer or other officer or employee, or the bond of the latter unless such superior officer, or other officer or employee is a party to, or has conspired in the wrongful act causing directly or indirectly such loss.

SECTION 1410 of Article XIV amended to read as follows:

SECTION 1410. CHANGES IN BUDGET APPROPRIATIONS. The City Manager and Director of Finance shall see that each department and officer of the City shall operate such department or office in accordance with the annual budget appropriations thereof, as nearly as may be. Any

appropriation may be changed during the budget year by resolution of the Council upon application of the appropriate department head or the City Manager. If at any time the City Manager shall ascertain that available income for the year will probably be less than the total appropriations thereof, the City Manager shall recommend to the City Council curtailments of departments and offices necessary to avoid expenditures in excess of adjustments of appropriations of income, and the Council shall, by resolution, make necessary changes in any appropriations.

SECTION 1603 of Article XVI is amended to read as follows:

**SECTION 1603. BOARD OF EDUCATION. MEMBERSHIP. QUALIFICATIONS.** The Santa Cruz City High School District and the Santa Cruz School District, as such districts now or may hereafter exist, shall be governed by a Board of Education, which shall be known as the Santa Cruz City Board of Education.

Only persons who are qualified electors residing within the territory governed by said Board of Education and who are otherwise eligible under State Law and this Charter to be nominated or elected shall be eligible to be nominated for, or elected to said Board of Education.

REPEAL SECTION 1005 of Article X.

SECTION 1003 of Article X is amended to read as follows:

**SECTION 1003. APPOINTMENT. TERMS.** Members of each such Board or Commission shall be appointed by the City Council. They shall be subject to removal by motion of the City Council adopted by at least four (4) affirmative votes. The members thereof shall serve for a term of four (4) years, and until their respective successors are appointed and qualify.

The members first appointed to such Board and Commission shall so classify themselves by lot that the term of one of each of their number shall expire each succeeding year. Where the total number of members of a Board or Commission to be appointed exceeds four (4), the classification by lot shall provide for the pairing of terms to such extent as is possible, in order that the terms of at least one (1) and not more than two (2) shall expire in each succeeding year.

Thereafter, any appointment to fill an unexpired term shall be for such unexpired period.

Notwithstanding any other provision of this Charter, the Council may, by ordinance, provide for the appointment of alternate members to serve in the place of regular members who are absent, or who disqualify themselves from participating on an item before the Board or Commission.

SECTION 1006 of Article X is amended to read as follows:

**SECTION 1006. MEETINGS. ORGANIZATION.** As soon as practicable, following the first day of January, of every year, each of such Boards and Commissions shall organize by electing one of its members to serve as presiding officer, at the pleasure of such Board or Commission.

Each Board or Commission shall hold a regular meeting at least once each month. All proceedings shall be open to the public except as provided by State Law.

The Mayor shall call the first meeting of each Board or Commission and the City Manager shall designate a City Employee to act as Secretary to

each of such Boards and Commissions, who shall keep a record of its proceedings and transactions. Each Board and Commission may prescribe its own rules and regulations which shall be consistent with this Charter, and copies of which shall be available for public inspection.

Add SECTION 1004 to Article X to read as follows:

**SECTION 1004. EXPIRATION OF TERMS.** The expiration date of each term of office shall be January 1st. The term of office of each Board and Commission Member holding office at the time this Section becomes effective shall be extended for an additional seven (7) months, to expire on the next succeeding January 1st.

**AMENDING SECTION 1011, 1021, 1041, 1051, 1061 and 1081 of Article X to read as follows:**

**SECTION 1011. PLANNING COMMISSION.** There shall be a City Planning Commission appointed by the City Council consisting of seven (7) members from the qualified electors of the City.

**SECTION 1021. LIBRARY BOARD.** There shall be a Library Board consisting of five (5) members to be appointed by the City Council from the qualified electors of the City; provided, however, that should the County of Santa Cruz consolidate its library functions with the City, and during such time as the consolidated library system is administered by the City, the Library Board shall consist of seven (7) members, four (4) of whom shall be appointed by the City Council from the qualified electors of the City, and three (3) of whom shall be appointed by the Council from the qualified electors of the County of Santa Cruz, with the approval of the Board of Supervisors of the County of Santa Cruz.

**SECTION 1041. PARKS AND RECREATION COMMISSION.** There shall be a Parks and Recreation Commission appointed by the City Council consisting of seven (7) members from the qualified electors of the City.

**SECTION 1051. AIRPORT COMMISSION.** There shall be an Airport Commission appointed by the City Council consisting of five (5) members from the qualified electors of the County of Santa Cruz.

**SECTION 1061. MUSEUM COMMISSION.** There shall be a Museum Commission appointed by the City Council consisting of seven (7) members from the qualified electors of the County of Santa Cruz.

**SECTION 1081. WATER COMMISSION.** There shall be a Water Commission appointed by the City Council, consisting of seven (7) members from the qualified electors of the City.

Certified to be a true copy by Joseph J. Ghio, Mayor, and Patricia M. Kenyon, City Clerk.

Date of General and Special Municipal Election: November 3, 1981.

## Charter Chapter 27—City of Richmond

*Amendments to the Charter of the City of Richmond*

[Filed with the Secretary of State November 30, 1981.]

Section 8 of Article IX is amended to read as follows:

Sec. 8. No general obligation bonded indebtedness which is by its terms repayable from ad valorem taxes on all property in the City subject to taxation by the City shall be incurred unless the same shall be first authorized by a vote of two-thirds of the voters voting at an election held for the purpose of voting on the proposition to incur such indebtedness; and no such general obligation bonded indebtedness shall be incurred for the purpose of improving the waterfront the aggregate outstanding principal amount of which shall at any time exceed six percent of the assessed value of the property within the City subject to taxation for the payment of such indebtedness. Notwithstanding any other provision of this Charter, the Council may issue revenue bonds for any lawful purpose, in such manner and upon such terms and conditions as it may fix and establish by the provisions of a procedural ordinance. Such bonds shall be payable only out of revenues specified by the Council and shall not constitute an indebtedness of the City. This Section shall be deemed to provide a complete, additional and alternative method for doing the things authorized hereby, and shall be regarded as supplemental and additional to the powers conferred by other laws.

Section 10 of Article III is amended to read as follows:

Sec. 10. A vacancy in the Council shall be filled by a majority of the remaining Council members; provided, that if such vacancy is not filled by appointment within sixty (60) days after the vacancy occurs, then a special election shall immediately be called by the Council to elect a councilman to serve for the unexpired term of the former incumbent; provided, further, that if a special election is required to be held, the Council may, by resolution, consolidate it with an election of the City or of any other public agency if the next election of this City or of any public agency is to be held within 365 days from the date of the vacancy. Any person appointed to fill a vacancy shall hold office until the next regular election in which councilmen are to be elected, at which time a person shall be elected to serve the remainder of the unexpired term. For purposes of this section a vacancy shall be deemed to exist if a councilman, without the permission of the Council, absents himself from all regular City Council meetings for 60 days consecutively from the last regular meeting he attended.

Certified to be a true copy by Thomas J. Corcoran, Mayor, and Harlan J. Heydon, City Clerk.

Date of election: November 3, 1981.

Charter Chapter 28—City of Monterey  
*Amendments to the Charter of the City Of Monterey*

[Filed with the Secretary of State December 4, 1981.]

Section 2.3 "Elections" is amended by adding:

AMEND SECTION 2.3 "ELECTIONS" BY ADDING:

Any general, special or other election required or permitted by law may be conducted by mailed ballot. The City Council may, by Ordinance, establish the procedures by which said mailed ballot election shall be conducted.

Sub-Section (g) of Section 4.5 "Legislations" is amended to read as follows:

AMEND SUB-SECTION (g) OF SECTION 4.5 "LEGISLATIONS":

(g) Except as otherwise provided by general law or this Charter, any action providing for any public improvement of the expenditure of public money in excess of \$10,000.

AMEND 1st PARAGRAPH OF SECTION 4.10 "CONTRACT WORK":

In the erection, improvement and repair of all public works and in the furnishing of supplies, labor or materials for the same, or for other use or purpose, when the expenditure required for the same shall exceed the sum of \$10,000.00, the same shall be awarded by contract and shall be let by the Council to the lowest responsible bidder after notice by publication in the official newspaper. Security for due execution and performance of any such contract may be required of the bidder and successful contractor respectively. The detailed procedure for carrying out the provisions of this section shall be prescribed by ordinance.

Certified to be a true copy by Gerald T. Fry, Mayor and Patricia L. O'Hearn, City Clerk.

Date of Consolidated Special Election: November 3, 1981.

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Charter Chapter 29—County of San Diego

*Amendments to the Charter of the County of San Diego*

[Filed with the Secretary of State December 11, 1981 ]

Section 919 is added to Article IX to read as follows:

Section 919: REMOVAL OF STRIKING EMPLOYEES.

No employee of the County of San Diego employed under the civil service provisions of this Charter shall instigate, participate in, afford leadership to a strike against the County, or engage in any form of concerted action to withhold service from the County. In the event of any such strike or concerted action against the County, it shall be the duty of the Chief Administrative Officer to ascertain the identity of any employee of the County who is in violation of the provisions of this section and to initiate dismissal proceedings against such employee. Any citizen of the County may file written charges against an employee in violation of the

provisions of this section. The Chief Administrative Officer shall, upon receipt of such written charges, investigate without delay any such written charge, and forthwith inform said citizen of the findings and action, or proposed action, to be taken thereon.

The Chief Administrative Officer shall cause timely hearings to be held for any employees charged hereunder. The Board of Supervisors shall adopt procedures governing the conduct of such hearings. If the Chief Administrative Officer, after a hearing, determines that the charges are supported by the evidence submitted, and that the employee willfully engaged in the strike or action, the Chief Administrative Officer shall dismiss the employee involved, and said person shall not be reinstated or returned to County employment except as a new employee who is employed in accordance with the regular employment practices of the County in effect at that time for the particular position of employment.

No officer, board or commission of the County, elected or appointed, shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

Every employee of the County employed under the civil service provisions of this Charter on the effective date of this section, and each person employed pursuant to the civil service provisions of this Charter on or after the effective date of this section, shall be furnished a copy and apprised of the provisions of this section and shall make under oath and file in the office of the Director of Personnel the following declaration:

“I hereby acknowledge receipt of a copy of the provisions of Section 919 of the Charter of the County of San Diego and hereby declare that during the term of my employment with the County I shall neither instigate, participate in or afford leadership to a strike against the County or engage in any concerted action to withhold my services from the County.”

In the event of any strike or concerted action to withhold service from the County by an employee organization, or employees represented thereby, the Board of Supervisors is hereby prohibited from granting any improvement in wages, hours or working conditions beyond those in effect or last offered to the striking organization or employees represented thereby by the County prior to the commencement of such strike or concerted activity, and is prohibited from considering the granting of any such improvement beyond that which may have been last offered by the County prior to the strike of concerted activity until the commencement of meet and confer negotiations in the next subsequent calendar year at the time regularly scheduled for commencement under adopted Board of Supervisors policy governing such negotiations.

Notwithstanding any other provision of this Charter, a dismissal imposed pursuant to this section shall not be appealable to the Civil Service Commission.

That Section 501.2 of Article V is amended to read as follows:

Section 501.2: The Board shall, at least annually, adopt a resolution or ordinance to establish the compensation of all officers and employees, providing uniform compensation for like services. When establishing compensation, the Board shall consider, among other factors, the following:

(a) the prevailing rate of compensation paid and fringe benefits provided by private employers in the County and by other public employers in the State for similar quality or quantity of service;

(b) the fringe benefits provided by the County; and

(c) the revenues available to the County for payment of compensation. The Board of Supervisors shall not delegate legislative power or responsibility which they were elected to exercise in the adoption of any ordinance or resolution setting compensation for appointive County officers and employees. This prohibition against unlawful delegation of the legislative responsibility to set compensation for appointive County officers and employees shall extend to any scheme or formula which seeks to fix the compensation of appointive County officers and employees at the level of compensation paid to officers or employees of any other public agency.

Certified to be a true copy by Paul Eckert, Chairman of the Board of Supervisors and Porter D. Cremans, Clerk of the Board of Supervisors.

Date of Special Election: November 3, 1981.

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Charter Chapter 30—City of Stockton

*Amendment to the Charter of the City of Stockton*

[Filed with the Secretary of State December 4, 1981 ]

Section 33 of Article XXXII is amended to read as follows:

ARTICLE XXXII

Section 33. The officers and members of the Police Department shall be allowed days off at the rate of at least six days in every twenty-one days or any equivalent variation without loss of pay.

Certified to be a true copy by Daniel A. O'Brien, Mayor and John M. Jarrett, City Clerk.

Date of General Municipal Election: November 3, 1981.

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Charter Chapter 31—City and County of San Francisco

*Amendments to the Charter of the City and County of San Francisco*

[Filed with the Secretary of State December 24, 1981 ]

Section 3.404 is amended to read as follows:

3.404 Sheriff

The sheriff shall be an elective officer. His salary shall be established by salary standardization procedures.



He shall furnish an official bond in the sum of \$50,000. He shall appoint, and at his pleasure may remove, an attorney, one under-sheriff, one assistant sheriff and one confidential secretary.

Section 3.595 is amended to read as follows:

### 3.595 Regulation of Street Railways

(a) The public utilities commission, subject to the provisions, limitations and restrictions in this charter contained, shall have power to regulate street railroads, cars and tracks; to permit two or more lines of street railways operating under different management to use the same street, each paying an equal portion for the construction and repair of the tracks and appurtenances used by the said railways jointly for such number of blocks consecutively, not exceeding ten blocks; to regulate rates of speed and propose such ordinances to the board of supervisors as are necessary to protect the public from danger or inconvenience in the operation of such roads.

No person, firm or corporation shall ever be granted the exclusive right to perate a street or other railroad through, in or under any tunnel, subway or viaduct constructed or acquired by the levy, in whole or in part, of special assessment upon proviate property for such construction or acquisition. Two or more lines of street railways operated under different management may use such tunnel, subway or viaduct for the entire length thereof and for five consecutive blocks approaching each and thereof, each management paying an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly. The city and county in the operation of a municipal railway may use any such tunnel, subway or viaduct either singly or jointly with any privately operated railway for the entire length thereof and for any number of blocks approaching each end thereof; and in case of joint use of tracks, shall pay an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly.

(b) In the conduct of the municipal railway there shall be maintained and operated cable car lines as follows:

(1) A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Mason Street; thence along Mason Street to Columbus Avenue; thence along Columbus Avenue to Taylor Street; thence along Taylor Street to a terminal at Bay Street; returning from Bay and Taylor Streets along Taylor Street to Columbus Avenue; thence along Columbus Avenue to Mason Street; thence along Mason Street to Washington Street; thence along Washington Street to Powell Street; and thence along Powell Street to Market Street, the point of commencement.

(2) A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Hyde Street; thence along Hyde Street to a terminal at Teach, returning from Beach and Hyde Streets along Hyde Street to Washington Street; thence along Washington Street to Powell Street; thence along Powell Street to Market Street, the point of commencement.

(3) A line commencing at Market and California; thence along Califor-

nia Street to a terminal at Van Ness Avenue; returning from Van Ness Avenue along California Street to Market Street, the point of commencement.

To fully effectuate the intent of this section respecting the cable car lines designated in 1, 2, and 3 above, the public utilities commission shall maintain and operate said lines at the normal levels of scheduling and service in effect on July 1, 1971; provided, however, that nothing herein contained shall prevent the commission from increasing at any time the said levels of scheduling and service.

(c) In the event of the unification, consolidation or merger of the San Francisco Municipal Railway with any privately owned street railway system or with any portion or facility thereof, no line of street railway, bus line, trolley bus line or cable car line or any portion thereof, which is now or will be owned by the City and County of San Francisco and is now or will be operated by the agency responsible for public transit, shall be abandoned nor shall the service be discontinued thereon except upon recommendation by such agency in writing, to the board of supervisors. The recommendation of such agency shall be acted upon by the board of supervisors within thirty days from the receipt thereof. For the purpose of hearing such recommendation a public hearing shall be held. If the said recommendation is disapproved by at least nine votes it shall not become effective and such services shall be continued. If said recommendation is not disapproved by nine votes of said board the recommendation shall become effective forthwith. Failure of the board of supervisors to act on said recommendation within thirty days shall be deemed as the approval of said recommendation provided that the agency responsible for public transit may without reference or recommendation to the board of supervisors abandon or discontinue service on any line of street railway, bus line, trolley bus line, or cable car line, or any portion thereof, which has been in operation for less than one year next immediately preceding such order of abandonment or discontinuance.

Section 6.414 is added to read as follows:

#### 6.414 Tax Assessment Valuation

Prior to the 1981-1982 fiscal year state law provided that assessed value for purpose of property taxation was 25% of full value. Commencing with the 1981-1982 fiscal year state law provides that assessed value for purpose of property taxation is 100% of full value. Certain sections of this charter provide for the apportionment of a tax levy measured in a specified dollar amount per each \$100.00 of assessed valuation or requires a tax levy measured in a specified dollar amount per each \$100.00 of assessed valuation. Each such section of this charter shall be construed and interpreted as apportioning a tax levy or requiring a tax levy as said levy would be computed if the assessed value were equivalent to 25% of full value, unless that section expressly provides to the contrary. It is the intent of this section that any apportionment of a tax levy or any tax levy would produce the same specified dollar amount under the new state assessment ration of 100% full value as was produced by the prior state assessment ratio of 25% of full value.

7.100 is amended to read as follows:

### 7.100 Materials, Supplies and Equipment

The purchaser of supplies shall purchase all materials, supplies and equipment of every kind and nature, and enter into agreements for all contractual services required by the several departments and offices of the city and county, except as in this section otherwise provided. Purchases of books, magazines and periodicals for the library departments, works of art for museums and other articles or things of unusual character as to the purchasing thereof, may, on the recommendation of a department head and the approval of the purchaser, be purchased directly by said department head.

Purchases for construction operations, or for any operations conducted outside the boundaries of the city and county may, on the recommendation of the department head in charge thereof and the approval of the purchaser of supplies, be made by the department head. All such purchases made by officials of departments other than the purchasing department shall be made in accordance with regulations established by the purchaser of supplies. The purchaser of supplies shall have authority to exchange used materials, supplies, and equipment to the advantage of the city and county, advertise for bids, and to sell personal property belonging to the city and county on the recommendation of a department head that such articles are unfit for use.

All purchases shall be by written purchase order or written contract. All purchases in excess of \$1,000 shall be by written contract; provided, however, that on the recommendation of the department head, in case of an emergency actually existing, the purchaser of supplies, with the approval of the chief administrative officer, may make such purchases in the open market on the basis of informal bids. At least three bids or quotations shall be secured on open market purchases and a permanent record of all such quotations shall be kept. All contracts and purchase orders in excess of \$15,000 for materials, supplies or equipment and all agreements for contractual services in excess of \$15,000 shall require the signature of the chief administrative officer in addition to the signature of the purchaser of supplies. The purchaser of supplies shall not enter into any contract or issue any purchase order unless the controller shall certify thereon that sufficient unencumbered balances are available in the proper fund to meet the payments under such purchase order or contract as these become due.

The purchaser of supplies shall establish specifications and tests to cover all recurring purchases of materials, supplies and equipment. He shall, as far as is practicable, standardize materials, supplies and equipment according to the use to which they are to be put, when two or more types, brands or kinds are specified or requested by individual departments.

Purchases of equipment shall be made in accordance with specifications furnished by the department requiring such equipment in case the use of such equipment is peculiar to such department. For patented or proprietary articles sold by brand name, the purchaser may require each department requisitioning same by such brand name, to furnish specifications of the article requisitioned and may advertise for bids on the basis of such specifications, under conditions permitting manufacturers of or dealers in

other articles made and sold for the same purpose to bid on such specifications or on the specifications of their own product. If the purchaser of supplies recommends the acceptance of the lowest or best bid, stating his reasons in writing therefore, and if the department head concerned recommends the acceptance of any other bid on such proprietary articles, stating his reasons in writing therefor, the award shall be determined by the controller.

The purchaser of supplies shall require departments to make adequate inspections of all purchases, and shall make such other inspection as he deems necessary. He shall direct the rejection of all articles which may be below standards, specifications or samples furnished. He shall not approve any bill or voucher for articles not in conformity with specifications, or which are at variance with any contract.

He shall have charge of central storerooms and warehouses of the city and county. He shall also have charge of a central garage and shop for the repair of city and county equipment. All garages and shops heretofore maintained by departments for the construction, maintenance, and repair of departmental supplies and equipment, and the personnel assigned thereto, excepting the shop and personnel for fire alarm, police telegraph and traffic signal manufacture and repair operated by the department of electricity, are hereby transferred to said central garage and shop.

He shall, under the supervision of the controller, maintain an inventory of all materials, supplies and equipment purchased for and in use in all departments and offices of the city and county. He shall be responsible for the periodic check of such property, and in case of loss or damage deemed by him to be due to negligence, he shall report thereon to the mayor, the chief administrative officer and the controller. He shall have authority to require the transfer of surplus property in any department to stores or to other departments.

Section 7.103 is amended to read as follows:

#### Section 7.103 Requisition, Contract and Payment

All purchases orders and contracts shall be based on written requisitions, or, for materials or supplies in common use in the various departments, on the purchaser's records of average use by all departments. Purchase orders and contracts in excess of \$15,000 must be approved by the chief administrative officer. The purchaser of supplies shall approve all bills or vouchers for materials, supplies, equipment, and contractual services before the controller shall draw and approve warrants therefor. All contracts for the purchase of materials, supplies and equipment shall be made after inviting sealed bids by publication. All sealed bids received shall be kept on file. When an award of contract is made, notice that the same has been made shall be given by one publication, and any interested person may examine the bids and records at the purchaser's office.

Section 7.200 is amended to read as follows:

#### Section 7.200 Public Works and Purchasing Contracts

The construction, reconstruction or repair of public buildings, streets, utilities or other public works or improvements, and the purchasing of supplies, materials and equipment, when the expenditure involved in each case shall exceed the sum of \$15,000 shall be done by contract, except

as otherwise provided by this charter. It shall constitute official misconduct to split or divide any public work or improvement or purchase into two or more units for the purpose of evading the contract provisions of this section. In an emergency, provided an actual emergency be declared by the board of supervisors to exist, and when authorized by resolution of said board, any public work or improvement may be executed in the most expeditious manner. Notwithstanding any other provision in this section or this charter contained, upon the approval of the chief administrative officer declaring the work to be emergency in character, there may be expended by the department of public works the sum not to exceed \$500 for new constructions of any type in or upon unimproved or unaccepted streets.

Any public work or improvement estimated to cost less than \$15,000 may be performed under contract or written order or by the employment of the necessary labor and purchase of the necessary materials and supplies directly by the city and county. Any public work or improvement executed by the city, other than routine repair work, shall be authorized by the chief administrative officer when the cost exceeds \$15,000 or by the heads of departments not under the chief administrative officer, only after detailed estimates have been prepared and submitted by the head of the department concerned. There shall be separate accounting for each work or improvement so executed, which accounting shall include all direct, indirect and supervisory elements of cost chargeable to such work or improvement, and each cost accounting shall be reported to the chief administrative officer, or to the mayor when such work shall have been performed by departments not under the chief administrative officer. All such accounts shall be reported to the controller. Any public work or improvement costing less than \$15,000 and not performed by the use of city and county labor, materials, and supplies shall, if not performed under contract, be covered by written order or agreement which shall be based on not less than three bids, notice of which shall be given by three days posting. Records of such bids shall be kept by the department.

When the expenditure for any public work or improvement shall exceed the sum of \$15,000, the same shall be done by contract, except as otherwise provided in this charter. The head of the department in charge of or responsible for the work for which a contract is to let, or the purchaser or supplies in the case of purchases of materials, supplies and equipment, shall let such contract to the lowest reliable and responsible bidder not less than ten days after advertising by on publication for sealed proposals for the work, improvement or purchase contemplated. Each such advertisement shall contain the reservation of the right to reject any and all bids. The officer responsible for the awarding of any such contract shall require from all bidders information concerning their experience and financial qualifications, as provided by general law relative to such investigations authorized by department of public works.

The purchaser of supplies, with the approval of the chief administrative officer for bids in excess \$15,000, or the department head concerned, with the approval of the board or commission to which he is responsible, may reject any and all bids and readvertise for bids.

The department head or the purchaser of supplies, as the case may be, shall have power to sign such contract for the estimated expenditures thereunder not in excess of \$15,000. Any contract involving the expenditure of more than \$15,000, if for the purchase of materials, supplies or equipment, shall require the joint approval of the purchaser of supplies and the chief administrative officer. If such contract is for any public work or improvement, it shall require the joint approval of the department head and the chief administrative officer for amounts in excess of \$15,000, relative to departments under his jurisdiction, or the signature of the department head and the approval by resolution of the board or commission concerned for departments not under the chief administrative officer.

The board of supervisors, by ordinance, shall establish procedure whereby appropriate city and county departments may file sealed bids for the execution of any work to be performed under contract. If such bid is the lowest, the contract shall be awarded to the department. Accurate unit costs shall be kept of all direct and indirect charges incurred by the department under any such contract, which unit costs shall be reported to and audited by the controller monthly and on the completion of the work.

In any case where the lowest gross price or unit cost bid is not accepted, and a contract is entered into with another bidder, written report shall be made to the chief administrative officer, the mayor and the controller by the officer authorized to execute the contract, with the reasons for failure to accept such lowest bid.

If any provision of this section is in conflict with any provision of section 7.100 of the charter, the provision contained in section 7.100 shall govern and control.

Section 7.201 is amended to read as follows:

#### Section 7.201 Public Works Contract Procedure by Ordinance

Notwithstanding any other provision of this charter and, in particular, the provisions of Section 7.200, the board of supervisors shall by ordinance determine the monetary limits not to exceed \$15,000, within which the construction, reconstruction or repair of public buildings, streets, utilities or other public works or improvements may be done by contract or by written order or by the employment of the necessary labor and purchase of the necessary materials and supplies directly by the city and county, consistent, save as to monetary limits, with the manner provided for in Section 7.200 and Section 7.100.

Section 7.203 is amended to read as follows:

#### 7.203 Penalties and Extras

If so specified in the published notice soliciting sealed bids for and public work or improvement, any contract therefor may be let for a gross price or on a basis of cost per unit of work to be performed, and may also provide for liquidated damages to the city and county for every day during which the contract is uncompleted beyond such specified date. In awarding any contract, the department head concerned is authorized to compare bids on the basis of time of completion. When any award of contract has been made in consideration, in whole or in part, of the relative time

estimates of bidders for the completion of the work shall be fixed and the performance within such time limits shall be covered by the bond required of the contractor, and no extension may be granted on such contract beyond the date specified for completion, unless the liquidated damages for each day the work is uncompleted beyond the specified date shall be collected; provided, however, that this shall not apply to unavoidable delays due to act of God.

If it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications, or provide for extras in such contract such alterations, modifications or extras shall be made only on written recommendation of the department head responsible for the supervision of the contract, together with the approval of the chief administrative officer or the board or commission, as the case may be and also the approval of the controller, except as hereafter provided. Notwithstanding the provisions of section 6.302 of the charter, the chief administrative officer, or the board or commission, as the case may be, may delegate in writing the authority to approve such alterations, modifications or extras to the department head or officer empowered to execute such contracts. The controller may delegate in writing the authority to encumber funds from prior appropriations for such alterations, modifications or extras to the department head or officer empowered to execute such contracts prior to his certification for payment. Such authority, when granted, will clearly state the limitations of the changes to be encompassed.

In the performance of any contract awarded on the unit and the unit-cost basis, if the department head concerned ascertains that the amount of work done or to be done shall exceed the estimated amount of the contract by 10 percent, or more, the excess shall be provided for as prescribed by Section 6.306 relative to supplemental appropriations.

Section 7.204 is amended to read as follows:

#### 7.204 Contractors' Working Conditions

Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under sub-contract, sub-partnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide: (1) That in the performance of the contract and all work thereunder, eight hours per day may be permitted when conditions so warrant upon the approval of the department head responsible for the supervision of the contract, provided that compensation for all hours worked in excess of eight hours per day conforms to the requirements of the Labor Code of the State of California and all applicable federal laws; (2) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; (3) that any person performing labor in the execution of the contract shall be a citizen of the United States; (4) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform

labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or improvement," as used in this section shall, include the fabrication, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a subcontract subject to the provisions of this section.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement, or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed 10 percent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any sub-contractor or materialman for the purpose of supplying the same to any contractor bidding on or performing any contract for any public work or improvement, said sub-contractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the board of supervisors by ordinance so provide. When any ordinance shall so provide any officer, board, or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding 10 percent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco.

Section 7.300 is amended to read as follows:

Section 7.300 General Laws Applicable

The general laws of the State of California authorizing the incurring and establishing the procedure for the creation of bonded indebtedness and authorizing and establish the procedure for the issuance of bonds to refund indebtedness of municipalities in force at the time any bonded indebtedness is created or refunded by the city and county shall, except as otherwise provided in this charter, be applicable to the creation of bonded indebtedness and the issuance of refunding bonds by the city and county. Revenue bonds shall not be issued for any purpose unless the proposition to issue the revenue bonds has first been approved by a majority of the voters voting on the proposition at a general or special election: provided, however, this requirement shall not apply.

(1) to bonds approved by the board of supervisors prior to January 1, 1977; or



(2) to bonds issued pursuant to the authority contained in the Marks-Foran Residential Rehabilitation Act of 1973; or

(3) to bonds approved by a resolution of the board of supervisors adopted by an affirmative vote of three-quarters of the members of the board if the bonds are to finance a building or buildings, fixtures or equipment which are deemed by the board to be necessary to comply with an order of a duly constituted state or federal authority having jurisdiction over the subject matter; or

(4) to airport revenue bonds issued pursuant to section 7.306 of this charter.

Section 7.306 is amended to read as follows:

#### 7.306 Airport Revenue Bonds

(a) Subject to the approval, amendment or rejection of the board of supervisors in each instance, the airports commission shall have authority to issue airport revenue bonds for the purpose of acquiring, constructing, improving or developing airports or airport facilities under its jurisdiction under such terms and conditions as the commission may authorize by appropriate resolution. Such revenue bonds shall be issued in accordance with the Revenue Bond Law of 1941 as it now reads or may hereafter be amended. The provisions of Sections 54380 through 54387, inclusive, of the Government Code shall not apply to the issuance and sale of such revenue bonds.

(b) Revenue bonds issued pursuant to this section shall bear a rate of interest not to exceed that which may be fixed and prescribed by the airports commission subject to the approval or rejection of the board of supervisors without regard to the limitations contained in the Revenue Bond Law of 1941. The bonds issued by the commission pursuant to the provisions of this section shall not constitute or evidence indebtedness of the said commission payable solely out of revenues received by the commission from airports or airport facilities operated or controlled by it.

(c) Airport revenue bonds issued for such purposes pursuant to this section shall not be included in the bonded debt limit provided for in section 6.401 of this charter. Nothing in this section shall prevent the city and county from issuing general obligation bonds for the purpose of acquiring, constructing, improving or developing airports or airport facilities under the commission's jurisdiction, subject to the bond issue procedure provided for in this charter.

Section 8.403 is added to read as follows:

#### 8.403 Compensation for Registered Nurse Classifications

The salary, conditions and benefits of employment of the various classifications of nurses required to possess a registered nurse license issued by the State of California as provided for in this section as compensation shall be determined and fixed annually as follows:

(a) On or before May 1, 1982, and each year thereafter, the civil service commission shall certify to the board of supervisors for the acute care staff nurse classification the highest prevailing salary schedule in effect on April 15 of that year, and salary adjustments, if, any, to be effective during the city and county's next succeeding fiscal year, granted by collective bar-

gaining agreement to comparable registered nurse employees in public and private employment in the counties of Alameda, Contra Costa, Marin, San Mateo, San Francisco and Santa Clara. Rates of pay for other registered nurse classifications shall reflect not less than the same relationships to the benchmark registered nurse classification that those classifications had in fiscal year 1980–1981 to the then benchmark classification.

(b) The board of supervisors shall on or before June 1, 1982, and each year thereafter, fix a salary schedule for each classification which shall not be in excess of the schedules certified by the civil service commission, for each such classification, except as provided in subsection (f) below, and provided, further, that no employee's basic rate of pay shall be reduced to conform to the highest prevailing salary schedule except as provided for in section 8.406;

(c) The rates of pay fixed for each classification shall become effective at the beginning of the next succeeding fiscal year;

(d) The terms "salary schedule and "salary schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such salary schedule; the term "salary adjustments" shall mean an increase or decrease to the maximum rate of pay;

(e) At the time the board of supervisors fixes the salary schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of employment other than salaries as compensation for each classification, conditions and benefits not be exceed the intent of those conditions and benefits granted by collective bargaining agreements to comparable classifications by the employer used for certification of the highest prevailing salary schedule by the civil service commission. The board of supervisors may establish such conditions and benefits, notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of or benefits of the retirement system, health service system or vacation allowances provided eslewhere in this charter. Conditions and benefits of employment existing prior to July 1, 1982 may be continued by the board of supervisors;

(f) When the employer used for certification in subsection (a) above, provides rates of pay during the current fiscal year in excess of those fixed by the board of supervisors for said current fiscal year, or vacation and health service benefits greater than such similar benefits provided by this charter for the staff nurse classification, the civil service commission shall certify to the board of supervisors an amount not to exceed the difference of such salry and benefits converted to dollar values and the board of supervisors may provide additional salary, conditions and benefits of employment at a cost not to exceed said dollar value.

Section 8.515 is amended to read as follows:

#### 8.515 Compensation Insurance Payments

The benefit provisions of the workmen's compensation laws included in the Labor Code of the State of California, as they affect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by

the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be reinsured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 8.905 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special officer shall receive the benefits of such compensation law from any other source.

Whenever any member of the fire or police department, as defined in sections 8.545, 8.565, and 8.569, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in or illness caused by the performance of his duty, as determined by the retirement board, he shall become entitled, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary as fixed by the charter, while so disabled, for a period or periods not exceeding twelve months in the aggregate, with respect to any one injury or illness. Said disability benefits shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workmen's compensation laws included in said Labor Code, shall be considered as in lieu of such benefits, payable to such person under the said code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code. Medical treatment which may become necessary to relieve or cure said member from the effects of the injury or illness shall be furnished by the city and county, in the same manner that such treatment is furnished under said Labor Code, but without first requiring continuing awards of such treatment by the Industrial Accident Commission of the State of California, relating to impairments of permanent or of extended and uncertain duration. The provisions of this paragraph shall be administered exclusively by the retirement board, and the city and county and unified school district and community college district shall pay to the retirement system during each fiscal year, an amount equal to the total disability benefits paid by said system during the fiscal year and, pursuant to applica-

ble provisions of the Administrative Code of the city and county, the unified school district and community college district shall pay to the retirement system during each fiscal year, a proportionate share of the costs of administering workers compensation benefits on behalf of employees of said school and college districts.

A member of the fire or police department shall receive credits as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit. Contributions for the retirement system shall be deducted from said benefits in the same manner as they would be deducted from salary paid to him, and the city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member.

Section 8.539 is added to read as follows:

8.539 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired Prior To July 2, 1980

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, from time commencing on July 1, 1982 to or on account of any person who was retired prior to July 2, 1980, as a member of said system under section 8.509 formerly section 165.2 of the charter of 1932, as amended; and to or on account of any person who was retired prior to July 2, 1980, as a member of said system under section 8.507, formerly section 165 of the charter of 1932, as amended; and to or on account of any person who was retired prior to July 2, 1980, as a member of said system under section 8.584, 8.586 and 8.588 of this charter, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to twenty years. This section does not give any member retired prior to July 1, 1982 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1982.

Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, from the reserves held by the retirement system on account of miscellaneous members, cost of living benefits, the necessary amount being transferred upon July 1, 1982, from said reserves to the reserves held by the retirement system to meet the obligations of the city and county on account of benefits that have been granted and on account of prior service of members. The contributions being required of the city and county currently as percentages of salaries of persons who are members under section 8.509, 8.584, 8.586, and 8.588 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred.

Certified to be a true copy by John L. Molinari, President Board of Supervisors, and Gilbert H. Boreman, Clerk, Board of Supervisors.  
Date of Municipal Election: November 3, 1981.

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Charter Chapter 32—County of San Bernardino

*Amendment to the Charter of the County of  
San Bernardino*

[Filed with the Secretary of State December 28, 1981.]

Section 3A. is added to Article II of the Charter of the County of San Bernardino to read:

Notwithstanding the provisions of Section 3 of this Article, the office of County Clerk shall be an appointive office to be filled and held in the same manner as set forth in Section 4.

Certified to be a true copy by Robert L. Hammock, Chairman Board of Supervisors and Andree Disharoon, Clerk of the Board of Supervisors.  
Date of Consolidated Election: November 3, 1981.



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GOVERNOR'S REORGANIZATION  
PLAN NO. 1 of 1981

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**GOVERNOR'S REORGANIZATION  
PLAN NO. 1 OF 1981**

**Received by Assembly January 29, 1981, received by Senate January 29, 1981  
Takes effect on May 1, 1981, by operation of Government Code Section 12080.5.**



January 29, 1981

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**STATUTORY PROVISIONS**

An act to amend Section 70031 of the Education Code, to amend Sections 3517.6, 3532, 3572.5, 11007.6, 11030.1, 11030.2, 11031, 11552, 13920, 14876, 18000, 18575, 18714, 18861, 19100, 19143, 19143.5, 19172, 19261, and 19572 of, to add Part 2.6 (commencing with Section 19815) to Division 5 of Title 2 of, and to repeal Sections 13924, 13926, 18001, 18002, 18002.5, 18004, 18005, 18005.5, 18006, 18007, 18705, 18709, 18709.5, 19251, 19252, 19258, 19258.5 and 19259 of, to repeal Chapter 4 (commencing with Section 13950) of Division 3 of Title 2, Article 2 (commencing with Section 18020) of Chapter 1 of Part 1 of Division 5 of Title 2, Article 3 (commencing with Section 18030) of Chapter 1 of Part 1 of Division 5 of Title 2, Article 4 (commencing with Section 18041) of Chapter 1 of Part 1 of Division 5 of Title 2, Chapter 2 (commencing with Section 18050) of Part 1 of Division 5 of Title 2, Chapter 3 (commencing with Section 18100) of Part 1 of Division 5 of Title 2, Chapter 3.5 (commencing with Section 18120) of Part 1 of Division 5 of Title 2, Chapter 3.6 (commencing with Section 18135) of Part 1 of Division 5 of Title 2, Article 1 (commencing with Section 18250) of Chapter 6 of Part 1 of Division 5 of Title 2, Chapter 7 (commencing with Section 18300) of Part 1 of Division 5 of Title 2, Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2, Article 4 (commencing with Section 18730) of Chapter 2 of Part 2 of Division 5 of Title 2, Chapter 4 (commencing with Section 18850) of Part 2 of Division 5 of

Title 2, Article 4 (commencing with Section 19120) of Chapter 6 of Part 2 of Division 5 of Title 2, Article 8 (commencing with Section 19220) of Chapter 6 of Part 2 of Division 5 of Title 2, Article 2 (commencing with Section 19300) of Chapter 7 of Part 2 of Division 5 of Title 2, Article 3 (commencing with Section 19330) of Chapter 7 of Part 2 of Division 5 of Title 2, Article 4 (commencing with Section 19360) of Chapter 7 of Part 2 of Division 5 of Title 2, Article 5 (commencing with Section 19450) of Chapter 7 of Part 2 of Division 5 of Title 2, Article 6 (commencing with Section 19460) of Chapter 7 of Part 2 of Division 5 of Title 2, Article 1 (commencing with Section 19500) of Chapter 8 of Part 2 of Division 5 of Title 2, Article 2 (commencing with Section 19530) of Chapter 8 of Part 2 of Division 5 of Title 2, and Article 2.5 (commencing with Section 19555) of Chapter 8 of Part 2 of Division 5 of Title 2 of, the Government Code, relating to state employees.

## LEGISLATIVE COUNSEL'S DIGEST

## Governor's Reorganization Plan No. 1 of 1981

## State government reorganization: state employees

Under existing law the State Personnel Board administers the state civil service, with the State Board of Control, the Department of General Services, and the Department of Finance responsible for administering various limited aspects of civil service employment.

This bill would create the Department of Personnel Administration to administer the nonmerit aspects of state employment for nonelected employees in the executive branch of government, employees of the California Maritime Academy, and employees of the Legislative Counsel Bureau, and to act as the Governor's representative in higher education employer-employee relations. A Division of Labor Relations in the department would also be created.

Various functions presently performed by the State Personnel Board would be administered by the department, including, among others, salary determination, working hours, vacations, sick leave, absences, training, performance

reports, layoff, and grievances. The State Personnel Board would retain the authority to administer the merit system as required by the California Constitution.

Various limited functions presently performed by the State Board of Control, the Department of General Services, and the Department of Finance relating to employee entitlements for employees covered by the bill would be administered by the department, including, among others, per diem and travel expenses, relocation expenses, clothing and equipment allowances, deferred compensation plans, merit awards, and salary adjustments. These agencies would retain their functions for all state officers and employees not covered by the bill.

This bill would provide for the transfer to the Department of Personnel Administration of the employees, records, property, and funds of the State Personnel Board, the State Board of Control, the Department of General Services, and the Department of Finance which are engaged in the performance of the functions transferred to the Department of Personnel Administration.

This bill would be effective at the start of the first payroll period immediately following the pending decision of the California Supreme Court regarding the constitutionality of the State Employer-Employee Relations Act, and would provide that if lower court decisions which found the act unconstitutional are affirmed, the provisions of this bill directly affected by the court's decision shall not become operative.

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

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

- 1 SECTION 1. Section 70031 of the Education Code is
- 2 amended to read:
- 3 70031. (a) ~~The State Personnel Board~~ *Department of*
- 4 *Personnel Administration* shall establish and adjust the
- 5 salaries of the superintendent, members of the teaching
- 6 staff, officers and employees of the California Maritime
- 7 Academy in the same manner and following the same

1 procedures as in the establishment and adjustment of  
2 state civil service salaries.

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

12 SEC. 1.3. Section 3517.6 of the Government Code is  
13 amended to read:

14 3517.6. In any case where the provisions of Section  
15 70031 of the Education Code, or subdivision (h) of  
16 Section 3513, or Section ~~11030.2, 13020, 13024, 14876,~~  
17 ~~18001, 18005, 18005.5, 18006, 18007, 18020, 18021, 18021.5,~~  
18 ~~18021.6, 18021.7, 18022, 18023, 18024, 18025, 18025.1, 18026,~~  
19 ~~18050, 18050.1, 18051, 18051.5, 18100, 18100.1, 18100.5,~~  
20 ~~18101, 18101.5, 18102, 18102.5, 18103, 18105, 18120, 18121,~~  
21 ~~18122, 18122.1, 18123, 18124, 18125, 18126, 18127, 18128,~~  
22 ~~18129, 18135, 18135.5, 18136, 18137, 18137.5, 18138, 18139,~~  
23 ~~18140, 18141, 18142, 18300, 18301, 18302, 18310, 18705,~~  
24 ~~18714, 18730, 18731, 18732, 18850, 18850.1, 18851, 18852,~~  
25 ~~18853, 18853.5, 18854, 18855, 18856, 18857, 18859, 18860,~~  
26 ~~18861, 19080.5, 19100, 19120, 19143, 19251, 19252, 19261,~~  
27 ~~19300, 19301, 19302, 19303, 19304, 19330, 19330.5, 19331,~~  
28 ~~19332, 19333, 19334, 19335, 19360, 19360.5, 19361, 19362,~~  
29 ~~19450, 19451, 19452, 19455, 19460, 19461, 19462, 19463,~~  
30 ~~19464, 19465, 19502, 19503, 19555, 19556, 14876, 18714,~~  
31 ~~19080.5, 19100, 19143, 19261, 19819.1, 19820, 19822, 19824,~~  
32 ~~19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833,~~  
33 ~~19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841,~~  
34 ~~19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849,~~  
35 ~~19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5,~~  
36 ~~19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1,~~  
37 ~~19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1,~~  
38 ~~19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873,~~  
39 ~~19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880,~~  
40 ~~19880.1, 19881, 19882, 19883, 19884, 19885, 19886, 19886.1,~~

1 19886.2, 19887, 19887.1, 19887.2, 19888, 19990, 19991,  
2 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7,  
3 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1,  
4 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3,  
5 19996.1, 19996.2, 19998, 19998.1, 20750.11, 21400, 21402,  
6 21404, 21405, 22825, or 22825.1 are in conflict with the  
7 provisions of a memorandum of understanding, the  
8 memorandum of understanding shall be controlling  
9 without further legislative action. In any case where the  
10 provisions of Section ~~19532, 19533, 19535, 19536, 19536.5,~~  
11 ~~19537, 19538, 19540, or 19541~~ 19997.2, 19997.3, 19997.8,  
12 19997.9, 19997.10, 19997.11, 19997.12, 19997.13, or 19997.14  
13 are in conflict with the provisions of a memorandum of  
14 understanding, the terms of the memorandum of  
15 understanding shall be controlling unless the State  
16 Personnel Board finds those terms to be inconsistent with  
17 merit employment principles as provided for by Article  
18 VII of the California Constitution. Where such finding is  
19 made, the provisions of the Government Code shall  
20 prevail until those affected sections of the memorandum  
21 of understanding are renegotiated to resolve the  
22 inconsistency. If any provision of the memorandum of  
23 understanding requires the expenditure of funds, those  
24 provisions of the memorandum of understanding shall  
25 not become effective unless approved by the Legislature  
26 in the annual Budget Act. If any provision of the  
27 memorandum of understanding requires legislative  
28 action to permit its implementation by amendment of  
29 any section not cited above, those provisions of the  
30 memorandum of understanding shall not become  
31 effective unless approved by the Legislature.

32 SEC. 1.5. Section 3532 of the Government Code is  
33 amended to read:

34 3532. The state may adopt reasonable rules and  
35 regulations for the administration of employer-employee  
36 relations under this chapter.

37 Such rules and regulations may include provisions for  
38 (a) verifying that an organization does in fact represent  
39 employees of the state (b) verifying the official status of  
40 employee organization officers and representatives (c)

1 access of employee organization officers and  
 2 representatives to work locations (d) use of official  
 3 bulletin boards and other means of communication by  
 4 employee organizations (e) furnishing nonconfidential  
 5 information pertaining to employment relations to  
 6 employee organizations (f) such other matters as are  
 7 necessary to carry out the purposes of this chapter.

8 For employees in the state civil service, rules and  
 9 regulations in accordance with this section may be  
 10 adopted by the ~~State Personnel Board~~ *Department of*  
 11 *Personnel Administration* .

12 SEC. 2. Section 3572.5 of the Government Code is  
 13 amended to read:

14 3572.5. In the case where the following provisions of  
 15 law are in conflict with a memorandum of understanding,  
 16 the memorandum of understanding shall be controlling.

17 (a) Part 13 (commencing with Section 22000) of  
 18 Division 1 of Title 1 of, Sections 66609, 89007, 89039, 89500,  
 19 89502, 89503, 89504, 89505, 89506, 89507, 89508, 89509,  
 20 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518,  
 21 89519, 89520, 89531, 89532, 89533, 89534, 89537, 89541,  
 22 89542, 89542.5, 89543, 89544, 89545, 89546, 89550, 89551,  
 23 89552, 89553, 89554, 89555, 89556, 89700 and 89701 of, the  
 24 Education Code.

25 (b) Sections 825, 825.2, 825.6, 3569.5, 6700, 11020, and  
 26 11021; ~~13926, 18005, 18006, 18007, 18020, 18020.1, 18022,~~  
 27 ~~18023, 18025, 18025.1, 18050, 18051.5, 18053, 18100, 18100.5,~~  
 28 ~~18101, 18102, 18102.5, 18103, 18105 and 18106 of, Chapter~~  
 29 ~~3.5 (commencing with Section 18120), Chapter 3.6~~  
 30 ~~(commencing with Section 18135) of Part 1 of Division 5~~  
 31 ~~of Title 2 of, Chapter 4 (commencing with Section 18150)~~  
 32 ~~of Part 1 of Division 5 of Title 2 of, Sections 18200, 18853~~  
 33 ~~and 18853.5, Article 6 (commencing with Section 19460)~~  
 34 ~~of Chapter 7 of Part 2 19823, 19830, 19831, 19839, 19841,~~  
 35 ~~19842, 19847, 19848, 19850.1, 19850.2, 19850.3, 19850.4,~~  
 36 ~~19850.5, 19850.6, 19851, 19852, 19853, 19854, 19856.1, 19858,~~  
 37 ~~19858.1, 19859, 19861, 19862, 19863, 19863.1, 19864, 19866,~~  
 38 ~~and 19867 of, Article 4 (commencing with Section 19869)~~  
 39 ~~and Article 5 (commencing with Section 19878) of~~  
 40 *Chapter 2.5 of Part 2.6 of Division 5 of Title 2 of, the*

1 Government Code.

2 (c) Sections 395, 395.01, 395.05, 395.1 and 395.3 of the  
3 Military and Veterans Code.

4 SEC. 2.1. Section 11007.6 of the Government Code is  
5 amended to read:

6 11007.6. Any state agency may, subject to rules and  
7 regulations of the Board of Control, insure its officers and  
8 employees *not covered by Part 2.6 (commencing with*  
9 *Section 19815) of Division 5* against injury or death  
10 incurred while flying on state business in any except  
11 regularly scheduled passenger aircraft.

12 SEC. 2.2. Section 11030.1 of the Government Code is  
13 amended to read:

14 11030.1. When a state employee *not covered by Part*  
15 *2.6 (commencing with Section 19815) of Division 5* dies  
16 while traveling on official state business the ~~State~~ *state*  
17 shall, under rules and regulations adopted by the Board  
18 of Control, pay the traveling expenses necessary to return  
19 the body to his *or her* official headquarters or the place  
20 of burial in the State of California, whichever is the  
21 smaller amount. This subdivision shall not be construed to  
22 authorize the payment of the traveling expenses, either  
23 going or returning, of one accompanying such body.

24 SEC. 2.3. Section 11030.2 of the Government Code is  
25 amended to read:

26 11030.2. ~~(a)~~ Any state officer or employee *not*  
27 *covered by Part 2.6 (commencing with Section 19815) of*  
28 *Division 5* when working overtime at his *or her*  
29 headquarters on state business may receive his *or her*  
30 actual and necessary expenses, during his *or her* regular  
31 work week, subject to rules and regulations adopted by  
32 the Board of Control limiting the amount of the expenses  
33 and prescribing the conditions under which the expenses  
34 may be paid; provided, however, that each state agency  
35 may determine the necessity for and limit such expenses  
36 of its employees in such manner as does not conflict with  
37 and is within the limitations prescribed by the Board of  
38 Control.

39 ~~(b)~~ ~~If the provisions of this section are in conflict with~~  
40 ~~the provisions of a memorandum of understanding~~

1 reached pursuant to Section 3517.5, the memorandum of  
 2 understanding shall be controlling without further  
 3 legislative action, except that if such provisions of a  
 4 memorandum of understanding require the expenditure  
 5 of funds, the provisions shall not become effective unless  
 6 approved by the Legislature in the annual Budget Act.

7 SEC. 2.4. Section 11031 of the Government Code is  
 8 amended to read:

9 11031. The headquarters of heads of departments,  
 10 elective constitutional officers (other than Member of  
 11 the Legislature), ~~commissioners of divisions in the~~  
 12 ~~Department of Investment~~, and members of all boards  
 13 and commissions *not covered by Part 2.6 (commencing*  
 14 *with Section 19815) of Division 5*, unless fixed by law,  
 15 shall be determined and fixed by the State Board of  
 16 Control, and the headquarters of all other officers, agents  
 17 and employees *not covered by Part 2.6 (commencing*  
 18 *with Section 19815) of Division 5* shall be determined and  
 19 fixed by the appointing power.

20 SEC. 2.5. Section 11552 of the Government Code is  
 21 amended to read:

22 11552. An annual salary of thirty thousand dollars  
 23 (\$30,000) shall be paid to each of the following:

- 24 (a) Superintendent of Banks
- 25 (b) Commissioner of Corporations
- 26 (c) Insurance Commissioner
- 27 (d) Director of Transportation
- 28 (e) Real Estate Commissioner
- 29 (f) Savings and Loan Commissioner
- 30 (g) Director of Social Services
- 31 (h) Director of Water Resources
- 32 (i) Director of Corrections
- 33 (j) Director of General Services
- 34 (k) Director of Industrial Relations
- 35 (l) Director of Motor Vehicles
- 36 (m) Director of the Youth Authority
- 37 (n) Commissioner, California Highway Patrol
- 38 (o) Members of the Public Utilities Commission
- 39 (p) Director of Employment Development
- 40 (q) Director of Alcoholic Beverage Control



1 (r) Director of Housing and Community  
2 Development

3 (s) Director of Alcohol and Drug Abuse

4 (t) Director of the Office of Statewide Health  
5 Planning and Development

6 (u) *Director of the Department of Personnel*  
7 *Administration.*

8 SEC. 3. Section 13920 of the Government Code is  
9 amended to read:

10 13920. By a majority vote, the board shall adopt  
11 general rules and regulations:

12 (a) Limiting the amount, time, and place of expenses  
13 and allowances to be paid to *elected state* officers;  
14 ~~agents, and employees of the state~~ while traveling on  
15 official state business. ~~The rules and regulations shall~~  
16 ~~provide for reasonable reimbursement to an officer,~~  
17 ~~agent or employee of the state for expenses incurred by~~  
18 ~~him to repair a privately owned vehicle which was~~  
19 ~~damaged through no fault of said officer, agent or~~  
20 ~~employee; provided that the damage occurred while the~~  
21 ~~vehicle was used on official state business with the~~  
22 ~~permission or authorization of an employing agency.~~

23 (b) Governing such matters as are specifically  
24 committed to its jurisdiction.

25 (c) Governing the presentation and audit of claims  
26 against the state for which an appropriation has been  
27 made or for which a state fund is available.

28 (d) Governing the computation of pay in the case of  
29 any *elected state* officer ~~or employee~~ on a monthly basis  
30 salary who is entitled to less than a full month's pay.

31 ~~If the provisions of this section are in conflict with the~~  
32 ~~provisions of a memorandum of understanding reached~~  
33 ~~pursuant to Section 3517.5, the memorandum of~~  
34 ~~understanding shall be controlling without further~~  
35 ~~legislative action, except that if such provisions of a~~  
36 ~~memorandum of understanding require the expenditure~~  
37 ~~of funds, the provisions shall not become effective unless~~  
38 ~~approved by the Legislature in the annual Budget Act.~~

39 SEC. 3.5. Section 13924 of the Government Code is  
40 repealed.

1 13924. (a) The board shall determine the fair and  
2 reasonable value of maintenance, living quarters,  
3 housing, lodging, board, meals, food, household supplies,  
4 fuel, laundry, domestic servants and other services  
5 furnished by the state as an employer to its employees.

6 The value so determined shall constitute the charges to  
7 be made to state employees for any such maintenance or  
8 other services furnished by the state, unless the employee  
9 is entitled thereto as compensation for his services or as  
10 actual and necessary expenses incurred in the  
11 performance of the state's business. Whenever a state  
12 employee is entitled to such maintenance or other  
13 services as part or full compensation for services  
14 rendered, the value thereof for retirement purposes, as  
15 defined by Section 20022 of this code, and for salary or  
16 wage fixing purposes, shall also be determined in  
17 accordance with the values established by the board  
18 hereunder. The Board of Control, by rule, shall provide  
19 for reasonable opportunity to be heard by departments  
20 or employees affected by this section.

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

29 SEC. 4. Section 13926 of the Government Code is  
30 repealed.

31 13926. The State Board of Control may make awards  
32 to state employees who:

33 (a) Propose procedures or ideas which hereafter have  
34 been adopted and which will result in eliminating or  
35 reducing state expenditures or improving operations;  
36 provided, such proposals are placed in effect; or

37 (b) Perform special acts or special services in the  
38 public interest; or

39 (c) By their superior accomplishments, make  
40 exceptional contributions to the efficiency, economy or

1 other improvement in the operations of the state  
2 government.

3 Awards for superior accomplishments shall be made in  
4 accordance with procedures and standards established by  
5 the State Personnel Board.

6 Any award made by the State Board of Control under  
7 the provisions of this section may be paid from the  
8 appropriation available to the state agency affected by  
9 the award.

10 The board may adopt rules and regulations to carry out  
11 the provisions of this section, and may appoint merit  
12 award boards made up of state officers, employees or  
13 citizens to consider employee proposals, special acts,  
14 special services, or superior accomplishments, and to  
15 make recommendations to the board as to the merits of  
16 the proposals, special acts, special services, or superior  
17 accomplishments, and whether or not the proposals,  
18 special acts, special services or superior  
19 accomplishments, justify an award.

20 Any award granted under the provisions of this section  
21 shall be limited to one thousand dollars ~~(\$1,000)~~ unless a  
22 larger award is approved by concurrent resolution of the  
23 Legislature.

24 Any expenditures made or costs incurred heretofore or  
25 hereafter by the State Board of Control for the purposes  
26 of this section may be paid from funds available for the  
27 support of the State Board of Control.

28 If the provisions of this section are in conflict with the  
29 provisions of a memorandum of understanding reached  
30 pursuant to Chapter 12 (commencing with Section 3560)  
31 of Division 4 of Title 1, the memorandum of  
32 understanding shall be controlling without further  
33 legislative action, except that if such provisions of a  
34 memorandum of understanding require the expenditure  
35 of funds, the provisions shall not become effective unless  
36 approved by the Legislature in the annual Budget Act.

37 SEC. 5. Chapter 4 (commencing with Section 13950)  
38 of Part 4 of Division 3 of Title 2 of the Government Code  
39 is repealed.

40 SEC. 6. Section 14876 of the Government Code is

1 amended to read:

2 14876. (a) Pressmen, typographers, linotypers,  
3 compositors, bookbinders, lithographers, engravers,  
4 apprentices and assistants and all other employees of the  
5 Office of State Printing employed in allied work shall be  
6 paid on an hourly wage basis. The basic wage of such  
7 employees shall be the prevailing hourly wage paid to  
8 persons identified by the ~~State Personnel Board~~  
9 *Department of Personnel Administration* to be in similar  
10 and comparable employment by private printers in the  
11 major metropolitan areas in California. The ~~State~~  
12 ~~Personnel Board~~ *Department of Personnel*  
13 *Administration* shall accept and give validity to certified  
14 copies of agreed upon contracts submitted by either the  
15 employer, the employer group, or the employee  
16 organization.

17 The ~~State Personnel Board~~ *Department of Personnel*  
18 *Administration* shall survey only major employers where  
19 there are agreed upon contracts. Where any such  
20 contract contains any provision or provisions which do  
21 not reflect the actual practice of the employer, the ~~State~~  
22 ~~Personnel Board~~ *Department of Personnel*  
23 *Administration* shall disregard such provision or  
24 provisions.

25 If the ~~State Personnel Board~~ *Department of Personnel*  
26 *Administration* finds that salary relationships between  
27 surveyed classes do not accurately reflect relationships in  
28 duties and responsibilities of employees of the Office of  
29 State Printing, the ~~board~~ *department* shall adjust such  
30 wage rates on an equitable basis notwithstanding the  
31 survey findings.

32 As used in this section, prevailing wages and prevailing  
33 benefits means wages and benefits arrived at through  
34 negotiation between an employer or employer  
35 organization, and an employee organization which is the  
36 bona fide representative of the employer's employees  
37 and certified as such by the Director of Industrial  
38 Relations. In order to be so certified, the employee  
39 organization shall be free from employer influence and  
40 domination.

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

17 (c) As an alternative to subdivision (b), persons  
18 employed and retired from employment in the Office of  
19 State Printing may elect within 90 days of October 1,  
20 1977, to be covered under the Public Employees' Medical  
21 and Hospital Care Act pursuant to Section 22754.2.

22 A person first employed to any position described in  
23 subdivision (a) after October 1, 1977, may elect to  
24 become an "employee" as defined in Section 22754.2  
25 within 90 days of commencing such employment.

26 Any person who is a member of a health and welfare  
27 plan described in subdivision (b) who loses eligibility for  
28 participation in such plan, or if the plan of which the  
29 person is a member ceases to exist, such person may elect  
30 to become an "employee" as defined in Section 22754.2  
31 within 90 days of the date such eligibility is lost or the plan  
32 ceases to exist.

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

37 (e) If the provisions of this section are in conflict with  
38 the provisions of a memorandum of understanding  
39 reached pursuant to Section 3517.5, the memorandum of  
40 understanding shall be controlling without further

1 legislative action, except that if such provisions of a  
2 memorandum of understanding require the expenditure  
3 of funds, the provisions shall not become effective unless  
4 approved by the Legislature in the annual Budget Act.

5 SEC. 7. Section 18000 of the Government Code is  
6 amended to read:

7 18000. The salary fixed by law for each state officer,  
8 elective or appointive, is compensation in full for that  
9 office and for all services rendered in any official capacity  
10 or employment whatsoever, during his *or her* term of  
11 office, and he *or she* shall not receive for his *or her* own  
12 use any fee or perquisite for the performance of any  
13 official duty. The provisions of Section ~~18005~~ 19839 do not  
14 apply to any state officer whose salary is fixed by statute.

15 SEC. 8. Section 18001 of the Government Code is  
16 repealed.

17 ~~18001. (a) Unless otherwise provided by law, the~~  
18 ~~salaries of state officers shall be paid monthly out of the~~  
19 ~~General Fund.~~

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

28 SEC. 9. Section 18002 of the Government Code is  
29 repealed.

30 ~~18002. Any person who vacates a position in the state~~  
31 ~~civil service to accept appointment by the Governor or~~  
32 ~~by the Legislature to a position or an office for which the~~  
33 ~~salary is fixed by statute and who thereafter is reinstated~~  
34 ~~to his former position as provided by Section 19141 shall~~  
35 ~~be credited only with such accumulated sick leave, and~~  
36 ~~with such unused or accumulated vacation for which he~~  
37 ~~did not receive a lump sum payment, as he was entitled~~  
38 ~~to at the time he vacated the position.~~

39 SEC. 10. Section 18002.5 of the Government Code is  
40 repealed.

1 18002.5. Each state agency shall at the time of each  
2 payment of salary or wages furnish each employee an  
3 itemized statement in writing showing all deductions  
4 made from such salary or wages.

5 SEC. 11. Section 18004 of the Government Code is  
6 repealed.

7 18004. (a) Unless the Legislature specifically provides  
8 that approval of the Department of Finance is not  
9 required, whenever any state agency is authorized by  
10 special or general statute to fix the salary or  
11 compensation of an employee or officer, which salary is  
12 payable in whole or in part out of state funds, the salary  
13 is subject to the approval of the Department of Finance  
14 before it becomes effective and payable, except as  
15 provided in subdivision (b).

16 (b) Whenever any state court or other judicial agency  
17 is authorized by statute to fix the salary of an employee  
18 or officer who is exempt from civil service under  
19 subdivision (b) of Section 4 of Article VII of the  
20 Constitution, the salary is subject to the approval of the  
21 Chairman of the Judicial Council before it becomes  
22 effective and payable.

23 SEC. 12. Section 18005 of the Government Code is  
24 repealed.

25 18005. (a) Upon separation from service without  
26 fault on his part, a person is entitled to a lump/sum  
27 payment as of the time of separation for any unused or  
28 accumulated vacation or for any time off to which he is  
29 entitled by reason of previous overtime work where  
30 compensating time off for overtime work is provided for  
31 by the appointing power or by rules of the State  
32 Personnel Board. Such sum shall be computed by  
33 projecting the accumulated time on a calendar basis so  
34 that the lump sum will equal the amount which the  
35 employee would have been paid had he taken the time  
36 off but not separated from the service.

37 (b) Persons separated from service through fault of  
38 their own are entitled to a lump/sum payment for such  
39 compensating time off for overtime work, and in  
40 addition, such portion, if any, of unused vacation as the

1 State Personnel Board may determine. The computation  
2 of such sum shall be based on actual accumulated time  
3 without projection as provided in (a).

4 (c) Lump/sum payment for vacation shall not be made  
5 to a person who separates from a position for the purpose  
6 of accepting another position in the state service except:

7 (1) Upon movement to a position in which vacation  
8 credits are neither accrued nor used or (2) upon  
9 reassignment of an employee of the Trustees of the  
10 California State Colleges, subsequent to January 1, 1965,  
11 from a position other than an academic year position, to  
12 an academic year position. However, a lump/sum  
13 payment shall not be made to a person who returns to a  
14 position in the same class and agency within 15 working  
15 days of the date of his resignation.

16 (d) Except for payment authorized or excluded under  
17 subdivision (c) an employee who returns to state service  
18 during the period through which his lump/sum payment  
19 was computed may refund the amount of lump/sum  
20 payment which exceeds his break in service and have the  
21 balance of credits restored as though he had remained in  
22 state service and taken the time off.

23 (e) If the provisions of this section are in conflict with  
24 the provisions of a memorandum of understanding  
25 reached pursuant to Section 3517.5, or Chapter 12  
26 (commencing with Section 3560) of Division 4 of Title 1,  
27 the memorandum of understanding shall be controlling  
28 without further legislative action, except that if such  
29 provisions of a memorandum of understanding require  
30 the expenditure of funds, the provisions shall not become  
31 effective unless approved by the Legislature in the  
32 annual Budget Act.

33 SEC. 13. Section 18005.5 of the Government Code is  
34 repealed.

35 18005.5. (a) Any time off to which an employee is  
36 entitled by reason of overtime worked prior to June 9,  
37 1948, may be compensated by a lump sum payment in the  
38 manner provided in Section 18005 at any time prior to the  
39 separation of the employee from service or upon such  
40 separation. Payment shall be at the rate established for



1 the position as of the date of payment or the date of  
2 separation as the case may be.

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

11 SEC. 14. Section 18006 of the Government Code is  
12 repealed.

13 18006. (a) Notwithstanding the provisions of Section  
14 11030, whenever a state officer or employee is required  
15 by the appointing power because of a change in  
16 assignment, promotion or other reason related to his  
17 duties to change his place of residence, such officer, agent  
18 or employee shall receive his actual and necessary  
19 moving, traveling, lodging and meal expenses, incurred  
20 by him both before and after and by reason of such  
21 change of residence. The maximum allowances for such  
22 expenses shall be as follows: the costs of packing,  
23 transporting, and unpacking 11,000 pounds of household  
24 effects, traveling, lodging, and meal expenses for 60 days  
25 while locating a permanent residence, storage of  
26 household effects for 60 days, and additional  
27 miscellaneous allowances not in excess of two hundred  
28 dollars (\$200). The maximum allowances may be  
29 exceeded in those particular instances where the  
30 Director of General Services determines in advance that  
31 the change of residence will result in unusual and  
32 unavoidable hardship for the officer or employee, and in  
33 such cases the Director of General Services shall  
34 determine the maximum allowances to be received by  
35 such officer or employee.

36 (b) If such change of residence reasonably requires  
37 the sale of residence or the settlement of an unexpired  
38 lease, such officer or employee may be reimbursed for  
39 any of the following expenses:

40 (1) The settlement of the unexpired lease to a

1 maximum of one year. Upon the date of surrender of the  
2 premises by the employee who is the lessee, the rights  
3 and obligations of the parties to the lease shall be as  
4 determined by Section 1951.2 of the Civil Code.

5 The state shall be absolved of responsibility for an  
6 unexpired lease if the Board of Control determines the  
7 employee knew or reasonably should have known that a  
8 transfer involving physical move was imminent before  
9 entering into the lease agreement.

10 (2) In the event of residence sale, reimbursement for  
11 brokerage and other related selling fees or charges, as  
12 determined by regulations of the Board of Control,  
13 adopted pursuant to the Administrative Procedure Act  
14 (commencing with Section 11420) customarily charged  
15 for like services in the locality where the residence is  
16 located.

17 (c) If the provisions of this section are in conflict with  
18 the provisions of a memorandum of understanding  
19 reached pursuant to Section 3517.5, or Chapter 12  
20 (commencing with Section 3560) of Division 4 of Title 1,  
21 the memorandum of understanding shall be controlling  
22 without further legislative action, except that if such  
23 provisions of a memorandum of understanding require  
24 the expenditure of funds, the provisions shall not become  
25 effective unless approved by the Legislature in the  
26 annual Budget Act.

27 SEC. 15. Section 18007 of the Government Code is  
28 repealed.

29 18007. (a) For the purpose of facilitating the  
30 recruitment of professional and technically trained  
31 persons to fill positions for which there is a shortage of  
32 qualified applicants, the Board of Control may authorize  
33 payment of all or a part of the travel expense of applicants  
34 who are called for interview and all or a part of the travel  
35 and moving expense of persons who change their place  
36 of residence to accept employment with the state. In the  
37 case of applicants for employment by the Trustees of the  
38 California State University and Colleges, such payments  
39 shall be authorized only upon the certification of the  
40 trustees that the expenditure is necessary in order to

1 recruit qualified persons needed by the California State  
2 University and Colleges. In the case of all other  
3 applicants, such payments shall be authorized only upon  
4 the certification of the appointing power and the State  
5 Personnel Board that the expenditure is necessary in  
6 order to recruit qualified persons needed by the state.

7 If, for reasons that do not meet the approval of the state  
8 department concerned, the employee or applicant for  
9 employment does not accept or continue such  
10 employment for a period of two years, he shall reimburse  
11 the state department for such moving and travel  
12 expenses for the full or proportionate amount.

13 For the purposes of this section satisfactory reasons for  
14 not completing two years of employment shall be death,  
15 prolonged illness, disability, unacceptability of the  
16 applicant or employee to the state department, and  
17 similar eventualities beyond the control of the applicant  
18 or employee.

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

29 SEC. 16. Article 2 (commencing with Section 18020)  
30 of Chapter 1 of Part 1 of Division 5 of Title 2 of the  
31 Government Code is repealed.

32 SEC. 17. Article 3 (commencing with Section 18030)  
33 of Chapter 1 of Part 1 of Division 5 of Title 2 of the  
34 Government Code is repealed.

35 SEC. 18. Article 4 (commencing with Section 18041)  
36 of Chapter 1 of Part 1 of Division 5 of Title 2 of the  
37 Government Code is repealed.

38 SEC. 19. Chapter 2 (commencing with Section 18050)  
39 of Part 1 of Division 5 of Title 2 of the Government Code  
40 is repealed.

1 SEC. 20. Chapter 3 (commencing with Section 18100)  
2 of Part 1 of Division 5 of Title 2 of the Government Code  
3 is repealed.

4 SEC. 21. Chapter 3.5 (commencing with Section  
5 18120) of Part 1 of Division 5 of Title 2 of the Government  
6 Code is repealed.

7 SEC. 22. Chapter 3.6 (commencing with Section  
8 18135) of Part 1 of Division 5 of Title 2 of the Government  
9 Code is repealed.

10 SEC. 23. Article 1 (commencing with Section 18250)  
11 of Chapter 6 of Part 1 of Division 5 of Title 2 of the  
12 Government Code is repealed.

13 SEC. 24. Chapter 7 (commencing with Section 18300)  
14 of Part 1 of Division 5 of Title 2 of the Government Code  
15 is repealed.

16 SEC. 25. Chapter 8 (commencing with Section 18310)  
17 of Part 1 of Division 5 of Title 2 of the Government Code  
18 is repealed.

19 SEC. 26. Section 18575 of the Government Code is  
20 amended to read:

21 18575. Whenever any notice, paper, or other  
22 document, except a subpoena, is directed to be given to or  
23 served upon any person or state agency, such notice,  
24 paper, or document may be personally served or it may  
25 be served by mail to the last known residence or business  
26 address of the addressee. Unless otherwise specifically  
27 provided in this part the giving of notice of matters to be  
28 heard or considered by the board *or the Department of*  
29 *Personnel Administration* shall be governed by board *or*  
30 *department* rule.

31 Service by mail of the charges in a disciplinary  
32 proceeding, the notice of an employee's suspension, and  
33 the notice of a probationer's rejection is made by the  
34 enclosure of such charges or notice in a sealed envelope,  
35 addressed to the last known address of the person to be  
36 served, registered with return receipt requested, and the  
37 depositing of it in the United States mail with postage  
38 fully prepaid. Service is complete on mailing. Service by  
39 mail of any other notice, paper, or document is made in  
40 the manner provided by Sections 1012 and 1013 of the

1 Code of Civil Procedure. Proof of service, either personal  
2 or by mail, shall be made by affidavit.

3 SEC. 27. Section 18705 of the Government Code is  
4 repealed.

5 ~~18705. (a) In order to secure substantial justice and  
6 equality among employees in the state civil service, the  
7 board may provide by rule for days, hours and conditions  
8 of work, taking into consideration the varying needs and  
9 requirements of the different state agencies and the  
10 prevailing practices for comparable services in other  
11 public employment and in private business.~~

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

20 SEC. 28. Section 18709 of the Government Code is  
21 repealed.

22 ~~18709. The board may enter into arrangements with  
23 personnel agencies in other jurisdictions for the purpose  
24 of exchanging services and effecting transfers of  
25 employees. When the State takes over and there is  
26 transferred to it a function from any other public agency,  
27 the Personnel Board may determine the extent, if any, to  
28 which the employees employed by such other public  
29 agency on the date of transfer shall be entitled to have  
30 credited to them in the state civil service, seniority  
31 credits, accumulated sick leave and accumulated  
32 vacation because of service with the former agency. The  
33 board shall limit such determination to the time any  
34 transferred employees were employed in the specific  
35 function or a function substantially similar while in the  
36 former agency and such seniority credits and  
37 accumulated sick leave and accumulated vacation shall  
38 not exceed that to which each employee would be  
39 entitled if he had been continuously employed by the  
40 State of California. The provisions of this section shall be~~

1 applicable to any function heretofore transferred to the  
2 State whether by state action or otherwise as well as to  
3 any future transfers of a function to the State whether by  
4 state action or otherwise.

5 SEC. 29. Section 18709.5 of the Government Code is  
6 repealed.

7 18709.5. Any state employee who was laid off from the  
8 Department of Employment on the thirty-first day of  
9 December 1941 and thereafter entered the employ of the  
10 United States Employment Service and who returned to  
11 state service prior to November 16, 1946 and any person  
12 who entered the employ of the United States  
13 Employment Service after December 31, 1941 and who,  
14 prior to November 16, 1946, entered the state service in  
15 the Department of Employment may have the board  
16 determine the extent, if any, to which such employee  
17 shall be entitled to have credited to him in the state civil  
18 service, seniority credit, sick leave and accumulated  
19 vacation because of service in the United States  
20 Employment Service. The board shall limit such  
21 determination to the time any such employee was  
22 actually employed in the United States Employment  
23 Service, including time spent in war service in another  
24 federal department if such employee was transferred  
25 from the United States Employment Service to another  
26 federal department for war service and such employee  
27 subsequently entered the employ of the Department of  
28 Employment prior to November 16, 1946, and such  
29 seniority credits and accumulated sick leave and  
30 accumulated vacation shall not exceed that to which each  
31 employee would be entitled if he had been continuously  
32 employed by the State of California.

33 The foregoing provisions shall likewise apply to former  
34 employees of the Department of Employment who  
35 although otherwise entitled to such determinations  
36 entered recognized military service from federal  
37 employment and were reemployed by the Department  
38 of Employment within six months after their release from  
39 the military service and within six months from the  
40 termination of the state military emergency as

1 proclaimed by the Governor. Such time spent in the  
2 military service shall be construed as time spent on  
3 military leave from the state civil service.

4 SEC. 30. Section 18714 of the Government Code is  
5 amended to read:

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

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

20 SEC. 31. Article 4 (commencing with Section 18730)  
21 of Chapter 2 of Part 2 of Division 5 of Title 2 of the  
22 Government Code is repealed.

23 SEC. 32. Chapter 4 (commencing with Section 18850)  
24 of Part 2 of Division 5 of Title 2 of the Government Code  
25 is repealed.

26 SEC. 33. Section 18861 of the Government Code is  
27 amended to read:

28 18861. (a) The ~~board~~ *Department of Personnel*  
29 *Administration* shall develop objective criteria for  
30 determining the application of the state safety category  
31 of membership in the Public Employees' Retirement  
32 System to positions in the state civil service and shall then  
33 determine which classes of positions meet all or part of  
34 the elements of the criteria and shall list the positions in  
35 order based upon the degree in which their duties meet  
36 the criteria. The Public Employees' Retirement System  
37 and employing agencies shall assist and cooperate with  
38 the ~~board~~ *department* in preparation of the report.

39 The ~~board~~ *department* shall transmit a report thereon  
40 to the Legislature at the commencement of each session

1 of the Legislature. The ~~board~~ *department* shall initially  
2 give immediate priority to a study of the employees of the  
3 Departments of Corrections and Youth Authority and  
4 transmit a report thereon to the Legislature on or before  
5 January 1, 1975.

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

14 SEC. 34. Section 19100 of the Government Code is  
15 amended to read:

16 19100. For persons employed on an intermittent or  
17 irregular time base, the vacation and sick leave  
18 privileges, salary, and other conditions of employment  
19 governed by this part shall be subject to ~~board~~ *the*  
20 *Department of Personnel Administration* rule.

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

29 SEC. 35. Article 4 (commencing with Section 19120)  
30 of Chapter 6 of Part 2 of Division 5 of Title 2 of the  
31 Government Code is repealed.

32 SEC. 36. Section 19143 of the Government Code is  
33 amended to read:

34 19143. Notwithstanding any other provision of the  
35 law to the contrary, except as provided in Section 19143.5,  
36 an employee whose continuity of employment in the  
37 state service as either an exempt or civil service  
38 employee is broken for six months or longer by a  
39 permanent separation such as resignation, dismissal, or  
40 rejection during a probationary period, and who is



1 subsequently reemployed after December 31, 1949, shall  
2 not be credited for service prior to such separation for  
3 purposes of layoff or sick leave, nor shall ~~he~~ *the employee*  
4 be credited with any sick leave which ~~he~~ *the employee*  
5 had accumulated prior to his *or her* separation, and he *or*  
6 *she* shall again serve the months required to qualify for  
7 vacation credit. The ~~State Personnel Board~~ *Department*  
8 *of Personnel Administration* shall adopt rules governing  
9 the crediting of service before and after such a break in  
10 service for purposes of vacation as specified in Section  
11 ~~18050~~ *19858.1* and the keeping of service records related  
12 thereto.

13 When an employee has a break in the continuity of his  
14 *or her* state employment because of a temporary  
15 separation such as layoff, suspension, leave of absence,  
16 military leave, disability retirement, or medical  
17 termination, his *or her* prior service shall be counted  
18 upon his *or her* return to state service for purposes of  
19 layoff, sick leave and vacation.

20 If an employee had a break in the continuity of his *or*  
21 *her* state employment because of absence occasioned by  
22 his *or her* evacuation and relocation pursuant to orders  
23 issued by the commanding officer of the Western  
24 Defense Command in March 1942, for the evacuation of  
25 persons of Japanese descent from such area, where such  
26 employee was in state service on March 5, 1942, and  
27 returned to state service on or before December 31, 1949,  
28 the time of absence during which such orders were in  
29 effect shall be counted for purposes of layoff.

30 SEC. 37. Section 19143.5 of the Government Code is  
31 amended to read:

32 19143.5. When a civil service employee has a break of  
33 six months or longer in the continuity of his *or her* state  
34 employment which is not because of dismissal, or  
35 rejection during a probationary period, and such break  
36 does not exceed three years, the employee shall receive  
37 one-half the seniority credit for layoff purposes  
38 accumulated for service prior to any such break in  
39 service. Seniority credit for layoff purposes shall not be  
40 given for service prior to breaks of more than three years

1 in the continuity of state employment.

2 It is the responsibility of the employee to inform the  
3 ~~State Personnel Board~~ *Department of Personnel*  
4 *Administration* in writing that the provisions of this  
5 section apply to his or her service credit calculations. The  
6 employee must certify under what conditions he or she  
7 is eligible to receive this portion of the service credit. The  
8 ~~board~~ *department* shall verify the adequacy of the  
9 employee's certification and calculate the seniority  
10 credits accordingly.

11 The provisions of this section shall apply only to  
12 seniority scores computed after the effective date of the  
13 bill that amended this section during the second year of  
14 the 1979–80 Regular Session.

15 SEC. 38. Section 19172 of the Government Code is  
16 amended to read:

17 19172. During the probationary period the  
18 appointing power or his *or her* officially delegated  
19 representative shall evaluate the work and efficiency of  
20 a probationer in the manner and at such periods as the  
21 ~~board~~ *Department of Personnel Administration* rules  
22 may require.

23 SEC. 39. Article 8 (commencing with Section 19220)  
24 of Chapter 6 of Part 2 of Division 5 of Title 2 of the  
25 Government Code is repealed.

26 SEC. 40. Section 19251 of the Government Code is  
27 repealed.

28 ~~19251. A state officer or employee shall not engage in~~  
29 ~~any employment, activity, or enterprise which is clearly~~  
30 ~~inconsistent, incompatible, in conflict with, or inimical to~~  
31 ~~his duties as a state officer or employee or with the duties,~~  
32 ~~functions or responsibilities of his appointing power or~~  
33 ~~the agency by which he is employed.~~

34 Each appointing power shall determine, subject to  
35 approval of the board, those activities which, for  
36 employees under his jurisdiction, are inconsistent,  
37 incompatible or in conflict with their duties as state  
38 officers or employees. Consideration shall be given to  
39 employment, activity or enterprise which: (a) involves  
40 the use for private gain or advantage of state time;

1 facilities, equipment and supplies; or the badge, uniform,  
2 prestige or influence of one's state office or employment  
3 or; (b) involves receipt or acceptance by the officer or  
4 employee of any money or other consideration from  
5 anyone other than the state for the performance of an act  
6 which the officer or employee, if not performing such act,  
7 would be required or expected to render in the regular  
8 course or hours of his state employment or as a part of his  
9 duties as a state officer or employee or; (c) involves the  
10 performance of an act in other than his capacity as a state  
11 officer or employee which act may later be subject  
12 directly or indirectly to the control, inspection, review,  
13 audit or enforcement by such officer or employee or the  
14 agency by which he is employed; or; (d) involves such  
15 time demands as would render performance of his duties  
16 as a state officer or employee less efficient.

17 Each state officer and employee shall during his hours  
18 of duty as a state officer or employee and subject to such  
19 other laws, rules or regulations as pertain thereto, devote  
20 his full time, attention and efforts to his state office or  
21 employment.

22 The board may adopt rules governing the application  
23 of this section. Such rules may include provision for  
24 notice to employees prior to the determination of  
25 proscribed activities and for appeal by employees from  
26 such a determination and from its application to an  
27 employee.

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

36 SEC. 41. Section 19252 of the Government Code is  
37 repealed.

38 ~~19252.~~ (a) Upon giving two days' notice to his  
39 immediate superior, any state employee otherwise  
40 qualified shall be permitted to take any state civil service

1 examination during working hours, if the examination is  
2 scheduled during such period, or to attend a meeting of  
3 the board at which is scheduled for consideration a  
4 matter specifically affecting his position concerning  
5 which he has requested to be heard, without deduction  
6 of pay or other penalty. Employment interviews for  
7 eligibles on employment lists shall be considered part of  
8 the examination process under this part.

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

17 SEC. 42. Section 19258 of the Government Code is  
18 repealed.

19 19258. The department in which an employee is  
20 employed may pay the cost of replacing or repairing  
21 eyeglasses, hearing aids, dentures, watches, or articles of  
22 clothing necessarily worn or carried when damaged in  
23 the line of duty without fault of the employee. If the  
24 eyeglasses, hearing aids, dentures, watches or clothes are  
25 damaged beyond repair, the department may pay the  
26 actual value of such eyeglasses, hearing aids, dentures,  
27 watches or clothing. The value of such eyeglasses, hearing  
28 aids, dentures, watches or clothing shall be determined as  
29 of the time of the damage thereto.

30 SEC. 43. Section 19258.5 of the Government Code is  
31 repealed.

32 19258.5. The department in which an employee is  
33 employed may pay the cost of replacing personal tools or  
34 other equipment required in the employee's work when  
35 stolen from the jobsite without fault of the employee. The  
36 Board of Control shall adopt rules setting forth the  
37 criteria under which payment may be made, including  
38 the method of payment, determination of cost, and  
39 conditions which constitute absence of fault by the  
40 employee.

1 SEC. 44. Section 19259 of the Government Code is  
2 repealed.

3 ~~19259. Any appointing power may present to an~~  
4 ~~employee who has completed 25 or more years of state~~  
5 ~~service a certificate, plaque or other suitable memento~~  
6 ~~and the cost of the same shall be a proper charge against~~  
7 ~~the support appropriation of the department or office in~~  
8 ~~which the employee serves; provided, that the cost of any~~  
9 ~~such certificate, plaque or memento shall not exceed the~~  
10 ~~sum of fifteen dollars (\$15). Such presentation may~~  
11 ~~likewise be made to a retired employee who on the date~~  
12 ~~of his retirement had completed 25 or more years of state~~  
13 ~~service.~~

14 SEC. 45. Section 19261 of the Government Code is  
15 amended to read:

16 19261. (a) The ~~board~~ *Department of Personnel*  
17 *Administration* may establish standards of health and  
18 safety in state agencies and may develop a  
19 comprehensive health and safety program designed to  
20 improve the efficiency and raise the morale of state  
21 employees.

22 Nothing in this section or in the standards established  
23 thereunder shall discriminate against treatment by  
24 prayer or spiritual means nor require physical  
25 examination of any employee who files with the board an  
26 affidavit setting forth that he *or she* depends exclusively  
27 upon prayer for healing in accordance with the teachings  
28 of a bona fide religious sect, denomination or  
29 organization and that he *or she* is to the best of his *or her*  
30 knowledge and belief in good health and that he *or she*  
31 claims exemption on such grounds, except that when  
32 there is probable cause to believe that such employee is  
33 not physically able to perform the duties of his *or her*  
34 employment, the board may require a physical  
35 examination of the employee sufficient to indicate  
36 whether or not he *or she* is able to perform the duties of  
37 his *or her* employment.

38 (b) If the provisions of this section are in conflict with  
39 the provisions of a memorandum of understanding  
40 reached pursuant to Section 3517.5, the memorandum of

1 understanding shall be controlling without further  
2 legislative action, except that if such provisions of a  
3 memorandum of understanding require the expenditure  
4 of funds, the provisions shall not become effective unless  
5 approved by the Legislature in the annual Budget Act.

6 SEC. 46. Article 2 (commencing with Section 19300)  
7 of Chapter 7 of Part 2 of Division 5 of Title 2 of the  
8 Government Code is repealed.

9 SEC. 47. Article 3 (commencing with Section 19330)  
10 of Chapter 7 of Part 2 of Division 5 of Title 2 of the  
11 Government Code is repealed.

12 SEC. 48. Article 4 (commencing with Section 19360)  
13 of Chapter 7 of Part 2 of Division 5 of Title 2 of the  
14 Government Code is repealed.

15 SEC. 49. Article 5 (commencing with Section 19450)  
16 of Chapter 7 of Part 2 of Division 5 of Title 2 of the  
17 Government Code is repealed.

18 SEC. 50. Article 6 (commencing with Section 19460)  
19 of Chapter 7 of Part 2 of Division 5 of Title 2 of the  
20 Government Code is repealed.

21 SEC. 51. Article 1 (commencing with Section 19500)  
22 of Chapter 8 of Part 2 of Division 5 of Title 2 of the  
23 Government Code is repealed.

24 SEC. 52. Article 2 (commencing with Section 19530)  
25 of Chapter 8 of Part 2 of Division 5 of Title 2 of the  
26 Government Code is repealed.

27 SEC. 53. Article 2.5 (commencing with Section  
28 19555) of Chapter 8 of Part 2 of Division 5 of Title 2 of the  
29 Government Code is repealed.

30 SEC. 54. Section 19572 of the Government Code is  
31 amended to read:

32 19572. Each of the following constitutes cause for  
33 discipline of an employee, or person whose name appears  
34 on any employment list:

- 35 (a) Fraud in securing appointment.
- 36 (b) Incompetency.
- 37 (c) Inefficiency.
- 38 (d) Inexcusable neglect of duty.
- 39 (e) Insubordination.
- 40 (f) Dishonesty.

- 1 (g) Drunkenness on duty.
- 2 (h) Intemperance.
- 3 (i) Addiction to the use of narcotics or habit-forming
- 4 drugs.
- 5 (j) Inexcusable absence without leave.
- 6 (k) Conviction of a felony or conviction of a
- 7 misdemeanor involving moral turpitude. A plea or
- 8 verdict of guilty, or a conviction following a plea of nolo
- 9 contendere, to a charge of a felony or any offense
- 10 involving moral turpitude is deemed to be a conviction
- 11 within the meaning of this section.
- 12 (l) Immorality.
- 13 (m) Discourteous treatment of the public or other
- 14 employees.
- 15 (n) Improper political activity.
- 16 (o) Willful disobedience.
- 17 (p) Misuse of state property.
- 18 (q) Violation of this part or board rule.
- 19 (r) Violation of the prohibitions set forth in
- 20 accordance with Section ~~19251~~ 19990 .
- 21 (s) Refusal to take and subscribe any oath or
- 22 affirmation which is required by law in connection with
- 23 his employment.
- 24 (t) Other failure of good behavior either during or
- 25 outside of duty hours which is of such a nature that it
- 26 causes discredit to his agency or his employment.
- 27 (u) Any negligence, recklessness, or intentional act
- 28 which results in the death of a patient of a state hospital
- 29 serving the mentally disabled or the developmentally
- 30 disabled.

31 SEC. 55. Part 2.6 (commencing with Section 19815) is  
32 added to Division 5 of Title 2 of the Government Code,  
33 to read:

34  
35  
36  
37  
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41

PART 2.6. PERSONNEL ADMINISTRATION

CHAPTER 1. DEPARTMENT OF PERSONNEL  
ADMINISTRATION

Article 1. General

- 1 19815. As used in this part:
- 2 (a) "Department" means the Department of  
3 Personnel Administration.
- 4 (b) "Director" means the Director of the Department  
5 of Personnel Administration.
- 6 (c) "Division" means the Division of Labor Relations.
- 7 (d) "Employee" or "state employee," except where  
8 otherwise indicated, means employees subject to the  
9 State Employer-Employee Relations Act (Chapter 10.3  
10 (commencing with Section 3512), Division 4, Title 1),  
11 supervisory employees as defined in Section 3522.1,  
12 managerial employees as defined in subdivision (e) of  
13 Section 3513, confidential employees as defined in  
14 subdivision (f) of Section 3513, employees of the  
15 Legislative Counsel Bureau, employees of the Public  
16 Employment Relations Board, employees of the  
17 California Maritime Academy, nonclerical employees of  
18 the State Personnel Board engaged in technical or  
19 analytical personnel functions, conciliators employed by  
20 the State Conciliation Service within the Department of  
21 Industrial Relations, and all employees of the executive  
22 branch of government who are not elected to office.
- 23 19815.1. As used in this chapter, "employee" or "state  
24 employee," except where otherwise indicated, also  
25 means employees subject to the Higher Education  
26 Employer-Employee Relations Act (Chapter 12  
27 (commencing with Section 3560), Division 4, Title 1),  
28 managerial employees as defined in subdivision (*l*) of  
29 Section 3562, and confidential employees as defined in  
30 subdivision (e) of Section 3562.
- 31 19815.2. There is hereby created the Department of  
32 Personnel Administration, for the purposes of managing  
33 the nonmerit aspects of the state's personnel system.
- 34 19815.3. With the consent of the Senate, the Governor  
35 shall appoint, to serve at his pleasure, an executive officer  
36 who shall be director of the department. The director  
37 shall be appointed wholly on the basis of training,  
38 demonstrated ability, experience, and leadership in  
39 personnel administration and labor relations. The  
40 director shall receive the salary provided for by Chapter



1 6 (commencing with Section 11550) of Part 1 of Division  
2 3 of Title 2. In addition thereto, the Governor shall  
3 appoint a deputy director and a chief counsel for the  
4 department. Both appointments shall be subject to  
5 confirmation by the Senate.

6 19815.4. The director shall:

7 (a) Be responsible for the management of the  
8 department.

9 (b) Administer and enforce the laws pertaining to  
10 personnel.

11 (c) Observe and report to the Governor on the  
12 conditions of the nonmerit aspects of personnel.

13 (d) Formulate, adopt, amend, or repeal rules,  
14 regulations, and general policies affecting the purposes,  
15 responsibilities, and jurisdiction of the department and  
16 which are consistent with the law and necessary for  
17 personnel administration.

18 All regulations relating to personnel administration  
19 heretofore adopted pursuant to this part by the State  
20 Personnel Board, State Board of Control, Department of  
21 General Services, and the Department of Finance, and in  
22 effect on the operative date of this part, shall remain in  
23 effect and shall be fully enforceable unless and until  
24 readopted, amended, or repealed by the director.

25 (e) Hold hearings, subpoena witnesses, administer  
26 oaths, and conduct investigations concerning all matters  
27 relating to the department's jurisdiction.

28 (f) Act on behalf of the department and delegate  
29 powers to any authorized representative.

30 (g) Serve as the Governor's designated representative  
31 pursuant to the provisions of Section 3517.

32 (h) Perform such other duties as may be prescribed by  
33 law, and such other administrative and executive duties  
34 as have by other provisions of law been previously  
35 imposed.

36 19815.5. Subject to the State Civil Service Act, the  
37 director shall appoint such other assistants and other  
38 employees as are necessary for the administration of the  
39 affairs of the department and shall prescribe their duties.

40 19815.6. Notwithstanding the provisions of Sections

1 11042 and 11043, the chief counsel shall represent the  
2 department in all legal matters in which the department  
3 is interested, before any administrative agency or court  
4 of law.

5

## 6 Article 2. Powers and Duties

7

8 19816. Except as provided by Section 19816.5, the  
9 department succeeds to and is vested with the duties,  
10 purposes, responsibilities, and jurisdiction exercised by  
11 the State Personnel Board with respect to the  
12 administration of salaries, hours and other personnel  
13 related matters, training, performance evaluations, and  
14 layoffs and grievances.

15 The department succeeds to and is vested with the  
16 duties, purposes, responsibilities, and jurisdiction  
17 exercised by the State Board of Control and the  
18 Department of General Services with respect to the  
19 administration of miscellaneous employee entitlements.

20 The department succeeds to and is vested with the  
21 duties, purposes, responsibilities, and jurisdiction  
22 exercised by the Department of Finance with respect to  
23 the administration of salaries of employees exempt from  
24 civil service and within range salary adjustments.

25 19816.5. Notwithstanding any other provision of this  
26 part, regulations and other provisions pertaining to the  
27 layoff or demotion of civil service employees that are  
28 established or agreed to by the department shall be  
29 subject to review by the State Personnel Board for  
30 consistency with merit employment principles as  
31 provided for by Article VII of the California Constitution.

32 19817. The department shall have possession and  
33 control of all records, papers, offices, equipment,  
34 supplies, moneys, funds, appropriations, land, and other  
35 property real or personal held for the benefit or use by  
36 the State Personnel Board, the State Board of Control,  
37 the Department of General Services, and the  
38 Department of Finance in the performance of the duties,  
39 powers, purposes, responsibilities, and jurisdiction that  
40 are vested in the department by Section 19816.

1 19818. All officers and employees of the State  
2 Personnel Board, the State Board of Control, the  
3 Department of General Services, and the Department of  
4 Finance, who, on the operative date of this part, are  
5 serving in the state civil service, other than as temporary  
6 employees, and engaged in the performance of a function  
7 vested in the department by Section 19816 shall be  
8 transferred to the department. The status, positions, and  
9 rights of such persons shall not be affected by the transfer  
10 and shall be retained by them as officers and employees  
11 of the department pursuant to the State Civil Service Act,  
12 except as to positions exempt from civil service.

13 19819. The department may expend, in accordance  
14 with law, all moneys made available for its use or for the  
15 administration of any statute administered by it.

16 19819.1. (a) In order to secure substantial justice and  
17 equality among employees in the state civil service, the  
18 department may provide by rule for days, hours and  
19 conditions of work, taking into consideration the varying  
20 needs and requirements of the different state agencies  
21 and the prevailing practices for comparable services in  
22 other public employment and in private business.

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

31

### 32 Article 3. Division of Labor Relations

33

34 19819.5. There is in the Department of Personnel  
35 Administration, the Division of Labor Relations.

36 19819.6. The Governor shall appoint a deputy  
37 director from a list of nominees submitted by the  
38 director. Such deputy director shall be in addition to the  
39 deputy director appointed pursuant to Section 19815.3  
40 and shall be chief of the division. The Governor shall also

1 appoint from such list, such number of labor relations  
2 officers as is necessary to perform the functions of the  
3 division, who shall be exempt from civil service. The total  
4 number of exempt positions in this division shall not  
5 exceed ten.

6 19819.7. Notwithstanding any other provisions of the  
7 law, it shall be the function of the division to represent  
8 the Governor regarding all the relevant provisions of law  
9 with respect to state employees found in Section 3517 and  
10 to represent the Governor by attending the meeting and  
11 conferring as required by Section 3572. The duties of the  
12 Deputy Director of the Division of Labor Relations and  
13 the labor relations officers shall be limited to the  
14 department's professional functions and responsibilities  
15 in labor relations matters pursuant to Chapter 10.3  
16 (commencing with Section 3512) and Chapter 12  
17 (commencing with Section 3560) of Division 4 of Title 1.

18

## 19 CHAPTER 2. ADMINISTRATION OF SALARIES

20

### 21 Article 1. Claims for Reimbursement

22

23 19820. The director shall adopt general rules and  
24 regulations:

25 (a) Limiting the amount, time, and place of expenses  
26 and allowances to be paid to officers and employees of the  
27 state while traveling on official state business. The rules  
28 and regulations shall provide for reasonable  
29 reimbursement to an officer or employee of the state for  
30 expenses incurred by him or her to repair a privately  
31 owned vehicle which was damaged through no fault of  
32 the officer or employee; provided that the damage  
33 occurred while the vehicle was used on official state  
34 business with the permission or authorization of an  
35 employing agency.

36 As used in this subdivision, "officers and employees of  
37 the state" means all officers and employees of the state  
38 other than elected state officers and shall not be limited  
39 by subdivision (d) of Section 19815.

40 (b) Governing such matters as are specifically

1 committed to the jurisdiction of the department.

2 (c) Governing the computation of pay in the case of  
3 any employee on a monthly basis salary who is entitled to  
4 less than a full month's pay.

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

13 19822. (a) The director shall determine the fair and  
14 reasonable value of maintenance, living quarters,  
15 housing, lodging, board, meals, food, household supplies,  
16 fuel, laundry, domestic servants and other services  
17 furnished by the state as an employer to its employees.

18 The value so determined shall constitute the charges to  
19 be made to state employees for any such maintenance or  
20 other services furnished by the state, unless the employee  
21 is entitled thereto as compensation for his or her services  
22 or as actual and necessary expenses incurred in the  
23 performance of the state's business. Whenever a state  
24 employee is entitled to such maintenance or other  
25 services as part or full compensation for services  
26 rendered, the value thereof for retirement purposes, as  
27 defined by Section 20022, and for salary or wage fixing  
28 purposes, shall also be determined in accordance with the  
29 values established by the department hereunder. The  
30 director, by rule, shall provide for reasonable opportunity  
31 to be heard by departments or employees affected by this  
32 section.

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

1

2

## Article 2. Employee Awards

3

4 19823. The department may make awards to state  
5 employees who:

6 (a) Propose procedures or ideas which hereafter have  
7 been adopted and which will result in eliminating or  
8 reducing state expenditures or improving operations;  
9 provided, such proposals are placed in effect; or

10 (b) Perform special acts or special services in the  
11 public interest; or

12 (c) By their superior accomplishments, make  
13 exceptional contributions to the efficiency, economy or  
14 other improvement in the operations of the state  
15 government.

16 Awards for superior accomplishments shall be made in  
17 accordance with procedures and standards established by  
18 the department.

19 Any award made by the department under the  
20 provisions of this section may be paid from the  
21 appropriation available to the state agency affected by  
22 the award.

23 The director may adopt rules and regulations to carry  
24 out the provisions of this section, and may appoint merit  
25 award boards made up of state officers, employees, or  
26 citizens to consider employee proposals, special acts,  
27 special services, or superior accomplishments, and to  
28 make recommendations to the department as to the  
29 merits of the proposals, special acts, special services, or  
30 superior accomplishments, and whether or not the  
31 proposals, special acts, special services, or superior  
32 accomplishments justify an award.

33 Any award granted under the provisions of this section  
34 shall be limited to one thousand dollars (\$1,000) unless a  
35 larger award is approved by concurrent resolution of the  
36 Legislature.

37 Any expenditures made or costs incurred heretofore or  
38 hereafter by the director for the purposes of this section  
39 may be paid from funds available for the support of the  
40 department.

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

10

### 11 Article 3. Salary Classification

12

13 19824. (a) Unless otherwise provided by law, the  
14 salaries of state officers shall be paid monthly out of the  
15 General Fund.

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

24 19825. (a) Unless the Legislature specifically  
25 provides that approval of the department is not required,  
26 whenever any state agency is authorized by special or  
27 general statute to fix the salary or compensation of an  
28 employee or officer, which salary is payable in whole or  
29 in part out of state funds, the salary is subject to the  
30 approval of the department before it becomes effective  
31 and payable, except as provided in subdivision (b).

32 (b) Whenever any state court or other judicial agency  
33 is authorized by statute to fix the salary of an employee  
34 or officer who is exempt from civil service under  
35 subdivision (b) of Section 4 of Article VII of the  
36 Constitution, the salary is subject to the approval of the  
37 Chairman of the Judicial Council before it becomes  
38 effective and payable.

39 19826. (a) The department shall establish and adjust  
40 salary ranges for each class of position in the state civil

1 service subject to any merit limits contained in Article  
2 VII of the California Constitution. The salary range shall  
3 be based on the principle that like salaries shall be paid  
4 for comparable duties and responsibilities. In establishing  
5 or changing such ranges consideration shall be given to  
6 the prevailing rates for comparable service in other  
7 public employment and in private business. The  
8 department shall make no adjustments which require  
9 expenditures in excess of existing appropriations which  
10 may be used for salary increase purposes. The  
11 department may make a change in salary range  
12 retroactive to the date of application for such change.

13 (b) Notwithstanding any other provision of law, the  
14 department shall not establish, adjust, or recommend a  
15 salary range for any employees in an appropriate unit  
16 where an employee organization has been chosen as the  
17 exclusive representative pursuant to Section 3520.5.

18 (c) On or before January 10 of each year, the  
19 department shall submit to the parties meeting and  
20 conferring pursuant to Section 3517 and to the  
21 Legislature, a report containing the department's  
22 findings relating to the salaries of employees in  
23 comparable occupations in private industry and other  
24 governmental agencies.

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

33 19827. (a) Notwithstanding any other provision of  
34 law to the contrary, the department shall base  
35 recommendations for the salaries of highway patrolmen  
36 on the estimated average salaries as of July 1 of the year  
37 in which the recommendations are made for each  
38 corresponding rank for the Los Angeles Police  
39 Department, the Los Angeles Sheriff's office, the San  
40 Diego Police Department, the Oakland Police



1 Department, and the San Francisco Police Department.

2 (b) If the provisions of this section are in conflict with  
3 the provisions of a memorandum of understanding  
4 reached pursuant to Section 3517.5, the memorandum of  
5 understanding shall be controlling without further  
6 legislative action, except that if such provisions of a  
7 memorandum of understanding require the expenditure  
8 of funds, the provisions shall not become effective unless  
9 approved by the Legislature in the annual Budget Act.  
10 19827.5. For purposes of Section 18539.5, there is  
11 allocated from the salary or wage paid to a minister of the  
12 gospel in an amount up to 25 percent of the gross salary,  
13 as either of the following:

14 (a) The rental value of a home furnished to him.

15 (b) The rental allowance paid to him to rent or  
16 provide a home.

17 19828. (a) Reasonable opportunity to be heard shall  
18 be provided by the department to any employee affected  
19 by a change in the salary range for the class of his or her  
20 position.

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

29 19829. (a) Salary ranges shall consist of minimum  
30 and maximum salary limits. The department shall  
31 provide for intermediate steps within such limits to  
32 govern the extent of the salary adjustment which an  
33 employee may receive at any one time; provided, that in  
34 classes and positions with unusual conditions or hours of  
35 work or where necessary to meet prevailing rates and  
36 practices for comparable services in other public  
37 employment and in private business the department may  
38 establish more than one salary range or rate or method  
39 of compensation within a class.

40 (b) If the provisions of this section are in conflict with

1 the provisions of a memorandum of understanding  
2 reached pursuant to Section 3517.5, the memorandum of  
3 understanding shall be controlling without further  
4 legislative action, except that if such provisions of a  
5 memorandum of understanding require the expenditure  
6 of funds, the provisions shall not become effective unless  
7 approved by the Legislature in the annual Budget Act.  
8 19830. (a) The minimum and maximum salary limits  
9 for laborers, workers, and mechanics employed on an  
10 hourly or per diem basis need not be uniform throughout  
11 the state, but the appointing power shall ascertain and  
12 report to the department, as to each such position, the  
13 general prevailing rate of such wages in the various  
14 localities of the state.

15 In fixing such minimum and maximum salary limits  
16 within the various localities of the state, the department  
17 shall take into account the prevailing rates of wages in the  
18 localities in which the employee is to work and other  
19 relevant factors, and shall not fix the minimum salary  
20 limits below the general prevailing rate so ascertained  
21 and reported for the various localities.

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

32 19831. (a) The department may authorize payments  
33 into a private fund to provide health and welfare benefits  
34 to nonpermanent employees in classes compensated in  
35 accordance with the provisions of Section 19830 where  
36 the department finds as to any such position that:

37 (1) Such payments by employers are the prevailing  
38 practice in comparable employment in the locality of the  
39 work and the payments are for the purpose of providing  
40 to employees specified benefits such as, but not limited

1 to, hospital, medical, surgical and life insurance; sick  
2 leave, vacation allowance, pensions, supplementary  
3 unemployment and disability compensation, and other  
4 similar or related health and welfare benefits, or any  
5 combination thereof.

6 (2) Participation in the benefits provided by such  
7 funds is not limited to state employees.

8 (3) The provisions of the plans which provide the  
9 benefits meet the standards established by the  
10 department.

11 (b) Payments made by the state to any such fund on  
12 behalf of any employee shall be in lieu of benefits such as  
13 vacation allowance, sick leave, and retirement which are  
14 now or may hereafter be granted directly by the state in  
15 accordance with law.

16 (c) The department is empowered to determine the  
17 equitable application of this section to insure that the  
18 employees receive benefits comparable to, but not in  
19 excess of those provided in comparable private  
20 employment.

21 (d) The payments authorized by this section shall be  
22 a proper charge against any funds available for the  
23 support of the employing agency.

24 (e) If the provisions of this section are in conflict with  
25 the provisions of a memorandum of understanding  
26 reached pursuant to Section 3517.5, or Chapter 12  
27 (commencing with Section 3560) of Division 4 of Title 1,  
28 the memorandum of understanding shall be controlling  
29 without further legislative action, except that if such  
30 provisions of a memorandum of understanding require  
31 the expenditure of funds, the provisions shall not become  
32 effective unless approved by the Legislature in the  
33 annual Budget Act.

34 19832. (a) After completion of the first year in a  
35 position, each employee shall receive a merit salary  
36 adjustment equivalent to one of such intermediate steps  
37 during each year when he or she meets such standards of  
38 efficiency as the department by rule shall prescribe.

39 (b) If the provisions of this section are in conflict with  
40 the provisions of a memorandum of understanding

1 reached pursuant to Section 3517.5, the memorandum of  
2 understanding shall be controlling without further  
3 legislative action, except that if such provisions of a  
4 memorandum of understanding require the expenditure  
5 of funds, the provisions shall not become effective unless  
6 approved by the Legislature in the annual Budget Act.

7 19833. (a) When the compensation of an employee is  
8 established at a fixed amount per unit of work with a  
9 maximum limit for his or her total annual or monthly  
10 compensation as an alternative method of compensation  
11 for the salary fixed for the class, the department shall  
12 provide for annual increases in the maximum limit equal  
13 in amount and payable under the same conditions as for  
14 other employees.

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

23 19834. (a) Automatic salary adjustments shall be  
24 made for employees in the state civil service in  
25 accordance with this chapter and department rule  
26 adopted pursuant hereto, notwithstanding the power  
27 now or hereafter conferred on any officer to fix or  
28 approve the fixing of salaries, unless there is not sufficient  
29 money available for the purpose in the appropriation  
30 from which such salary shall be paid and the director shall  
31 so certify.

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

40 19835. (a) The right of an employee to automatic

1 salary adjustments is cumulative for a period not to  
2 exceed two years and he or she shall not, in the event of  
3 such an insufficiency of appropriation, lose his or her  
4 right to such adjustments for the intermediate steps to  
5 which he or she may be entitled for such period.

6 (b) If the provisions of this section are in conflict with  
7 the provisions of a memorandum of understanding  
8 reached pursuant to Section 3517.5, the memorandum of  
9 understanding shall be controlling without further  
10 legislative action, except that if such provisions of a  
11 memorandum of understanding require the expenditure  
12 of funds, the provisions shall not become effective unless  
13 approved by the Legislature in the annual Budget Act.  
14 19835.5. In submitting budgetary requirements to the  
15 Director of Finance, each appointing power shall  
16 carefully estimate and call attention to the need for  
17 money sufficient to provide for appropriate salary  
18 adjustments for the employees under his or her  
19 jurisdiction.

20 19836. (a) The department may authorize payment  
21 at any step above the minimum salary limit to classes or  
22 positions in order to meet recruiting problems, to obtain  
23 a person who has extraordinary qualifications, to correct  
24 salary inequities resulting from actions by the  
25 department or State Personnel Board, or to give credit  
26 for prior state service in connection with appointments,  
27 promotions, reinstatements, transfers, reallocations, or  
28 demotions. Other salary adjustments within the salary  
29 range for the class may be made upon the application of  
30 the appointing power and with the approval of the  
31 director. Adjustments within the salary range authorized  
32 by this section may be either permanent or temporary  
33 and may be made retroactive to the date of application  
34 for such change.

35 (b) If the provisions of this section are in conflict with  
36 the provisions of a memorandum of understanding  
37 reached pursuant to Section 3517.5, the memorandum of  
38 understanding shall be controlling without further  
39 legislative action, except that if such provisions of a  
40 memorandum of understanding require the expenditure

1 of funds, the provisions shall not become effective unless  
2 approved by the Legislature in the annual Budget Act.  
3 19837. (a) Employees in a class shall receive a salary  
4 within the limits established for that class; provided, that  
5 when a position has been allocated to a lower class or the  
6 salary range or rate of pay of the class is reduced, the  
7 department may authorize the payment of a rate above  
8 the maximum of the class; and provided further, that  
9 when an employee is moved to a position in a lower class  
10 because of reductions in force or other  
11 management-initiated changes, the department may,  
12 when recommended by the appointing power, authorize  
13 the payment of a rate above the maximum of the class for  
14 such time as the department may designate to the  
15 employee whose service has been fully satisfactory, who  
16 has completed a minimum of 10 years of state service, and  
17 who meets other eligibility standards established by the  
18 department. "State service," for the purpose of this  
19 section, may include up to one year during which the  
20 employee was off the state payroll while laid off, or on  
21 leave of absence for the purpose of lessening the effect of  
22 impending layoff or demotion. It is the responsibility of  
23 the employee to request credit for such time from the  
24 department. Such service shall not be credited for  
25 retirement purposes.

26 The department may, upon recommendation of the  
27 appointing power, apply the provisions of this section to  
28 employees who, prior to the effective date of the  
29 amendments to this section made at the 1971 Regular  
30 Session of the Legislature, moved to a position in a lower  
31 class because of reductions in force or other  
32 management-initiated changes, provided such  
33 employees have more than 30 years state service prior to  
34 the effective date of such amendments and were so  
35 demoted on July 1, 1968.

36 During such time as an employee's salary remains  
37 above the maximum rate of pay for his or her class, the  
38 employee shall not receive further salary increases.

39 (b) If the provisions of this section are in conflict with  
40 the provisions of a memorandum of understanding

1 reached pursuant to Section 3517.5, the memorandum of  
2 understanding shall be controlling without further  
3 legislative action, except that if such provisions of a  
4 memorandum of understanding require the expenditure  
5 of funds, the provisions shall not become effective unless  
6 approved by the Legislature in the annual Budget Act.  
7 19838. (a) The department shall develop objective  
8 criteria for determining the application of the state safety  
9 category of membership in the Public Employees'  
10 Retirement System to positions in the state civil service  
11 and shall then determine which classes of positions meet  
12 all or part of the elements of the criteria and shall list the  
13 positions in order based upon the degree in which their  
14 duties meet the criteria. The Public Employees'  
15 Retirement System and employing agencies shall assist  
16 and cooperate with the department in preparation of the  
17 report.

18 The department shall transmit a report thereon to the  
19 Legislature at the commencement of each session of the  
20 Legislature.

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

29

#### 30 Article 4. Miscellaneous Compensation

31

32 19839. (a) Upon separation from service without  
33 fault on his part, a person is entitled to a lump-sum  
34 payment as of the time of separation for any unused or  
35 accumulated vacation or for any time off to which he or  
36 she is entitled by reason of previous overtime work where  
37 compensating time off for overtime work is provided for  
38 by the appointing power or by rules of the department.  
39 Such sum shall be computed by projecting the  
40 accumulated time on a calendar basis so that the lump

1 sum will equal the amount which the employee would  
2 have been paid had he or she taken the time off but not  
3 separated from the service.

4 (b) Persons separated from service through fault of  
5 their own are entitled to a lump-sum payment for such  
6 compensating time off for overtime work, and in  
7 addition, such portion, if any, of unused vacation as the  
8 department may determine. The computation of such  
9 sum shall be based on actual accumulated time without  
10 projection as provided in (a).

11 (c) Lump-sum payment for vacation shall not be made  
12 to a person who separates from a position for the purpose  
13 of accepting another position in the state service except:

14 (1) Upon movement to a position in which vacation  
15 credits are neither accrued nor used or (2) upon  
16 reassignment of an employee of the Trustees of the  
17 California State Colleges, subsequent to January 1, 1965,  
18 from a position other than an academic year position, to  
19 an academic year position. However, a lump-sum  
20 payment shall not be made to a person who returns to a  
21 position in the same class and agency within 15 working  
22 days of the date of his or her resignation.

23 (d) Except for payment authorized or excluded under  
24 subdivision (c) an employee who returns to state service  
25 during the period through which his or her lump-sum  
26 payment was computed may refund the amount of  
27 lump-sum payment which exceeds his or her break in  
28 service and have the balance of credits restored as though  
29 he or she had remained in state service and taken the  
30 time off.

31 (e) If the provisions of this section are in conflict with  
32 the provisions of a memorandum of understanding  
33 reached pursuant to Section 3517.5, or Chapter 12  
34 (commencing with Section 3560) of Division 4 of Title 1,  
35 the memorandum of understanding shall be controlling  
36 without further legislative action, except that if such  
37 provisions of a memorandum of understanding require  
38 the expenditure of funds, the provisions shall not become  
39 effective unless approved by the Legislature in the  
40 annual Budget Act.



1 19840. (a) Any time off to which an employee is  
2 entitled by reason of overtime worked prior to June 9,  
3 1948, may be compensated by a lump sum payment in the  
4 manner provided in Section 19839 at any time prior to the  
5 separation of the employee from service or upon such  
6 separation. Payment shall be at the rate established for  
7 the position as of the date of payment or the date of  
8 separation as the case may be.

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

17 19841. (a) Notwithstanding the provisions of Section  
18 11030, whenever a state officer or employee is required  
19 by the appointing power because of a change in  
20 assignment, promotion or other reason related to his or  
21 her duties to change his or her place of residence, such  
22 officer, agent or employee shall receive his or her actual  
23 and necessary moving, traveling, lodging and meal  
24 expenses, incurred by him or her both before and after  
25 and by reason of such change of residence. The maximum  
26 allowances for such expenses shall be as follows: the costs  
27 of packing, transporting, and unpacking 11,000 pounds of  
28 household effects, traveling, lodging, and meal expenses  
29 for 60 days while locating a permanent residence, storage  
30 of household effects for 60 days, and additional  
31 miscellaneous allowances not in excess of two hundred  
32 dollars (\$200). The maximum allowances may be  
33 exceeded in those particular instances where the director  
34 determines in advance that the change of residence will  
35 result in unusual and unavoidable hardship for the officer  
36 or employee, and in such cases the director shall  
37 determine the maximum allowances to be received by  
38 such officer or employee.

39 (b) If such change of residence reasonably requires  
40 the sale of residence or the settlement of an unexpired

1 lease, such officer or employee may be reimbursed for  
2 any of the following expenses:

3 (1) The settlement of the unexpired lease to a  
4 maximum of one year. Upon the date of surrender of the  
5 premises by the employee who is the lessee, the rights  
6 and obligations of the parties to the lease shall be as  
7 determined by Section 1951.2 of the Civil Code.

8 The state shall be absolved of responsibility for an  
9 unexpired lease if the department determines the  
10 employee knew or reasonably should have known that a  
11 transfer involving physical move was imminent before  
12 entering into the lease agreement.

13 (2) In the event of residence sale, reimbursement for  
14 brokerage and other related selling fees or charges, as  
15 determined by regulations of the department, adopted  
16 pursuant to the Administrative Procedure Act  
17 (commencing with Section 11420) customarily charged  
18 for like services in the locality where the residence is  
19 located.

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

28 19842. (a) For the purpose of facilitating the  
29 recruitment of professional and technically trained  
30 persons to fill positions for which there is a shortage of  
31 qualified applicants, the department may authorize  
32 payment of all or a part of the travel expense of applicants  
33 who are called for interview and all or a part of the travel  
34 and moving expense of persons who change their place  
35 of residence to accept employment with the state. In the  
36 case of applicants for employment by the Trustees of the  
37 California State University and Colleges, such payments  
38 shall be authorized only upon the certification of the  
39 trustees that the expenditure is necessary in order to  
40 recruit qualified persons needed by the California State

1 University and Colleges. In the case of all other  
2 applicants, such payments shall be authorized only upon  
3 the certification of the appointing power and the  
4 department that the expenditure is necessary in order to  
5 recruit qualified persons needed by the state.

6 If, for reasons that do not meet the approval of the state  
7 department concerned, the employee or applicant for  
8 employment does not accept or continue such  
9 employment for a period of two years, he or she shall  
10 reimburse the state department for such moving and  
11 travel expenses for the full or proportionate amount.

12 For the purposes of this section satisfactory reasons for  
13 not completing two years of employment shall be death,  
14 prolonged illness, disability, unacceptability of the  
15 applicant or employee to the state department, and  
16 similar eventualities beyond the control of the applicant  
17 or employee.

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

26 19843. (a) For each class or position for which a  
27 monthly or annual salary range is established by the  
28 department or by the Department of Finance, the  
29 department shall establish and adjust workweek groups  
30 and shall assign each class or position to a workweek  
31 group. The department, after considering the needs of  
32 the state service and prevailing overtime compensation  
33 practices, may establish workweek groups of different  
34 lengths or of the same length but requiring different  
35 methods of recognizing or providing compensation for  
36 overtime. The department may also provide for the  
37 payment of overtime in designated classes for work  
38 performed after the normal scheduled workday or  
39 normal scheduled workweek.

40 (b) If the provisions of this section are in conflict with

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

8 19844. (a) The department shall provide the extent  
9 to which, and establish the method by which, ordered  
10 overtime or overtime in times of critical emergency is  
11 compensated. The department may provide for cash  
12 compensation at a rate not to exceed  $1\frac{1}{2}$  times the regular  
13 rate of pay, and the rate may vary within a class  
14 depending upon the conditions of work, or the  
15 department may provide for compensating time off at a  
16 rate not to exceed  $1\frac{1}{2}$  hours of time off for each hour of  
17 overtime worked. The provisions made under this section  
18 shall be based on the practices of private industry and  
19 other public employment, the needs of state service, and  
20 internal relationships.

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

29 19845. (a) Notwithstanding any other provision of  
30 this chapter, the department is authorized to provide for  
31 overtime payments as prescribed by the Federal Fair  
32 Labor Standards Act to state employees.

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

1 19846. (a) It is the policy of the state that the normal  
2 workweek of permanent employees in fire suppression  
3 classes of the Division of Forestry shall not exceed 84  
4 hours a week. Work in excess of the designated normal  
5 workweek may be compensated for in cash or  
6 compensating time off in accordance with the regulations  
7 of the department.

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

16 19847. (a) Every state agency in which there are  
17 employees not subject to state civil service shall submit to  
18 the department all information necessary for  
19 determination of the workweek for each employee. For  
20 each class or position for which a monthly or annual salary  
21 range is established by the Trustees of the California State  
22 University and Colleges, the trustees shall establish and  
23 adjust workweek groups and shall assign each class or  
24 position to a workweek group.

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

35 19848. (a) The granting of compensating time off in  
36 lieu of cash compensation is not prohibited where  
37 compensating time off can be granted within 12 calendar  
38 months following the month in which the overtime was  
39 worked and without impairing the services rendered by  
40 the employing state agency.

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

11 19849. (a) The department shall adopt rules  
12 governing hours of work and overtime compensation and  
13 the keeping of records related thereto, including time  
14 and attendance records. Each appointing power shall  
15 administer and enforce such rules.

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

24 19849.1. (a) The department may provide by rule for  
25 compensation to employees who are required to report  
26 back to work after completion of the normal workday,  
27 workweek, or when otherwise off duty. In determining  
28 the rate and method of compensation, the department  
29 shall take into consideration the needs of state service  
30 and the practices prevailing in private business and other  
31 public employment.

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

40 19849.2. Any state agency may, subject to rules and

1 regulations of the department, insure its employees  
2 against injury or death incurred while flying on state  
3 business in any except regularly scheduled passenger  
4 aircraft.

5 19849.3. When a state employee dies while traveling  
6 on official state business the state shall, under rules and  
7 regulations adopted by the department, pay the traveling  
8 expenses necessary to return the body to his or her official  
9 headquarters or the place of burial in the State of  
10 California, whichever is the smaller amount. This  
11 subdivision shall not be construed to authorize the  
12 payment of the traveling expenses, either going or  
13 returning, of one accompanying such body.

14 19849.4. (a) Any state employee when working  
15 overtime at his or her headquarters on state business may  
16 receive his or her actual and necessary expenses, during  
17 his or her regular work week, subject to rules and  
18 regulations adopted by the department limiting the  
19 amount of the expenses and prescribing the conditions  
20 under which the expenses may be paid; provided,  
21 however, that each state agency may determine the  
22 necessity for and limit such expenses of its employees in  
23 such manner as does not conflict with and is within the  
24 limitations prescribed by the department.

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

33 19849.5. The headquarters of members of all boards  
34 and commissions who are employees pursuant to this  
35 part, unless fixed by law, shall be determined and fixed  
36 by the department, and the headquarters of all other  
37 employees shall be determined and fixed by the  
38 department.

39 19849.6. Any person who vacates a position in the  
40 state civil service to accept appointment by the Governor

1 or by the Legislature to a position or an office for which  
2 the salary is fixed by statute and who thereafter is  
3 reinstated to his or her former position as provided by  
4 Section 19141 shall be credited only with such  
5 accumulated sick leave, and with such unused or  
6 accumulated vacation for which he or she did not receive  
7 a lump sum payment, as he or she was entitled to at the  
8 time he or she vacated the position.

9 19849.7. Each state agency shall at the time of each  
10 payment of salary or wages furnish each employee an  
11 itemized statement in writing showing all deductions  
12 made from such salary or wages.

13 19849.8. The department in which an employee is  
14 employed may pay the cost of replacing or repairing  
15 eyeglasses, hearing aids, dentures, watches, or articles of  
16 clothing necessarily worn or carried when damaged in  
17 the line of duty without fault of the employee. If the  
18 eyeglasses, hearing aids, dentures, watches or clothes are  
19 damaged beyond repair, the department may pay the  
20 actual value of such eyeglasses, hearing aids, dentures,  
21 watches or clothing. The value of such eyeglasses, hearing  
22 aids, dentures, watches or clothing shall be determined as  
23 of the time of the damage thereto.

24 19849.9. Any appointing power may present to an  
25 employee who has completed 25 or more years of state  
26 service a certificate, plaque or other suitable memento  
27 and the cost of the same shall be a proper charge against  
28 the support appropriation of the department or office in  
29 which the employee serves; provided, that the cost of any  
30 such certificate, plaque or memento shall not exceed the  
31 sum of fifteen dollars (\$15). Such presentation may  
32 likewise be made to a retired employee who on the date  
33 of his or her retirement had completed 25 or more years  
34 of state service.

35

### 36 Article 5. Uniform and Equipment Allowances

37

38 19850. As used in this article:

39 (a) "Uniform" means outer garments, excluding  
40 shoes, which are required to be worn exclusively while



1 carrying out the duties and responsibilities of the position  
2 and which are different from the design or fashion of the  
3 general population. This definition includes items that  
4 serve to identify the person, agency, functions  
5 performed, rank, or time in service.

6 (b) "Work clothes" means attire that is worn over, or  
7 in place of, regular clothing and is necessary to protect  
8 the employee's clothing from damage or stains which  
9 would be present in the normal performance of his or her  
10 duties, for example, aprons, lab smocks, shop coats, or  
11 coveralls; or is necessary for the required sanitary  
12 conditions, for example, agriculture inspectors, surgery  
13 personnel, or food service.

14 (c) "Safety equipment" means equipment or attire  
15 worn over, in place of, or in addition to, regular clothing,  
16 which is necessary to protect the employees' health and  
17 welfare, for example, helmets, goggles, safety harnesses,  
18 and fireman "turnout gear."

19 (d) "Police protective equipment" means equipment  
20 or attire worn by law enforcement personnel for the  
21 purpose of protecting themselves or the public from  
22 overt actions of others or to assist in the carrying out of  
23 related duties, for example, handgun, baton, billy,  
24 handcuffs, flashlight, whistle, leather belt, holster and  
25 cases or attachments.

26 (e) "State employees" means employees of the state  
27 and its agencies, but does not include employees of the  
28 University of California.

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

39 19850.1. (a) State employees shall be responsible for  
40 the purchase of uniforms required as a condition of

1 employment. The state shall provide for an allowance not  
2 to exceed two hundred fifty dollars (\$250) per year to  
3 state employees for the replacement of uniforms.

4 When such employees are not required to wear  
5 uniforms on a full-time basis, the state allowance shall not  
6 exceed one hundred fifty dollars (\$150) per year.

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

17 19850.2. Each state employee, including employees  
18 having probationary status, employed in a position which  
19 is permanent and full time, or employed in a position  
20 which is less than full time for the equivalent of one year,  
21 shall receive the allowance for uniforms provided for in  
22 Section 19850.1, if:

23 (a) The uniform is clearly necessary for ready visual  
24 identification by the public for law enforcement, public  
25 safety, or other closely related purposes; and

26 (b) The employee is required by his or her appointing  
27 power to wear the uniform for the regular performance  
28 of his or her duties; and

29 (c) The uniform is authorized for wear only in an  
30 official capacity.

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

1 19850.3. To implement the provisions of Sections  
2 19850.1 and 19850.2, the department shall:

3 (a) Establish a procedure to determine what articles  
4 are to be included in calculating the amount of the  
5 uniform allowance.

6 (b) Determine the average annual replacement cost  
7 for each type of uniform based on required standards and  
8 taking into consideration normal uniform life. The  
9 allowance shall be the average annual replacement cost  
10 or two hundred fifty dollars (\$250), whichever is less.

11 (c) Annually review uniform allowances and adjust  
12 them when necessary.

13 (d) Determine procedure for and frequency of  
14 payment.

15 (e) Determine when new employees become eligible.

16 (f) Determine the need for changes in uniforms based  
17 on requests from appointing powers.

18 (g) Determine what degree of need for identification  
19 is necessary to support a uniform requirement.

20 (h) Establish procedures and make determinations as  
21 required.

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

32 19850.4. Subject to the availability of funds  
33 appropriated specifically for that purpose, each state  
34 employee shall be furnished work clothes if:

35 (a) The work clothes are required for purposes of  
36 sanitation or cleanliness; and

37 (b) The work clothes are required by the appointing  
38 power; and

39 (c) The work clothes are of a standard size instead of  
40 a measured size.

1 Work clothes provided pursuant to this section will be  
2 maintained and owned by the state. Items lost or  
3 damaged due to the negligence of the employee, shall be  
4 replaced by the employee at his or her expense.

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

15 19850.5. (a) The state shall furnish the initial issuance  
16 of all safety equipment and police protective equipment  
17 required by the employing state agency. All safety  
18 equipment and police protective equipment provided  
19 pursuant to this section shall remain the property of the  
20 state. Items lost or damaged due to the negligence of the  
21 employee, shall be replaced by the employee at his or her  
22 expense.

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

33 19850.6. The state department in which an employee  
34 is employed may pay the cost of replacing personal tools  
35 or other equipment required in the employee's work  
36 when stolen from the jobsite without fault of the  
37 employee. The department shall adopt rules setting forth  
38 the criteria under which payment may be made,  
39 including the method of payment, determination of cost,  
40 and conditions which constitute absence of fault by the

1 employee.

2

3

## CHAPTER 2.5. DAYS AND HOURS OF WORK

4

5

### Article 1. Workweek

6

7 19851. (a) It is the policy of the state that the  
8 workweek of the state employee shall be 40 hours, and  
9 the workday of state employees eight hours, except that  
10 workweeks and workdays of a different number of hours  
11 may be established in order to meet the varying needs of  
12 the different state agencies. It is the policy of the state to  
13 avoid the necessity for overtime work whenever possible.  
14 This policy does not restrict the extension of regular  
15 working-hour schedules on an overtime basis in those  
16 activities and agencies where such is necessary to carry  
17 on the state business properly during a manpower  
18 shortage.

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

29 19852. (a) When the Governor determines that the  
30 best interests of the state would be served thereby, the  
31 Governor may require that the 40-hour workweek  
32 established as the state policy in Section 19851 shall be  
33 worked in four days in any state agency or part thereof.

34 (b) If the provisions of this section are in conflict with  
35 the provisions of a memorandum of understanding  
36 reached pursuant to Chapter 12 (commencing with  
37 Section 3560) of Division 4 of Title 1, the memorandum  
38 of understanding shall be controlling without further  
39 legislative action, except that if such provisions of a  
40 memorandum of understanding require the expenditure

1 of funds, the provisions shall not become effective unless  
2 approved by the Legislature in the annual Budget Act.  
3 19853. (a) All employees shall be entitled to the  
4 following holidays: the first day of January, the 12th day  
5 of February, the third Monday in February, the last  
6 Monday in May, the fourth day of July, the first Monday  
7 in September, the ninth day of September, the second  
8 Monday in October, the 11th day of November, the 25th  
9 day of December, the day chosen by an employee  
10 pursuant to the provisions of Section 19854, and every day  
11 appointed by the Governor of this state for a public fast,  
12 thanksgiving, or holiday.

13 When a day herein listed falls on a Sunday, the  
14 following Monday shall be deemed to be the holiday in  
15 lieu of the day observed. If November 11th falls upon a  
16 Saturday, the preceding Friday shall be deemed to be the  
17 holiday in lieu of the day observed. Any employee who  
18 may be required to work on any of the holidays herein  
19 mentioned, and who does work on any of such holidays,  
20 shall be entitled to be paid compensation or given  
21 compensating time off for such work within the meaning  
22 of this article. For the purpose of computing the number  
23 of hours worked, time during which an employee is  
24 excused from work because of holidays, sick leave,  
25 vacation, or compensating time off, shall be considered as  
26 time worked by the employee.

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

37 19854. (a) Every employee shall be entitled to one  
38 personal holiday per calendar year. The employer may  
39 require the employee to provide five working days'  
40 notice in advance of the personal holiday. The

1 department may provide by rule for the granting of such  
2 holiday for employees.

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

13 19855. Any state employee who was laid off from the  
14 Department of Employment on the 31st day of  
15 December 1941 and thereafter entered the employ of the  
16 United States Employment Service and who returned to  
17 state service prior to November 16, 1946 and any person  
18 who entered the employ of the United States  
19 Employment Service after December 31, 1941 and who,  
20 prior to November 16, 1946, entered the state service in  
21 the Department of Employment may have the  
22 department determine the extent, if any, to which such  
23 employee shall be entitled to have credited to him in the  
24 state civil service, seniority credit, sick leave and  
25 accumulated vacation because of service in the United  
26 States Employment Service. The department shall limit  
27 such determination to the time any such employee was  
28 actually employed in the United States Employment  
29 Service, including time spent in war service in another  
30 federal department if such employee was transferred  
31 from the United States Employment Service to another  
32 federal department for war service and such employee  
33 subsequently entered the employ of the Department of  
34 Employment prior to November 16, 1946, and such  
35 seniority credits and accumulated sick leave and  
36 accumulated vacation shall not exceed that to which each  
37 employee would be entitled if he had been continuously  
38 employed by the State of California.

39 The foregoing provisions shall likewise apply to former  
40 employees of the Department of Employment who

1 although otherwise entitled to such determinations  
2 entered recognized military service from federal  
3 employment and were reemployed by the Department  
4 of Employment within six months after their release from  
5 the military service and within six months from the  
6 termination of the state military emergency as  
7 proclaimed by the Governor. Such time spent in the  
8 military service shall be construed as time spent on  
9 military leave from the state civil service.

10

11

## Article 2. Vacations

12

13 19856. (a) The department shall provide by rule for  
14 the regulation and accumulation of vacations for civil  
15 service employees and may provide for vacations for such  
16 employees who are employed less than full time. The  
17 department shall prescribe the methods by which  
18 employees leaving the employment of one state agency  
19 and entering the employment of another state agency  
20 may be compensated for, transfer, or otherwise receive  
21 proper credit for their accumulated vacation privileges.

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

30 19856.1. (a) It shall be within the discretion of the  
31 department to define the effect of an absence from the  
32 payroll of 10 working days or less in any calendar month  
33 upon credit for vacation.

34 (b) If the provisions of this section are in conflict with  
35 the provisions of a memorandum of understanding  
36 reached pursuant to Section 3517.5, or Chapter 12  
37 (commencing with Section 3560) of Division 4 of Title 1,  
38 the memorandum of understanding shall be controlling  
39 without further legislative action, except that if such  
40 provisions of a memorandum of understanding require



1 the expenditure of funds, the provisions shall not become  
2 effective unless approved by the Legislature in the  
3 annual Budget Act.

4 19857. The appointing power of any officer or  
5 employee not a member of the civil service may  
6 promulgate regulations governing vacations for such  
7 officers or employees. In the absence of such regulations,  
8 the rules of the department relating to the regulation and  
9 methods of accumulation of vacation for civil service  
10 employees shall govern.

11 19858. (a) Any employee of a state college who,  
12 immediately prior to becoming such employee was an  
13 employee of a state college auxiliary organization as  
14 provided in Section 24054 of the Education Code and  
15 whose functions and employment were, subsequent to  
16 January 1, 1969, transferred to and assumed by a state  
17 college, shall be entitled to accumulate credit for  
18 vacation at the rate to which he or she would have been  
19 entitled if his or her employment by such state college  
20 auxiliary organization had been employment by a state  
21 college.

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

31 19858.1. (a) Following completion of six months of  
32 continuous service, for each completed calendar month  
33 of service, except as provided in Section 19858.2, each  
34 state officer and employee who is employed full time  
35 shall receive credit for vacation with pay in accordance  
36 with the following schedule:

1	1 month to 3 years .....	$\frac{5}{6}$ days per month
2	37 months to 10 years .....	$1\frac{1}{4}$ days per month
3	121 months to 15 years .....	$1\frac{5}{12}$ days per month
4	181 months to 24 years .....	$1\frac{7}{12}$ days per month
5	289 months and over .....	$1\frac{2}{3}$ days per month

6

7 The computation of credit for the month of January,  
 8 1964 and each month thereafter shall be based upon the  
 9 schedule provided by this section, provided that the rate  
 10 of vacation credit allowed shall not be reduced for any  
 11 officer or employee employed prior to January 1, 1964.  
 12 The time when vacation shall be taken shall be  
 13 determined by the appointing power of the officer or  
 14 employee.

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

25 19858.2. The department may provide by rule for the  
 26 regulation and accumulation of vacation credits on an  
 27 hourly basis to conform to the frequency of the pay  
 28 period for all or certain designated employees. For those  
 29 employees whose vacation credits are accrued on an  
 30 hourly basis pursuant to this section, the rate of accrual  
 31 shall be in substantial proportion to the schedule  
 32 provided in Section 19858.1.

33

34

### Article 3. Sick Leave

35

36 19859. (a) Following completion of one month of  
 37 continuous service, except as otherwise provided in  
 38 Section 19863.1, each state officer and employee who is  
 39 employed full time shall be allowed one day of credit for  
 40 sick leave with pay. Thereafter, for each additional

1 calendar month of service, except as provided in Section  
2 19861, one day of credit for sick leave with pay shall be  
3 allowed. Each state officer or employee is entitled to such  
4 leave with pay, on the submission of satisfactory proof of  
5 the necessity for sick leave as provided by rule of the  
6 department. For purposes of computing sick leave, each  
7 employee shall be considered to work not more than five  
8 days each week. The department shall provide by rule for  
9 the regulation and method of accumulation of sick leave  
10 for civil service employees, and may provide sick leave  
11 for those who work less than full time. Subject to  
12 department rule sick leave may be granted to employees  
13 for the purpose of physical examinations.

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

24 19860. The department may provide by rule for the  
25 regulation and accumulation of sick leave credits on an  
26 hourly basis for all or certain designated employees. The  
27 rate of accrual shall be substantially proportionate to  
28 eight hours per month, with amounts earned credited at  
29 the end of each pay period.

30 19861. (a) It shall be within the discretion of the  
31 department to define the effect of an absence from the  
32 payroll of 10 working days or less in any calendar month  
33 upon credit for sick leave.

34 (b) If the provisions of this section are in conflict with  
35 the provisions of a memorandum of understanding  
36 reached pursuant to Section 3517.5, or Chapter 12  
37 (commencing with Section 3560) of Division 4 of Title 1,  
38 the memorandum of understanding shall be controlling  
39 without further legislative action, except that if such  
40 provisions of a memorandum of understanding require

1 the expenditure of funds, the provisions shall not become  
2 effective unless approved by the Legislature in the  
3 annual Budget Act.

4 19862. (a) Sick leave may be accumulated, and no  
5 additional sick leave with pay beyond that accumulated  
6 shall be granted, except as provided in Section 19863.1.

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

17 19862.1. (a) The department may provide by rule for  
18 crediting to the sick leave account of an employee  
19 formerly employed in a state position exempt from civil  
20 service any unused sick leave standing to the employee's  
21 credit at the time of separation from such a position;  
22 provided, the employee entered other state service not  
23 more than six months after separating from his exempt  
24 employment; and provided, such credit may not exceed  
25 the amount it would have been if such employment had  
26 been in the state civil service.

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

35 19863. (a) A state officer or employee who is or may  
36 be entitled to temporary disability indemnity under  
37 Division 4 (commencing with Section 3200) or Division  
38 4.5 (commencing with Section 6100) of the Labor Code  
39 shall receive any accumulated sick leave, or accumulated  
40 compensable overtime, or accumulated vacation for such

1 absence. The appointing power shall decrease the charge  
2 of sick leave, or compensable overtime, or vacation in the  
3 amount of temporary disability payment received so that  
4 the state officer or employee shall not receive payment  
5 in excess of full salary or wage.

6 If a state officer or employee does not wish to use his  
7 or her accumulated sick leave, or accumulated  
8 compensable overtime, or accumulated vacation, he or  
9 she shall notify his or her appointing power within 15 days  
10 after the injury is reported to the appointing power. After  
11 the 15 days his or her accumulations shall be used until  
12 the date he or she notifies the appointing power in  
13 writing that he or she no longer wishes to use the  
14 accumulations. When computing sick leave, or overtime,  
15 or vacation under this section the employee shall be  
16 given credit for any holidays that occur during the period  
17 of absence hereunder.

18 He or she is nevertheless entitled to medical, surgical,  
19 and hospital treatment as provided in the Labor Code.  
20 When his or her accumulated sick leave, or overtime, or  
21 vacation, or all, are exhausted, he or she is still entitled to  
22 receive disability indemnity.

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

33 19863.1. (a) Notwithstanding any other provision of  
34 the law to the contrary, a state officer or employee who  
35 is entitled to temporary disability indemnity under  
36 Division 4 or Division 4.5 of the Labor Code as a result of  
37 an industrial accident occurring during a period of  
38 employment for which he or she is not earning sick leave  
39 credit shall have sick leave credit of one day for each  
40 completed month of service during the time that he or

1 she is not earning sick leave credit. If the employee is  
2 disabled because of an industrial injury arising out of said  
3 employment during said period the employee may elect  
4 to draw sick leave credit during such period of disability,  
5 such credit not to exceed one day of sick leave for each  
6 completed month of service that he or she is not earning  
7 sick leave credit and not to exceed a total of six days.

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

18 19864. (a) The department may provide by rule for  
19 sick leave without pay for those employees who have  
20 used all sick leave with pay to which they are entitled.

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

31 19865. No state employee who is an inmate or  
32 member of any state institution and who is employed on  
33 a full or part time basis shall be entitled to receive pay for  
34 any absence attributable to sickness.

35 19865.1. When an employee uses sick leave or  
36 vacation, or both, because of an injury compensable  
37 under the Labor Code, and the state is reimbursed by a  
38 third person for its damages by reason of such use, there  
39 shall be granted, for credit to the employee's sick leave  
40 or vacation account, sick leave or vacation equivalent to

1 the amount so used or proportionately if reimbursement  
2 is only in part. If the state does not collect from the third  
3 person the full amount of the compensation paid and  
4 other damages for which it is liable to the employee and  
5 if the amount collected is not itemized so that there may  
6 be ascertained the amount collected in reimbursement  
7 for the sick leave or vacation used, the sick leave or  
8 vacation to be credited shall be in the same ratio to the  
9 sick leave or vacation used as the total amount collected  
10 bears to the total amount of the state's damages. "Sick  
11 leave" or "vacation" as used in this rule includes sick  
12 leave or vacation credit used to augment disability  
13 indemnity.

14 19866. (a) The appointing power of any officer or  
15 employee not a member of the civil service shall  
16 administer the sick leave authorized by this part for such  
17 officers or employees in accordance with the rules of the  
18 department. For each class or position for which a  
19 monthly or annual salary range is established by the  
20 Trustees of the California State University and Colleges,  
21 the trustees shall establish and adjust rules for the  
22 administration of sick leave.

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

33 19867. (a) Any employee of a state college who,  
34 immediately prior to becoming such employee, was an  
35 employee of a state college auxiliary organization as  
36 provided in Section 24054 of the Education Code and  
37 whose functions and employment were, subsequent to  
38 January 1, 1969, transferred to and assumed by a state  
39 college, shall be entitled to retain accumulated sick leave,  
40 and to accumulate sick leave credit, as if his or her

1 employment by such state college auxiliary organization  
2 had been employment by a state college.

3 (b) If the provisions of this section are in conflict with  
4 the provisions of a memorandum of understanding  
5 reached pursuant to Chapter 12 (commencing with  
6 Section 3560) of Division 4 of Title 1, the memorandum  
7 of understanding shall be controlling without further  
8 legislative action, except that if such provisions of a  
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 19868. Any employee of the State Department of  
13 Health performing functions which, prior to July 1, 1973,  
14 were vested in the Department of Mental Hygiene and  
15 who is transferred on and after July 1, 1972, to county or  
16 local mental health programs as a result of state hospital  
17 closures or scheduled state hospital closures or as a result  
18 of a county undertaking the performance of mental  
19 health functions previously performed by the State  
20 Department of Health shall be entitled while employed  
21 in a county or local mental health program, to use for a  
22 period of five years following transfer any unused sick  
23 leave balance the employee had accumulated while in  
24 state employment and had remaining to his or her credit  
25 at the time of termination of state employment. Such sick  
26 leave shall be held in a reserve account by the state to be  
27 used, if necessary, only at such time as the transferred  
28 employee's sick leave benefits accrued as a county  
29 employee become exhausted. When county sick leave  
30 benefits are exhausted such employee shall be entitled to  
31 utilize his or her state reserve account sick leave, until  
32 exhausted. The state reserve account for sick leave shall  
33 be administered according to the sick leave provisions of  
34 Division 5 (commencing with Section 18000) of Title 2  
35 and corresponding department rules. Upon  
36 reemployment with the state, a transferred employee's  
37 sick leave credits will be reduced by the number of hours  
38 used from the state reserve during his or her employment  
39 in the county or local mental health program. The cost of  
40 preserving and paying for the state reserve account sick



1 leave shall be totally funded by the state.

2 19868.1. For the purposes of Sections 19859, 19860,  
3 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19865.1, 19866,  
4 19867, and 19868, sick leave benefits provided to state  
5 employees pursuant to the state sick leave system shall be  
6 construed to mean compensation paid to employees on  
7 approved leaves of absence on account of sickness.

8 19868.2. Notwithstanding any other provision of law  
9 to the contrary, whenever sick leave benefits are  
10 provided to state employees pursuant to the state sick  
11 leave system, such benefits shall be construed to mean  
12 compensation paid to employees on approved leaves of  
13 absence on account of sickness.

14

#### 15 Article 4. Industrial Disability Leave

16

17 19869. This article applies to state officers and  
18 employees who are members of the Public Employees'  
19 Retirement System or the State Teachers' Retirement  
20 System in compensated employment on and after the  
21 effective date of this article and to state officers and  
22 employees, whether or not members of such systems,  
23 who are employees of the Legislature and are not  
24 members of the civil service.

25 This article does not apply to state officers and  
26 employees who are included in the provisions of Article  
27 6 (commencing with Section 4800) of Chapter 2 of Part  
28 2 of Division 4 of the Labor Code.

29 19869.1. If the provisions of this article are in conflict  
30 with the provisions of a memorandum of understanding  
31 reached pursuant to Chapter 12 (commencing with  
32 Section 3560) of Division 4 of Title 1, the memorandum  
33 of understanding shall be controlling without further  
34 legislative action, except that if such provisions of a  
35 memorandum of understanding require the expenditure  
36 of funds, the provisions shall not become effective unless  
37 approved by the Legislature in the annual Budget Act.

38 19870. As used in this article:

39 (a) "Industrial disability leave" means temporary  
40 disability as defined in Divisions 4 (commencing with

1 Section 3201) and 4.5 (commencing with Section 6100) of  
2 the Labor Code and includes any period in which the  
3 disability is permanent and stationary and the disabled  
4 employee is undergoing vocational rehabilitation.

5 (b) "Full pay" means the gross base salary earnable by  
6 the employee and subject to retirement contribution if  
7 he had not vacated his position.

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

16 19871. (a) When a state officer or employee is  
17 temporarily disabled by illness or injury arising out of and  
18 in the course of state employment, he or she shall become  
19 entitled, regardless of his or her period of service, to  
20 receive industrial disability leave and payments, in lieu of  
21 workers' compensation temporary disability payments  
22 and payments under Section 19863, for a period not  
23 exceeding 52 weeks within two years from the first day  
24 of disability. Such payments shall be in the amount of the  
25 employees full pay less withholding based on his or her  
26 exemptions in effect on the date of his or her disability for  
27 federal income taxes, state income taxes, and social  
28 security taxes not to exceed 22 working days of disability  
29 subject to Section 19875. Thereafter, the payment shall be  
30 two-thirds of full pay. Payments will be additionally  
31 adjusted to offset disability benefits, excluding those  
32 disability benefits payable from the State Teachers'  
33 Retirement System, the employee may receive from  
34 other employer-subsidized programs, except that no  
35 adjustment will be made for benefits to which the  
36 employee's family is entitled up to a maximum of  
37 three-quarters of full pay. Contributions to the Public  
38 Employees' Retirement System or the State Teachers'  
39 Retirement System shall be deducted in the amount  
40 based on full pay. Discretionary deductions of the

1 employee including those for coverage under a state  
2 health benefits plan in which the employee is enrolled  
3 shall continue to be deducted unless canceled by the  
4 employee. State employer contribution to the Public  
5 Employees' Retirement System and state employer  
6 normal retirement contributions to the State Teachers'  
7 Retirement System shall be made on the basis of full pay  
8 and state contribution pursuant to Sections 22825.1 and  
9 22826 of this code because of the employee's enrollment  
10 in a health benefits plan shall continue.

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

19 19871.1. (a) A state officer or employee who is  
20 receiving industrial disability leave benefits, shall  
21 continue to receive all employee benefits which he or she  
22 would have received had he or she not incurred  
23 disability.

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

32 19872. (a) The disabled employee shall not receive  
33 temporary disability indemnity or sick leave with pay for  
34 any period for which he or she receives industrial  
35 disability leave; however, he or she may elect to waive  
36 the provisions of this article and to receive disability  
37 indemnity pursuant to Divisions 4 (commencing with  
38 Section 3201) and 4.5 (commencing with Section 6100) of  
39 the Labor Code and to payments under Section 19863 in  
40 lieu of the benefits provided in this article. If the amount

1 of the employee's benefits payable under this article is  
2 less than the amount he would receive under Divisions 4  
3 (commencing with Section 3201) and 4.5 (commencing  
4 with Section 6100) of the Labor Code, the employee shall  
5 be deemed to have rejected the benefits of this article  
6 and shall be paid benefits pursuant to Divisions 4  
7 (commencing with Section 3201) and 4.5 (commencing  
8 with Section 6100) of the Labor Code.

9 (b) If the provisions of this section are in conflict with  
10 the provisions of a memorandum of understanding  
11 reached pursuant to Section 3517.5, the memorandum of  
12 understanding shall be controlling without further  
13 legislative action, except that if such provisions of a  
14 memorandum of understanding require the expenditure  
15 of funds, the provisions shall not become effective unless  
16 approved by the Legislature in the annual Budget Act.  
17 19873. (a) Division 4.7 (commencing with Section  
18 6200) of the Labor Code shall not apply to employees to  
19 which this article applies.

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

28 19874. (a) If the employee continues to be  
29 temporarily disabled after termination of benefits under  
30 this article, he or she shall be entitled to the benefits  
31 provided by Divisions 4 (commencing with Section 3201)  
32 and 4.5 (commencing with Section 6100) of the Labor  
33 Code and to payments under Section 19863.

34 (b) If the provisions of this section are in conflict with  
35 the provisions of a memorandum of understanding  
36 reached pursuant to Section 3517.5, the memorandum of  
37 understanding shall be controlling without further  
38 legislative action, except that if such provisions of a  
39 memorandum of understanding require the expenditure  
40 of funds, the provisions shall not become effective unless

1 approved by the Legislature in the annual Budget Act.  
2 19875. (a) If an illness or injury causes temporary  
3 disability, the employee shall be placed on industrial  
4 disability leave on the fourth calendar day after the  
5 injured employee leaves work as a result of the illness or  
6 injury, except that in case the injury causes disability of  
7 more than 14 days or necessitates hospitalization, the  
8 employee shall be placed on industrial disability leave  
9 from the first day he or she leaves work or is hospitalized  
10 as a result of the injury.

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

19 19876. (a) Payments shall be contingent on the  
20 complete medical certification of the illness or injury  
21 including diagnosis and any prognosis of recovery.  
22 Further, payments shall be contingent on the employee's  
23 agreement to cooperate and participate in a reasonable  
24 and appropriate vocational rehabilitation plan when  
25 furnished by the state subject to appropriate medical  
26 approval as determined by the department or, for  
27 employees of the California State University and  
28 Colleges, as determined by the Trustees of the California  
29 State University and Colleges.

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

38 19877. The department shall adopt any rules and  
39 regulations necessary for the administration of this  
40 article. The Trustees of the California State University

1 and Colleges shall adopt any rules and regulations  
2 necessary for the administration of this article for  
3 employees of the California State University and  
4 Colleges.

5 The appointing power of any officer or employee not  
6 a member of the civil service shall adopt any rules and  
7 regulations necessary for the administration of this article  
8 for such officers or employees.

9 19877.1. (a) The provisions of this article shall be  
10 effective upon the adoption of applicable rules and  
11 regulations, but not later than January 1, 1975.

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

20

## 21 Article 5. Nonindustrial Disability Leave

22

23 19878. As used in this article:

24 (a) "Employee" means any of the following:

25 (1) A permanent or probationary full-time state  
26 officer or employee, regardless of period of service, who  
27 is a member of the Public Employees' Retirement System  
28 or the State Teachers' Retirement System in  
29 compensated employment on and after October 1, 1976.  
30 Commencing January 1, 1979, it also means a full-time  
31 state officer or employee, whether or not a member of  
32 such systems, who is an employee of the Legislature and  
33 is not a member of the civil service.

34 (2) A permanent or probationary part-time or  
35 intermittent state officer or employee, with at least the  
36 equivalent of six monthly compensated pay periods of  
37 service in the 18 months of pay periods immediately  
38 preceding the pay period in which the disability begins,  
39 who is a member of the Public Employees' Retirement  
40 System or the State Teachers' Retirement System, in

1 compensated employment on or after January 1, 1979.

2 (3) In addition to those eligible under subdivision (1)  
3 of this section, an employee of the Trustees of the  
4 California State University and Colleges appointed  
5 half-time or more for one year of service or one academic  
6 year, as defined by the trustees, or more, who is a  
7 member of the Public Employees' Retirement System or  
8 the State Teachers' Retirement System, in compensated  
9 employment on or after January 1, 1979.

10 (b) "Full pay" means the gross base salary earnable by  
11 the employee, and subject to retirement contribution on  
12 the date of the commencement of his or her disability.

13 (c) "Disability" or "disabled" includes mental or  
14 physical illness and mental or physical injury, including  
15 any illness or injury resulting from pregnancy, childbirth,  
16 or related medical condition. An employee is deemed  
17 disabled on any day in which, because of his or her  
18 physical, mental, or medical condition, he or she is unable  
19 to perform his or her regular or customary work.

20 (d) "Disability benefit period", with respect to any  
21 individual, means the continuous period of disability  
22 beginning with the first day with respect to which the  
23 individual files a valid claim for nonindustrial disability  
24 benefits. For the purposes of this article, two consecutive  
25 periods of disability due to the same or related cause or  
26 condition and separated by a period of not more than 14  
27 days shall be considered as one disability benefit period.

28 (e) "Appeals board" means the California  
29 Unemployment Insurance Appeals Board.

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

38 19878.1. If the provisions of this article are in conflict  
39 with the provisions of a memorandum of understanding  
40 reached pursuant to Chapter 12 (commencing with

1 Section 3560) of Division 4 of Title 1, the memorandum  
2 of understanding shall be controlling without further  
3 legislative action, except that if such provisions of a  
4 memorandum of understanding require the expenditure  
5 of funds, the provisions shall not become effective unless  
6 approved by the Legislature in the annual Budget Act.

7 19879. (a) When an employee is disabled, whether  
8 temporarily or permanently, the employee shall become  
9 entitled, subject to the provisions of this article, to receive  
10 nonindustrial disability benefits in an amount equal to  
11 one-half full pay, but not to exceed one hundred  
12 twenty-five dollars (\$125) per week, payable monthly for  
13 a period not exceeding 26 weeks for any one disability  
14 benefit period, but in no case shall benefits be payable for  
15 any day on and after death or separation or retirement  
16 from state service.

17 (b) For purposes of this section, the “full pay” of a  
18 part-time or intermittent employee only shall be  
19 established in accordance with the following:

20 (1) Where the part-time employment is regularly  
21 scheduled and is a fixed proportion of the established  
22 work week, the payments shall be determined on the  
23 basis of that proportionate part of the monthly rate.

24 (2) Where employment is intermittent or irregular,  
25 the payments shall be determined on the basis of the  
26 proportionate part of a monthly rate established by the  
27 total hours actually employed in the 18 monthly pay  
28 periods immediately preceding the pay period in which  
29 the disability begins as compared to the regular rate for  
30 a full-time employee in the same group or class.

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

39 19880. A disabled employee is eligible to receive  
40 nonindustrial disability benefits under this article equal



1 to one-seventh of his or her weekly benefit amount  
2 specified in Section 19879 for each full day during which  
3 he or she is unemployed due to a disability only if the  
4 Director of Employment Development finds that:

5 (a) He or she has made a claim for disability benefits  
6 as required by authorized regulations.

7 (b) He or she has been disabled for a waiting period  
8 of seven consecutive days during each disability benefit  
9 period with respect to which waiting period no benefits  
10 under this article are payable except for confinement in  
11 a hospital or nursing home for at least one day.

12 (c) He or she has exhausted all such leave to which he  
13 or she was entitled under Article 3 (commencing with  
14 Section 19859) of this part.

15 (d) Except for an individual described in Section 2709  
16 of the Unemployment Insurance Code, he or she has  
17 submitted to such reasonable examinations as the  
18 Director of Employment Development may require for  
19 the purpose of determining his or her mental or physical  
20 disability.

21 (e) He or she has filed a certificate described in  
22 Section 2708 or 2709 of the Unemployment Insurance  
23 Code.

24 (f) Except as otherwise provided, he or she meets, in  
25 all other respects, the eligibility requirements imposed  
26 on individuals by Part 2 (commencing with Section 2601)  
27 of Division 1 of the Unemployment Insurance Code for  
28 receipt of unemployment compensation disability  
29 benefits.

30 In case of any conflict between the provisions of Part  
31 2 (commencing with Section 2601) of the Unemployment  
32 Insurance Code and the provisions of this chapter, the  
33 provisions of this chapter shall prevail.

34 If the provisions of this section are in conflict with the  
35 provisions of a memorandum of understanding reached  
36 pursuant to Section 3517.5, the memorandum of  
37 understanding shall be controlling without further  
38 legislative action, except that if such provisions of a  
39 memorandum of understanding require the expenditure  
40 of funds, the provisions shall not become effective unless

1 approved by the Legislature in the annual Budget Act.  
2 19880.1. (a) A disabled employee shall be eligible to  
3 receive nonindustrial disability benefits under this article  
4 without being required to use any vacation leave accrued  
5 under Article 2 (commencing with Section 19856) of this  
6 part, unless the employee, in his or her sole discretion,  
7 elects to use such vacation leave in lieu of receiving  
8 benefits under this article, in which case benefits under  
9 this article shall not commence until the employee has  
10 exhausted such accrued vacation leave.

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

19 19881. (a) An employee is not eligible for disability  
20 benefits under this article with respect to any period for  
21 which the Director of Employment Development finds  
22 that he or she has received or is entitled to receive  
23 unemployment compensation benefits under Part 1  
24 (commencing with Section 100) of Division 1 of the  
25 Unemployment Insurance Code or under an  
26 unemployment compensation act of any other state or of  
27 the federal government.

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

36 19882. (a) Except as provided in this section, an  
37 individual is not eligible for disability benefits under this  
38 article for any day of unemployment and disability for  
39 which he or she has received, or is entitled to receive  
40 "other benefits" in the form of cash payments.

1 (b) “Other benefits” as used in this section means:

2 (1) Temporary disability indemnity under a workers’  
3 compensation law of this state or of any other state or of  
4 the federal government or under Article 4 (commencing  
5 with Section 19869) of this part.

6 (2) Temporary disability benefits under any  
7 employer’s liability law of this state or of any other state  
8 or of the federal government.

9 (c) If such “other benefits” are less than the amount  
10 an individual would otherwise receive as disability  
11 benefits under this article, he or she shall be entitled to  
12 receive, for such day, if otherwise eligible, disability  
13 benefits under this article reduced by the amount of such  
14 “other benefits.” If after receipt of, or determination of  
15 entitlement to receive, such other benefits, a claim for  
16 disability benefits under this article is filed during the  
17 same continuous period of disability, because of a  
18 disability for which a claim for such other benefits was  
19 made, the maximum amount of disability benefits  
20 payable under this article during the disability benefit  
21 period thereby established shall be reduced by the  
22 amount of such “other benefits” which the claimant has  
23 received or has been determined to be entitled to  
24 receive.

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

33 19883. (a) Discretionary deductions of the  
34 employee, including those for coverage under a state  
35 health benefits plan in which the employee is enrolled,  
36 shall be deducted from the disability benefits under this  
37 article unless canceled by the employee. If an employee  
38 deduction under a state health benefits plan is continued,  
39 the state employer contribution shall also continue.

40 An employee shall not receive service credit under the

1 Public Employees' Retirement System or the State  
2 Teachers' Retirement System during the period of  
3 receipt of disability benefits under this article and  
4 contributions to the Public Employees' Retirement  
5 System or the State Teachers' Retirement System shall  
6 not be deducted. State employer contributions shall also  
7 not be made to either system during such period.

8 An employee shall not accrue sick leave or vacation  
9 credit or service credit for any other purpose during the  
10 period of receipt of disability benefits under this article.

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

19 19884. (a) Filing, determination, and payment of  
20 disability benefit claims under this article shall be made  
21 in accordance with the procedures prescribed by Article  
22 4 (commencing with Section 2701) of Chapter 2 of Part  
23 2 of Division 1 of the Unemployment Insurance Code.

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

32 19885. The department shall adopt any rules and  
33 regulations necessary for the administration of this  
34 article. The Trustees of the California State University  
35 and Colleges shall adopt any rules and regulations  
36 necessary for the administration of this article for  
37 employees of the California State University and  
38 Colleges.

39 The appointing power of any officer or employee of the  
40 Legislature, who is not a member of the civil service, shall

1 adopt any rules and regulations necessary for the  
2 administration of this article for such officers or  
3 employees.

4  
5 Article 6. Firefighters  
6

7 19886. (a) As used in this article the term “fireman of  
8 the state” or “fireman” shall be deemed to include a  
9 member of a fire department or fire service of the state,  
10 including the University of California, whether such  
11 members are volunteer, partly paid, or fully paid,  
12 excepting those whose principal duties are clerical, such  
13 as stenographers, telephone operators and other  
14 officeworkers. Such firemen shall be regularly employed  
15 or in the case of a volunteer shall be regularly enrolled as  
16 such.

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

25 19886.1. (a) Whenever any fireman of the state dies  
26 or is disabled from performing his or her duties as a  
27 fireman by reason of his or her proceeding to or engaging  
28 in a fire-suppression or rescue operation, or the  
29 protection or preservation of life or property, anywhere  
30 in this state, including the jurisdiction in which he or she  
31 is employed, but is not at the time acting under the  
32 immediate direction of his or her employer, he or she, or  
33 his or her dependents, as the case may be, shall be  
34 accorded by his or her employer all of the same benefits  
35 of the workers’ compensation law, which he, she, or they  
36 would have received had that fireman been acting under  
37 the immediate direction of his or her employer. Any  
38 injury, disability or death incurred under the  
39 circumstances described in this section shall be deemed  
40 to have arisen out of and been sustained in the course of

1 employment for purposes of workers' compensation and  
2 all other benefits.

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

11 19886.2. Nothing in this article shall be deemed to:

12 (a) Require the extension of any benefits to a fireman  
13 who at the time of his injury, death, or disability is acting  
14 for compensation from one other than the state.

15 (b) Require the extension of any benefits to a fireman  
16 employed by the state where by state departmental  
17 regulation whether now in force or hereafter enacted or  
18 promulgated, the activity giving rise to the injury,  
19 disability or death, is expressly prohibited.

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

28

29

#### Article 7. The Clerical Pool

30

31 19887. (a) The department may establish a clerical  
32 pool in any locality where the demand for temporary  
33 clerical help warrants it. Such pool shall be established by  
34 the employment of sufficient clerical employees by the  
35 office to fill the needs of various appointing powers for  
36 temporary help from time to time.

37 (b) If the provisions of this section are in conflict with  
38 the provisions of a memorandum of understanding  
39 reached pursuant to Section 3517.5, the memorandum of  
40 understanding shall be controlling without further

1 legislative action, except that if such provisions of a  
2 memorandum of understanding require the expenditure  
3 of funds, the provisions shall not become effective unless  
4 approved by the Legislature in the annual Budget Act.

5 19887.1. (a) Upon a request from any appointing  
6 power for temporary help which can be filled from those  
7 employed by the department in the clerical pool, the  
8 department shall assign such persons as are needed.

9 Upon such assignment the appointing power may be  
10 charged pursuant to Section 11253 or Sections 11256 to  
11 11263, inclusive, for the cost of the services.

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

20 19887.2. (a) For all purposes of this part such persons  
21 are employees of the department and not of the  
22 appointing power to which they are assigned. The  
23 department shall make all necessary rules to carry out the  
24 purposes of this article. The procedure authorized by this  
25 article for procuring temporary clerical help is an  
26 alternative to other procedures for that purpose  
27 authorized by this part or department rule and nothing  
28 in this article, nor in the rules made hereunder, prevents  
29 an appointing power from following such other  
30 procedures.

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

## Article 8. Emergency

1  
2

3 19888. Service under emergency appointment shall  
4 be credited for purposes of vacation, sick leave, and salary  
5 adjustment only if and as provided by department rule.

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

14 19888.1. The appointing power, to prevent the  
15 stoppage of public business when an actual emergency  
16 arises, or because the work will be of limited duration, not  
17 to exceed 60 working days, may make emergency  
18 appointments without utilizing persons on employment  
19 lists and, if necessary, without regard to existing classes.  
20 The method of selection and the qualification standards  
21 for an emergency employee shall be determined by the  
22 appointing power. The frequency of appointment, length  
23 of employment, and the circumstances appropriate for  
24 the appointment of an individual under emergency  
25 appointments shall be restricted by the State Personnel  
26 Board by rule so as to prevent the use of emergency  
27 appointments to circumvent employment lists.

28 Service under emergency appointment shall be  
29 credited for purposes of layoff only if and as provided by  
30 department rule.

31

## Article 9. Career Executive Assignments

32  
33

34 19889. It is the purpose of this article to encourage the  
35 development and effective use in the civil service of  
36 well-qualified and carefully selected executives. In order  
37 to carry out this purpose the State Personnel Board shall  
38 establish by rule a system of merit personnel  
39 administration specifically suited to the selection and  
40 placement of managerial personnel. The department



1 shall be responsible for the motivation and training of  
2 managerial personnel. For the purpose of administering  
3 this system there is established herewith a category of  
4 civil service appointment called “career executive  
5 assignments.” The department may designate positions  
6 of a high administrative and policy influencing character  
7 for inclusion in or removal from this category with the  
8 approval of the State Personnel Board, except that the  
9 department shall not so designate a position in which  
10 there is an incumbent already appointed under the  
11 provisions of this part governing employees other than  
12 career executives.

13 19889.2. The provisions of this part governing the  
14 selection, classification, tenure, and other conditions of  
15 employment of employees in the regular civil service  
16 shall not apply in administering managerial personnel  
17 through a merit system utilizing “career executive  
18 assignments” unless such application is provided by State  
19 Personnel Board rule. The provisions of this part relating  
20 to punitive actions shall apply to employees serving in  
21 career executive assignments, except that termination of  
22 a career executive assignment as provided for in Section  
23 19889.3 is not a punitive action. With reference to  
24 termination of career executive assignments, the  
25 department rules shall, as a minimum, afford an  
26 employee a right of appeal to the State Personnel Board  
27 for restoration of his or her assignment when he or she  
28 alleges that his or her termination was for reasons  
29 prohibited in Chapter 10 (commencing with Section  
30 19680) of Part 2.

31 19889.3. Eligibility for appointment to positions in the  
32 career executive assignment category shall be established  
33 as a result of competitive examination of persons with  
34 permanent status in the civil service who meet such  
35 minimum qualifications as the State Personnel Board  
36 may determine are requisite to the performance of high  
37 administrative and policy influencing functions. No  
38 person employed in a career executive assignment shall  
39 be deemed to acquire as a result of such service any rights  
40 to or status in positions governed by the provisions of this

1 part relating to the civil service other than the category  
2 of career executive assignment, except as provided by  
3 State Personnel Board rule. The State Personnel Board  
4 shall provide by rule that an employee shall, if he or she  
5 so desires, at the termination of his or her appointment  
6 to a career executive assignment, be reinstated to a civil  
7 service position that is (a) not a career executive  
8 assignment and (b) that is at least at the same salary level  
9 as the last position that he or she held as a permanent or  
10 probationary employee. If the employee has completed  
11 a minimum of five years of state service, he or she may  
12 return to a position that is (a) at substantially the same  
13 salary level as the last position in which he or she had  
14 permanent or probationary status or (b) at a salary level  
15 that is at least two steps lower than that of the career  
16 executive position from which the employee is being  
17 terminated. For the purpose of this section "employee"  
18 means a permanent employee, or an employee serving  
19 under another appointment who previously had  
20 permanent status and who, since such permanent status,  
21 has had no break in the continuity of his or her state  
22 service.

23 19889.4. Notwithstanding any other provision of law,  
24 any person who, prior to March 30, 1977, was reinstated  
25 to a career executive assignment position, or appointed to  
26 an exempt position, after a break in service, and who held  
27 such position on May 31, 1977, shall upon termination of  
28 such career executive assignment or exempt position  
29 have the right to return to the last regular civil service  
30 position in which the person had permanent status prior  
31 to such a break in service.

32

#### 33 Article 10. Activities

34

35 19990. A state officer or employee shall not engage in  
36 any employment, activity, or enterprise which is clearly  
37 inconsistent, incompatible, in conflict with, or inimical to  
38 his or her duties as a state officer or employee or with the  
39 duties, functions or responsibilities of his or her  
40 appointing power or the agency by which he or she is

1 employed.

2 Each appointing power shall determine, subject to  
3 approval of the department, those activities which, for  
4 employees under his or her jurisdiction, are inconsistent,  
5 incompatible or in conflict with their duties as state  
6 officers or employees. Consideration shall be given to  
7 employment, activity or enterprise which: (a) involves  
8 the use for private gain or advantage of state time,  
9 facilities, equipment and supplies; or the badge, uniform,  
10 prestige or influence of one's state office or employment  
11 or, (b) involves receipt or acceptance by the officer or  
12 employee of any money or other consideration from  
13 anyone other than the state for the performance of an act  
14 which the officer or employee, if not performing such act,  
15 would be required or expected to render in the regular  
16 course or hours of his or her state employment or as a part  
17 of his or her duties as a state officer or employee or,  
18 (c) involves the performance of an act in other than his  
19 or her capacity as a state officer or employee which act  
20 may later be subject directly or indirectly to the control,  
21 inspection, review, audit or enforcement by such officer  
22 or employee or the agency by which he or she is  
23 employed, or, (d) involves such time demands as would  
24 render performance of his or her duties as a state officer  
25 or employee less efficient.

26 Each state officer and employee shall during his or her  
27 hours of duty as a state officer or employee and subject  
28 to such other laws, rules or regulations as pertain thereto,  
29 devote his or her full time, attention and efforts to his or  
30 her state office or employment.

31 The department may adopt rules governing the  
32 application of this section. Such rules may include  
33 provision for notice to employees prior to the  
34 determination of proscribed activities and for appeal by  
35 employees from such a determination and from its  
36 application to an employee.

37 If the provisions of this section are in conflict with the  
38 provisions of a memorandum of understanding reached  
39 pursuant to Section 3517.5, the memorandum of  
40 understanding shall be controlling without further

1 legislative action, except that if such provisions of a  
2 memorandum of understanding require the expenditure  
3 of funds, the provisions shall not become effective unless  
4 approved by the Legislature in the annual Budget Act.

5

6

#### Article 11. Absences

7

8 19991. (a) Upon giving two days' notice to his or her  
9 immediate superior, any state employee otherwise  
10 qualified shall be permitted to take any state civil service  
11 examination during working hours, if the examination is  
12 scheduled during such period, or to attend a meeting of  
13 the department or State Personnel Board at which is  
14 scheduled for consideration a matter specifically  
15 affecting his or her position concerning which he or she  
16 has requested to be heard, without deduction of pay or  
17 other penalty. Employment interviews for eligibles on  
18 employment lists shall be considered part of the  
19 examination process under this part.

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

28 19991.1. (a) Subject to department rule an  
29 appointing power may grant a leave of absence without  
30 pay, to any employee under his or her jurisdiction for a  
31 period not exceeding one year. A leave so granted assures  
32 to the employee the right to return to his or her former  
33 position upon expiration of the leave.

34 (b) If the provisions of this section are in conflict with  
35 the provisions of a memorandum of understanding  
36 reached pursuant to Section 3517.5, the memorandum of  
37 understanding shall be controlling without further  
38 legislative action, except that if such provisions of a  
39 memorandum of understanding require the expenditure  
40 of funds, the provisions shall not become effective unless

1 approved by the Legislature in the annual Budget Act.  
2 19991.2. (a) The appointing power may grant to an  
3 employee under his or her jurisdiction who has  
4 permanent civil service status or a probationer who  
5 immediately preceding his or her appointment to his or  
6 her position held permanent civil service status in the  
7 same or some other class a leave of absence without pay  
8 for not to exceed two years for service in a technical  
9 cooperation program as a temporary employee of  
10 another governmental agency, a nonprofit organization,  
11 or a recognized college or university upon the request of  
12 such agency. Upon termination of such service, and for  
13 three months thereafter, such employee shall have the  
14 right to be restored to his former position.

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

23 19991.3. (a) Leaves of absence granted for jury duty  
24 may be with or without pay.

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

33 19991.4. Any period of time during which an  
34 employee is required to be absent from his or her position  
35 by reason of an injury or disease for which he or she is  
36 entitled to receive temporary disability compensation  
37 under the provisions of Division 4 or 4.5 of the Labor  
38 Code is not a break in his or her continuous service for the  
39 purpose of his or her right to salary adjustments, sick  
40 leave, vacation, or seniority.

1 If an employee is unable to return to work at the time  
2 or during the period he or she is entitled to permanent  
3 disability compensation under Division 4 or 4.5 of the  
4 Labor Code, he or she shall be paid any sick leave  
5 balance, vacation balance, or accumulated compensable  
6 overtime. Such payment shall be computed by projecting  
7 the accumulated time on a calendar basis as though the  
8 employee was taking time off. If during the period of  
9 projection the employee is able to return to work, he or  
10 she shall be returned to his or her former position.

11 If a permanent or probationary employee is still not  
12 able to return to his or her former position and continues  
13 to receive permanent disability compensation, the  
14 appointing power shall take at least one of the following  
15 actions:

16 (a) Demote or transfer the employee to a position in  
17 a comparable or lower class in the same agency if he or  
18 she is able to perform such duties;

19 (b) Request the department to assist in placing the  
20 employee in another position in state service;

21 (c) Grant a leave of absence for the period during  
22 which the employee receives permanent disability  
23 compensation or is being retrained through  
24 rehabilitation;

25 (d) Encourage the employee to accept disability or  
26 service retirement; or

27 (e) Terminate under the provisions of Section 19253.5.

28 If the employee is demoted or transferred he or she  
29 shall receive the maximum of the salary range provided  
30 such salary is not greater than the salary he or she  
31 received on the date his or her accumulated time was  
32 exhausted.

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

1 19991.5. (a) The department may permit the  
2 Commandant of the Veterans' Home of California to  
3 authorize members of the medical staff and medical  
4 technicians, to include X-ray, clinical laboratory, and  
5 dental laboratory technicians, of the Veterans' Home of  
6 California to attend medical and scientific meetings and  
7 medical and refresher courses, for a period not to exceed  
8 30 days in any one calendar year, in recognized schools or  
9 colleges held in California. Any member so attending  
10 such schooling shall bear his or her own expenses but  
11 there shall be no interruption of normal salary or pay.

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

20 19991.6. (a) An appointing power shall grant a leave  
21 of absence without pay for the purposes of pregnancy,  
22 childbirth or the recovery therefrom for a period as  
23 determined by the employee not exceeding one year to  
24 any permanent female employee under the jurisdiction  
25 of the appointing power. When the employee has  
26 notified the appointing power as to the period of the  
27 leave of absence required, any change in the length of the  
28 period of leave shall not be effective unless approved by  
29 the appointing power.

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

38 19991.7. (a) For civil service employees employed in  
39 positions requiring teaching certification qualifications  
40 appointing powers may grant educational leave to attend

1 study sessions at accredited schools, colleges or programs  
2 recommended by a trade advisory council for the  
3 purpose of receiving further instruction in pedagogy,  
4 vocational education, mental health or related fields.  
5 Such educational leave shall be granted with pay and  
6 credited to the employee by accumulation at the rate of  
7 1¼ days for each month worked. Employees on  
8 educational leave shall maintain their merit salary  
9 adjustment date and shall receive credit for vacation, sick  
10 leave, educational leave or any other benefit which  
11 would normally accrue during such work period. The  
12 time when educational leave shall be taken shall be  
13 determined by the appointing power of the employee.  
14 The department shall provide by rule for the regulation,  
15 accumulation and transfer of educational leave and shall  
16 prescribe the methods by which employees leaving the  
17 employment of one state agency and entering the  
18 employment of another state agency may receive proper  
19 credit for their accumulated educational leave privileges.

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

28 19991.8. During any state military emergency and  
29 subject to department rule, an appointing power may  
30 grant a leave of absence without pay to a permanent or  
31 probationary employee under his or her jurisdiction to:

32 (a) Engage in civilian warwork pursuant to  
33 mandatory order of the agency of the United States or of  
34 the state having authority to make such order.

35 (b) Assume active duty in the United States Merchant  
36 Marine.

37 (c) Assume other duty rather than active duty to fulfill  
38 a military obligation pursuant to mandatory order of the  
39 agency of the United States or of the state having  
40 authority to make such order.



1 (d) Assume active full-time duty for the American  
2 Red Cross.

3 Such a leave shall not exceed the period authorized in  
4 the order.

5 Such a leave assures to the employee the right to return  
6 to his or her former position upon its expiration.

7 19991.9. Any permanent state civil service employee  
8 or an employee serving under another appointment who  
9 previously had permanent status and who, since such  
10 permanent status, has had no break in the continuity of  
11 his or her state service, who served in the armed forces,  
12 and who is eligible because of that service for education  
13 or training under applicable state or federal law shall  
14 upon application to his or her appointing power be  
15 granted an educational leave of absence without pay for  
16 the period during which he or she receives such  
17 education or training and for three months thereafter. In  
18 order for such a leave to be granted or to remain in effect,  
19 the employee must enroll for a minimum of 10 credit  
20 hours of post-high-school grade or the equivalent amount  
21 of work on high school level each school year. No such  
22 leave shall remain in effect for longer than four years and  
23 three months of school attendance. A leave so granted  
24 assures to the employee the right of return to his or her  
25 former position upon termination of the leave.

26

### 27 CHAPTER 3. PERFORMANCE REPORTS

28

29 19992. (a) After consultation with appointing powers  
30 and other supervising officials the department shall assist  
31 and encourage state agencies to establish standards of  
32 performance for each class of position and shall provide  
33 a system of performance ratings. Such standards shall  
34 insofar as practicable be established on the basis of the  
35 quantity and quality of work which the average person  
36 thoroughly trained and industriously engaged can turn  
37 out in a day.

38 (b) If the provisions of this section are in conflict with  
39 the provisions of a memorandum of understanding  
40 reached pursuant to Section 3517.5, the memorandum of

1 understanding shall be controlling without further  
2 legislative action, except that if such provisions of a  
3 memorandum of understanding require the expenditure  
4 of funds, the provisions shall not become effective unless  
5 approved by the Legislature in the annual Budget Act.

6 19992.1. (a) The system of performance reports shall  
7 be designed to permit as accurately and fairly as is  
8 reasonably possible, the evaluation by his or her  
9 appointing power of each employee's performance of his  
10 or her duties. The evaluation shall be set forth in a  
11 performance report, the form for which shall be  
12 prescribed or approved by the department. The  
13 department may investigate administration of the system  
14 and enforce adherence to appropriate standards.

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

23 19992.2. (a) Appointing powers shall prepare  
24 performance reports and keep them on file as prescribed  
25 by department rule.

26 The rules shall provide that employees be shown the  
27 performance report covering their own service and are  
28 privileged to discuss it with the appointing power before  
29 it is filed. The extent to which such ratings or  
30 performance reports shall be open to inspection by the  
31 public shall be prescribed by department rule.

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

40 19992.3. (a) Performance reports shall be

1 considered, in the manner prescribed by department  
2 rule, in determining salary increases and decreases, the  
3 order of layoffs, the advisability of transfers, demotions,  
4 and dismissals, and in promotional examinations.

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

13 19992.4. (a) The department may establish rules  
14 under which records of unsatisfactory service may lead to  
15 reduction in class and compensation, and providing for  
16 the manner in which persons falling below the standards  
17 of efficiency fixed by its rules may be removed from their  
18 positions by the department, substantially as in the case  
19 of removals for cause. The department shall report such  
20 unsatisfactory records to the appointing power.

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

29

30

#### CHAPTER 4. DEFERRED COMPENSATION

31

32 19993. (a) The department may establish for officers  
33 and employees a deferred compensation plan.  
34 Participation in such plan shall be by written agreement  
35 between such officers and employees and the state which  
36 shall provide for deferral of a portion of such officers' or  
37 employees' wages. Officers and employees may  
38 authorize deductions to be made from their wages for the  
39 purpose of participating in such deferred compensation  
40 plan.

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

#### 10 CHAPTER 4.5. STATE-OWNED MOTOR VEHICLES

11  
12 19993.1. State-owned motor vehicles shall be used  
13 only in the conduct of state business. State business shall  
14 include the operation of state-owned vehicles as  
15 commute vehicles in a carpool or vanpool program  
16 authorized by a state agency, provided that a daily,  
17 weekly, or monthly fee is charged that is adequate to  
18 reimburse the state for the cost of providing such vehicles  
19 for such purpose. No state officer or employee shall use,  
20 or permit the use of, any state-owned motor vehicle other  
21 than in the conduct of state business.

22 19993.2. The department shall prescribe rules and  
23 regulations which:

24 (a) Define the use of state-owned motor vehicles  
25 which constitutes use in the conduct of state business and  
26 distinguish such use from misappropriation for private  
27 use;

28 (b) Prescribe the procedure for determining and  
29 collecting from the employee responsible for the misuse  
30 the actual costs to the state attributable to misuse of  
31 state-owned motor vehicles and the disposition of such  
32 collections;

33 (c) Prescribe the records and reports to be kept and  
34 made by state agencies relating to the use of state-owned  
35 motor vehicles to the end that misuse may be discovered  
36 with a minimum of recordkeeping;

37 (d) Govern the storage of state-owned motor vehicles  
38 in those locations where storage space, under the  
39 jurisdiction of the Department of General Services, is  
40 available for storage of state-owned motor vehicles;

1 (e) Prescribe the procedures to be used in the  
2 operation of state-owned vehicles as commute vehicles in  
3 a state carpool or vanpool program.

4 19993.3. The provisions of this chapter shall not apply  
5 to the incumbents of elective state offices.

6 19993.4. The Department of General Services shall  
7 administer the provisions of this chapter and the rules  
8 and regulations adopted pursuant thereto; provided,  
9 however, that it shall be the duty of the head or  
10 governing body of each state agency to carry out and  
11 enforce this chapter and said rules and regulations within  
12 such state agency.

13 19993.5. Any violation by a state officer or employee  
14 of this chapter or the rules and regulations adopted  
15 pursuant thereto shall constitute misuse of state property  
16 under Section 19572 of this code.

17 19993.6. The department, upon its own initiative, may  
18 suspend from state service without pay for a period not  
19 exceeding 30 days, any officer or employee of this state  
20 exempt from civil service for violating this chapter or the  
21 rules and regulations adopted pursuant thereto.

22 Such suspension is valid only if a written notice is  
23 served on the officer or employee prior to the effective  
24 date of the suspension and a copy of such notice filed with  
25 the State Personnel Board not later than 15 days after the  
26 effective date of such suspension. The notice shall be  
27 served upon the employee either personally or by mail  
28 and shall include: (a) a statement of the nature of the  
29 punitive action; (b) the effective date of the action;  
30 (c) a statement of the causes therefor; and (d) a  
31 statement advising the employee of his or her right to  
32 answer the notice and the time within which that must  
33 be done if the answer is to constitute an appeal.

34 The officer or employee against whom such punitive  
35 action is taken shall have the right to file an answer with  
36 the State Personnel Board as provided in Section 19575,  
37 and request a hearing. If the answer requests a hearing  
38 the State Personnel Board shall conduct a hearing. The  
39 board shall consider carefully the evidence submitted in  
40 the hearing and render a decision sustaining, modifying

1 or revoking such suspension.

2 1993.7. The provisions of this chapter shall not apply  
3 to members of the California Highway Patrol.

4

5

#### CHAPTER 5. TRANSFERS

6

7 1994. Subject to the approval of the State Personnel  
8 Board, the department may enter into arrangements  
9 with personnel agencies in other jurisdictions for the  
10 purpose of exchanging services and effecting transfers of  
11 employees. When the state takes over and there is  
12 transferred to it a function from any other public agency,  
13 the department may determine the extent, if any, to  
14 which the employees employed by such other public  
15 agency on the date of transfer shall be entitled to have  
16 credited to them in the state civil service, seniority  
17 credits, accumulated sick leave and accumulated  
18 vacation because of service with the former agency.  
19 Granting of seniority credit under this section shall be  
20 subject to review by the State Personnel Board pursuant  
21 to Section 19816.5. The department shall limit such  
22 determination to the time any transferred employees  
23 were employed in the specific function or a function  
24 substantially similar while in the former agency and such  
25 seniority credits and accumulated sick leave and  
26 accumulated vacation shall not exceed that to which each  
27 employee would be entitled if he had been continuously  
28 employed by the State of California. The provisions of this  
29 section shall be applicable to any function heretofore  
30 transferred to the state whether by state action or  
31 otherwise as well as to any future transfers of a function  
32 to the state whether by state action or otherwise.

33 1994.1. An appointing power may transfer any  
34 employee under his or her jurisdiction: (a) to another  
35 position in the same class; or (b) to another position in  
36 a different class designated as appropriate by the  
37 department; or (c) any employee from one location to  
38 another whether in the same position, or in a different  
39 position as specified above in (a) or (b). When a transfer  
40 under this section reasonably requires an employee to

1 change his or her place of residence, the appointing  
2 power shall give the employee, unless the employee  
3 waives this right, a written notice of transfer 60 days in  
4 advance of the effective date of the transfer. Unless the  
5 employee waives this right, the appointing power shall  
6 provide to the employee 60 days prior to the effective  
7 date of the transfer a written notice setting forth in clear  
8 and concise language the reasons why the employee is  
9 being transferred.

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

18 19994.2. (a) When there are two or more employees  
19 in a class and an involuntary transfer is required to a  
20 position in the same class, or an appropriate class as  
21 designated by the department, in a location which  
22 reasonably requires an employee to change his or her  
23 place of residence, the department may determine the  
24 methods by which employees in the class or classes  
25 involved are to be selected for transfer. Such methods  
26 may include seniority and other considerations.

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

35 19994.3. (a) If a transfer is protested to the  
36 department by an employee as made for the purpose of  
37 harassing or disciplining the employee, the appointing  
38 power may require the employee to transfer pending  
39 approval or disapproval of the transfer by the  
40 department. If the department disapproves the transfer,

1 the employee shall be returned to his or her former  
2 position, shall be paid the regular travel allowance for the  
3 period of time he or she was away from his or her original  
4 headquarters, and his or her moving costs both from and  
5 back to the original headquarters shall be paid in  
6 accordance with the department rules.

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

15 19994.4. (a) At the time it is filed with the  
16 department a copy of the protest shall be filed with the  
17 appointing power. Such a protest shall be made within 30  
18 days of the time the employee is notified of the transfer.

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

27 19994.5. Transfer of an employee from a position  
28 under one appointing power to a position under another  
29 appointing power may be made, subject to State  
30 Personnel Board rule.

31 19994.6. With the approval of the State Personnel  
32 Board, an employee may be transferred from a position  
33 in one class to a position in another class involving  
34 substantially the same level of duties, responsibility and  
35 salary but requiring additional or different special  
36 requirements. The State Personnel Board may require  
37 the employee to demonstrate in an examination  
38 conducted by the board that he or she possesses the  
39 additional or different requirements.

40 19994.7. Any transfer of an employee from a position



1 in a lower class to a position in a higher class is a  
2 promotion and any transfer of an employee from a  
3 position in a higher class to a position in a lower class is  
4 a demotion and may be accomplished only in the manner  
5 provided for making promotional or demotional  
6 appointments.

7 19994.8. Whenever any position is changed by the  
8 adoption of new, different or additional machines or  
9 processes while the purpose or product is the same or  
10 similar in nature, any civil service employee affected  
11 shall be given reasonable opportunity without change in  
12 class, status or salary to learn to do the work with the new  
13 machine or process and to qualify for status in the  
14 different class of position required for such work;  
15 provided, that an employee may not be promoted to a  
16 higher class under the provisions of this section. An  
17 employee who qualifies for appointment in the different  
18 class shall be deemed to possess the specific education,  
19 experience or other requirements for such class and shall  
20 be appointed thereto with the same status and seniority  
21 which he or she last had in his or her previous class.

22 An employee shall be deemed to be affected under this  
23 section if the adoption of such new, different or  
24 additional machines or processes results in his or her  
25 being laid off and if laid off such employee shall have the  
26 same opportunity to qualify for appointment to any  
27 vacancy in the same class or any new class created  
28 because of the adoption of such new, different or  
29 additional machines or processes as any other employee  
30 affected by the provisions in this section who was not laid  
31 off.

32 The State Personnel Board may prescribe rules and  
33 procedures and make determinations for carrying out the  
34 provisions of this section including provisions for such  
35 examinations and tests of fitness as are deemed  
36 appropriate.

37 19994.9. The State Personnel Board may prescribe  
38 rules governing the temporary assignment or loan of  
39 employees within an agency or between agencies or  
40 jurisdictions for not to exceed two years for the purpose

1 of training. Such temporary assignments or loans shall be  
2 deemed to be in accord with the provisions of this part  
3 limiting employees to duties consistent with their class.  
4 An employee participating in such an arrangement shall  
5 have the absolute right to return to his or her former  
6 position.

7 19994.10. Whenever a function or the administration  
8 of a law is transferred from one state agency to another  
9 state agency, all persons serving in the state civil service  
10 and engaged in the performance of the function or the  
11 administration of the law shall be transferred to such  
12 agency. The status, positions, and rights of such persons  
13 shall be retained by them pursuant to this part and the  
14 State Civil Service Act. A state agency is not required to  
15 retain any unnecessary officers or employees.

16 “State agency” includes all departments, boards,  
17 offices, authorities, commissions, and other agencies of  
18 state government.

19 The State Personnel Board may provide by rule for the  
20 administration of this section.

21

## 22 CHAPTER 6. TRAINING

23

24 19995. (a) The department shall devise plans for and  
25 cooperate with appointing powers and other supervising  
26 officials in the conduct of employee training programs so  
27 that the quality of service rendered by persons in the  
28 state civil service may be continually improved.

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

37 19995.1. For the purpose of meeting the needs of the  
38 state service for continuing employee educational  
39 development and the upgrading of employee skills, the  
40 department may prescribe: (a) conditions under which

1 employees may be assigned to take out-service training;  
2 and (b) conditions under which employees may be  
3 reimbursed for tuition fees and other necessary expenses  
4 in connection with out-service training authorized by the  
5 appointing power to meet the needs of the service. The  
6 conditions prescribed by the department shall include  
7 but not be limited to the requirements that such training  
8 shall be of direct value to the state, be relevant to the  
9 employee's career development in state service, and be  
10 limited to providing knowledges or skills that cannot be  
11 provided through available in-service training. The  
12 department shall further prescribe the conditions under  
13 which an employee may be required to reimburse the  
14 state for the costs of such training in the event he or she  
15 fails to remain in state service for a reasonable time after  
16 receiving the training. The department shall report  
17 annually to the Governor and to each house of the  
18 Legislature concerning activities under this section.

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

27 19995.2. (a) To such extent as practicable and within  
28 available resources for this purpose, the appointing  
29 power shall arrange for such counseling and training of  
30 employees as may be reasonably needed to prepare them  
31 for placement in other state civil service positions when  
32 their positions have been or are about to be changed  
33 substantially or eliminated by automation, technological  
34 changes, or other management-initiated changes and the  
35 department shall devise plans for and cooperate with  
36 appointing powers and other supervising officials in the  
37 administration of counseling, training, and placement  
38 programs for employees so affected.

39 (b) If the provisions of this section are in conflict with  
40 the provisions of a memorandum of understanding

1 reached pursuant to Section 3517.5, the memorandum of  
2 understanding shall be controlling without further  
3 legislative action, except that if such provisions of a  
4 memorandum of understanding require the expenditure  
5 of funds, the provisions shall not become effective unless  
6 approved by the Legislature in the annual Budget Act.

7 19995.3. (a) The department and the Department of  
8 Rehabilitation shall jointly formulate procedures for the  
9 selection and orderly referral of disabled state employees  
10 who can be benefited by rehabilitation services and  
11 might be retrained for other appropriate positions within  
12 the state service. The Department of Rehabilitation shall  
13 cooperate in devising training programs for the disabled  
14 employees.

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

23

#### 24 CHAPTER 6.5. THE GOVERNOR'S AWARDS

25

26 19995.5. The Governor may each year make an award  
27 which shall be known as the Governor's Award to an  
28 employee or a group of employees, not to exceed six in  
29 number, who, during the preceding year have  
30 distinguished themselves by outstanding service to the  
31 state.

32 19995.6. Employees shall be nominated for the award  
33 by the directors of the various state departments and  
34 agencies and the Governor shall select from the persons  
35 so nominated the persons to whom he or she shall make  
36 the award.

37 19995.7. The award shall consist of a suitable medal or  
38 trophy.

1           CHAPTER 7. SEPARATIONS FROM SERVICE

2  
3                   Article 1. General

4  
5       19996. The tenure of every permanent employee  
6 holding a position is during good behavior. Any such  
7 employee may be temporarily separated from the state  
8 civil service through layoff, leave of absence, or  
9 suspension, permanently separated through resignation  
10 or removal for cause, or permanently or temporarily  
11 separated through retirement or terminated for medical  
12 reasons under the provisions of Section 19253.5.

13       19996.1. (a) Resignations from the state civil service  
14 are subject to department rules. A resignation, except as  
15 provided in this section, does not jeopardize any rights  
16 and privileges of the employee except those pertaining to  
17 the position from which he or she resigns. A written  
18 resignation may expressly waive all or any rights or  
19 privileges provided for by this chapter, including but not  
20 limited to, accumulated vacation, and in such event the  
21 records of the department shall be made to conform  
22 therewith. No resignation shall be set aside on the ground  
23 that it was given or obtained pursuant to or by reason of  
24 mistake, fraud, duress, undue influence or that for any  
25 other reason it was not the free, voluntary and binding  
26 act of the person resigning, unless a petition to set it aside  
27 is filed with the department within 30 days after the last  
28 date upon which services to the state are rendered or the  
29 date the resignation is tendered to the appointing power,  
30 whichever is later. In the event a resignation is set aside  
31 pursuant to this section, the person resigning shall be  
32 reinstated to his or her former position and paid his or her  
33 salary for the period he or she was removed from state  
34 service as the result of such resignation. From any such  
35 salary due there shall be deducted compensation that the  
36 employee earned, or might reasonably have earned,  
37 during any period commencing more than six months  
38 after the initial date of resignation.

39       (b) If the provisions of this section are in conflict with  
40 the provisions of a memorandum of understanding

1 reached pursuant to Section 3517.5, the memorandum of  
2 understanding shall be controlling without further  
3 legislative action, except that if such provisions of a  
4 memorandum of understanding require the expenditure  
5 of funds, the provisions shall not become effective unless  
6 approved by the Legislature in the annual Budget Act.  
7 19996.2. (a) Absence without leave, whether  
8 voluntary or involuntary, for five consecutive working  
9 days is an automatic resignation from state service, as of  
10 the last date on which the employee worked.

11 A permanent or probationary employee may within 90  
12 days of the effective date of such separation, file a written  
13 request with the department for reinstatement;  
14 provided, that if the appointing power has notified the  
15 employee of his or her automatic resignation, any request  
16 for reinstatement must be made in writing and filed  
17 within 15 days of the service of notice of separation.  
18 Service of notice shall be made as provided in Section  
19 18575 and is complete on mailing. Reinstatement may be  
20 granted only if the employee makes a satisfactory  
21 explanation to the department as to the cause of his or her  
22 absence and his or her failure to obtain leave therefor,  
23 and the department finds that he or she is ready, able,  
24 and willing to resume the discharge of the duties of his or  
25 her position or, if not, that he or she has obtained the  
26 consent of his or her appointing power to a leave of  
27 absence to commence upon reinstatement.

28 An employee so reinstated shall not be paid salary for  
29 the period of his or her absence or separation or for any  
30 portion thereof.

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

1 Article 1.5. Reduced Worktime Program

2  
3 19996.5. The Legislature finds and declares that,  
4 notwithstanding the fact that a reduction in the overall  
5 personnel budget of state government may be found  
6 necessary and prudent in the course of events, it is in the  
7 public interest to provide the highest quality of service to  
8 the taxpayers of California. Providing that service  
9 requires, among other things, the maintenance of high  
10 morale among public employees, the ability to attract the  
11 most competent and dedicated new employees to public  
12 service in the years ahead, as well as to preserve to the  
13 maximum extent the pool of skilled employees now in  
14 public service. Therefore, it is the intent of the  
15 Legislature in enacting this article to maximize the  
16 preservation of employment opportunities of public  
17 servants, to the extent that budgetary and efficiency  
18 objectives may be achieved, with a minimum of layoffs or  
19 other avoidable dislocations of careers.

20 19996.6. In the event that a reduction in the personnel  
21 of departments and agencies of state government,  
22 equivalent to 1 percent or more of full-time equivalent  
23 jobs is contemplated in a single fiscal year, and only in  
24 such circumstances, each department or agency affected  
25 by such reductions shall permit employees to voluntarily  
26 reduce worktime on a basis consistent with  
27 administrative feasibility in order that employment  
28 opportunities will be preserved to the extent possible  
29 through a redistribution of workload. This article shall not  
30 be construed as a job creation program, nor shall any  
31 program be operated under this article which results in  
32 an increase in the total number of employees over levels  
33 existing in a participating department or agency during  
34 the fiscal year immediately preceding the fiscal year for  
35 which personnel reductions described in this section are  
36 contemplated.

37 19996.7. If the department determines that a  
38 personnel reduction, as described in Section 19996.6, is  
39 contemplated by the Governor's Budget, it shall conduct  
40 or direct each affected department or agency to conduct

1 a survey of all permanent full-time employees to  
2 determine the extent of the desire of such employees to  
3 participate in a voluntary reduced worktime program.

4 19996.8. The survey required under Section 19996.7  
5 shall contain information clearly informing employees as  
6 to the terms and conditions under which voluntary  
7 reduced worktime options would be available including,  
8 but not limited to, potential worktime options, the effect  
9 such a reduction would have on benefits, and the right to  
10 return to full-time work to the extent such work is  
11 available as specified in subdivisions (b), (c), and (d),  
12 respectively, of Section 19996.9.

13 19996.9. (a) Reduced worktime shall be permitted to  
14 the extent that it (1) contributes, through reducing  
15 costs, to the preservation of employment opportunities  
16 that would otherwise be eliminated because of the  
17 contemplated budget reduction, (2) is found  
18 administratively feasible and within the guidelines of the  
19 department by the appointing authority of the  
20 department for which an employee works, and  
21 (3) reflects the findings of, and is consistent with, the  
22 survey conducted pursuant to Section 19996.7.

23 (b) Reduced worktime options may be available in the  
24 form of fewer hours of work per day, or fewer days of  
25 work per year either on a regular basis such as a four-day  
26 workweek or on an irregular but planned basis such as  
27 occasional days off or an extended vacation.

28 (c) Voluntary worktime reductions shall result in a pro  
29 rata reduction of compensation to participating  
30 employees.

31 (d) Participating employees shall, upon request, be  
32 given first priority for returning to a full-time schedule to  
33 the extent that such full-time work is available.  
34 Participating employees shall return to full-time  
35 employment at the request of the appointing authority  
36 pursuant to regulations adopted by the department  
37 which shall:

38 (1) Define conditions under which such a request by  
39 the appointing authority is appropriate, and

40 (2) Provide a reasonable grace period for allowing an



1 employee to make necessary personal arrangements for  
2 returning to full-time employment.

3 (e) If layoff becomes unavoidable, employees who  
4 participate in a voluntary reduced worktime program  
5 pursuant to this article shall not routinely be subject to  
6 layoff ahead of full-time employees. Such part-time  
7 employees shall be subject to the same seniority and  
8 other layoff considerations as full-time employees in  
9 determining the order of layoff.

10 19996.10. The department, in preparing to conduct  
11 and interpreting the results of the survey required by this  
12 article, and any department or agency of state  
13 government undertaking to design and implement a  
14 voluntary reduced worktime program for its employees  
15 pursuant to this article, may request technical assistance  
16 relating to reduced worktime concepts, methods, and  
17 programs from the Employment Development  
18 Department pursuant to the provisions of Resolution  
19 Chapter 103 of the Statutes of 1978.

20 19996.11. The department shall adopt appropriate  
21 rules and guidelines relating to reduced worktime  
22 programs which shall include, but not be limited to,  
23 guidelines for determining the minimum time to be  
24 worked by participating employees, and guidelines for  
25 determining the administrative feasibility of particular  
26 reduced worktime programs.

27 19996.12. Results of any survey conducted pursuant to  
28 Section 19996.7 and plans for implementation of any  
29 voluntary reduced worktime program to preserve  
30 employment opportunities pursuant to Section 19996.6  
31 shall be transmitted forthwith to the Joint Legislative  
32 Audit Committee, the Joint Legislative Budget  
33 Committee, the fiscal committees, and the rules  
34 committee of each house of the Legislature. The report  
35 of such plans shall include but not be limited to, an  
36 analysis of expected fiscal savings and the extent of  
37 preservation of employment opportunities anticipated  
38 from implementation of such plans.

39 19996.13. Any employee who is being coerced, or who  
40 has been required, by the appointing power, a supervisor,

1 or another employee, to involuntarily reduce his or her  
2 worktime contrary to the intent of this article, or who has  
3 been unreasonably denied the right to participate in a  
4 program established pursuant to Section 19996.9, may file  
5 a grievance with the appropriate authority pursuant to  
6 the provisions of Article 24 (commencing with Section  
7 540) of subchapter 1 of Chapter 1 of Division 1 of Title 2  
8 of the California Administrative Code.

9 19996.14. Nothing in this article shall be construed to  
10 supersede or impair any contrary provisions contained in  
11 an existing collective bargaining agreement.

12 19996.15. The department, in cooperation with the  
13 Public Employees' Retirement System, shall prepare and  
14 submit to the Legislature, for referral to the appropriate  
15 policy and fiscal committees of each house, a preliminary  
16 report by June 30, 1981, and a final report by June 30, 1982.  
17 Such reports shall include, but not be limited to, the  
18 following:

19 (a) The extent that reduced worktime programs are in  
20 use.

21 (b) The cost effectiveness of reduced worktime  
22 programs.

23 (c) The actuarial impact of reduced worktime  
24 programs.

25 (d) Recommendations on continuation of reduced  
26 worktime programs and suggested statutory changes.

27 19996.16. The Trustees of the California State  
28 University and Colleges, in cooperation with the  
29 department, shall be responsible for the administration of  
30 this article with respect to employees of California State  
31 University and Colleges.

32 19996.17. This article shall remain in effect only until  
33 June 30, 1982, and as of such date is repealed, unless a later  
34 enacted statute, which is chaptered before June 30, 1982,  
35 deletes or extends such date.

36

### 37 Article 1.6. Reduced Worktime Act

38

39 19996.20. "Reduced worktime," as used in this article,  
40 means employment of less than 40 hours of work per

1 week, and includes arrangements involving job sharing,  
2 four-, five-, or six-hour workdays, jobs which provide  
3 eight hours of employment or less for one, two, three,  
4 four or five days per week, and such other arrangements  
5 which the department finds consistent with maximum  
6 employment opportunity to employees desiring other  
7 than a standard worktime.

8 19996.21. It is the policy of the state that to the extent  
9 feasible, reduced worktime be made available to  
10 employees who are unable, or who do not desire, to work  
11 standard working hours on a full-time basis. Further, it is  
12 the intent of the Legislature that nothing in this act shall  
13 be used to reduce the number of full-time equivalency  
14 positions authorized to any department.

15 19996.22. (a) Any employee who is being coerced, or  
16 who has been required, by the appointing power, a  
17 supervisor, or another employee, to involuntarily reduce  
18 his or her worktime contrary to the intent of this article,  
19 or who has been unreasonably denied the right to  
20 participate in this program, may file a grievance with the  
21 department.

22 (b) Any employee of the California State Universities  
23 and Colleges System who is being coerced, or who has  
24 been required by the appointing power, a supervisor, or  
25 another employee, to involuntarily reduce his or her  
26 worktime contrary to the intent of this article, or who has  
27 been unreasonably denied the right to participate in this  
28 program, may file a grievance pursuant to the procedures  
29 established by the Trustees of the California State  
30 University and Colleges.

31 (c) Nothing in this article shall impair the  
32 employment or employment rights or benefits of any  
33 employee.

34 (d) This article shall not apply to employees who are  
35 full-time state peace officers unless approved by the  
36 peace officers' appointing power.

37 19996.23. In counting the number of employees any  
38 state agency employs for purposes of any personnel  
39 ceiling, an employee employed on a reduced worktime  
40 basis shall be counted as a fraction which is determined

1 by dividing 40 hours into the average number of hours  
2 that an employee works each week.

3 19996.24. (a) Permanent employees who voluntarily  
4 reduce their worktime shall, upon request, be given first  
5 priority for returning to a full-time work schedule to the  
6 extent that such full-time work is available. Such  
7 permanent employees shall return to full-time  
8 employment at the request of the appointing authority  
9 pursuant to regulations adopted by the department  
10 which shall define the conditions under which such a  
11 request by the appointing authority is appropriate and  
12 provide a reasonable grace period for allowing an  
13 employee to make the necessary personal arrangements  
14 for returning to full-time employment.

15 (b) If a layoff becomes unavoidable, persons  
16 employed on a reduced worktime basis shall not  
17 routinely be subject to the layoff ahead of full-time  
18 employees. These employees shall be subject to the same  
19 seniority and other similar considerations as full-time  
20 employees in determining the order of layoffs.

21 19996.25. If the provisions of this article are in conflict  
22 with the provisions of a memorandum of understanding  
23 reached pursuant to Sections 3517.5 and 3572, the  
24 memorandum of understanding shall be controlling  
25 without further legislative action, except that if such  
26 provisions of a memorandum of understanding require  
27 the expenditure of funds, the provisions shall not become  
28 effective unless approved by the Legislature in the  
29 annual Budget Act.

30 19996.26. All persons employed in reduced worktime  
31 positions pursuant to Section 19996.21, shall receive, on a  
32 pro rata basis, except for benefits provided under the  
33 Public Employees' Retirement Law and under the Public  
34 Employees' Medical and Hospital Care Act, all benefits  
35 customarily available to full-time employees of state  
36 agencies in similar classes or positions. With regard to  
37 benefits provided under the Public Employees'  
38 Retirement Law and under the Public Employees'  
39 Medical and Hospital Care Act, persons employed in  
40 reduced worktime positions shall receive such benefits as

1 are provided by law for persons employed for less than  
2 full time.

3 19996.27. The department shall adopt appropriate  
4 rules and guidelines relating to reduced worktime  
5 implementation.

6 19996.28. The Trustees of the California State  
7 University and Colleges shall adopt the appropriate rules  
8 and guidelines relating to the implementation of the  
9 reduced worktime program for the employees of the  
10 California State University and Colleges system.

11 19996.29. This article shall be known and may be cited  
12 as the “ Reduced Worktime Act.”

13  
14 Article 2. Layoff and Demotion  
15

16 19997. Whenever it is necessary because of lack of  
17 work or funds or whenever it is advisable in the interests  
18 of economy to reduce the staff of any state agency, the  
19 appointing power may lay off employees pursuant to this  
20 article and department rule. All layoff provisions and  
21 procedures established or agreed to under this article  
22 shall be subject to State Personnel Board review pursuant  
23 to Section 19816.5.

24 19997.1. The duties performed by any employee laid  
25 off may be assigned to any other employee or employees  
26 in the state agency holding positions in appropriate  
27 classes.

28 19997.2. (a) With the approval of the department,  
29 only the employees of a designated geographical,  
30 organizational or functional subdivision of a state agency  
31 need be considered for layoff, and reemployment lists  
32 shall be established for such subdivision. Such lists take  
33 priority over the departmental and other reemployment  
34 or employment lists.

35 (b) If the provisions of this section are in conflict with  
36 the provisions of a memorandum of understanding  
37 reached pursuant to Section 3517.5, the memorandum of  
38 understanding shall be controlling without further  
39 legislative action, except that if such provisions of a  
40 memorandum of understanding require the expenditure

1 of funds, the provisions shall not become effective unless  
2 approved by the Legislature in the annual Budget Act.  
3 19997.3. (a) Layoff shall be made in accordance with  
4 the relative seniority of the employees in the class of  
5 layoff. Except as otherwise provided in this part, in  
6 determining seniority scores, one point shall be allowed  
7 for each complete month of full-time state service  
8 regardless of when such service occurred; except that,  
9 the provisions of Sections 19143 and 19143.5 shall be  
10 applied in computing seniority for employees who have  
11 had a break in the continuity of their state service.  
12 Department rules shall establish: (1) the extent to which  
13 seniority credits may be granted for less than full-time  
14 service; (2) the seniority credit to be granted for service  
15 in a class that has been abolished, combined, divided, or  
16 otherwise altered under the authority of Section 18802;  
17 (3) the basis for determining the sequence of layoff  
18 whenever the class and subdivision of layoff includes  
19 employees whose service is less than full time; and  
20 (4) such other matters as are necessary or advisable to  
21 the operation of the provisions of this chapter.

22 (b) For professional, scientific, administrative,  
23 management, and executive classes, the department shall  
24 prescribe standards and methods by rule whereby  
25 employee efficiency shall be combined with seniority in  
26 determining the order of layoffs and the order of names  
27 on reemployment lists. Such standards and methods may  
28 vary for different classes, and shall take into consideration  
29 the needs of state service and practice in private industry  
30 and other public employment.

31 (c) If the provisions of this section are in conflict with  
32 the provisions of a memorandum of understanding  
33 reached pursuant to Section 3517.5, the memorandum of  
34 understanding shall be controlling without further  
35 legislative action, except that if such provisions of a  
36 memorandum of understanding incurs either present or  
37 future costs, or requires the expenditure of funds, the  
38 provisions shall not become effective unless approved by  
39 the Legislature in the annual Budget Act.

40 19997.4. For the purposes of determining seniority

1 pursuant to subdivision (a) of Section 19997.3, the term  
2 “state service” shall include all service which is exempt  
3 from state civil service.

4 19997.5. Separations that are necessary by reason of  
5 reinstatement of an employee or employees after  
6 recognized military service as provided for in Section  
7 19780 shall be made by layoff. In making such separations,  
8 the regular method of determining the order of layoff  
9 shall be used unless this would result in the layoff of an  
10 employee who has been reinstated in the class and  
11 subdivision of layoff under the provisions of Section  
12 19780, and in the retention of an employee who was  
13 appointed in the class and subdivision of layoff during the  
14 time such a reinstated employee was on military leave.  
15 Under such circumstances, seniority shall not be counted  
16 as provided in Section 19997.3. Instead, service in the  
17 subdivision of layoff that qualifies under Section 19997.3  
18 for credit is the only state service that shall be counted.

19 Whenever such a layoff results in the demotion to a  
20 lower class of an employee who has been reinstated after  
21 recognized military service as provided in Section 19780,  
22 the resulting layoff, if any, in the lower class shall be made  
23 as though that reinstated employee had been in that  
24 lower class at the time he or she went on military leave.

25 Any layoff occurring within one year after  
26 reinstatement of an employee after recognized military  
27 service shall be presumed to have been necessary by  
28 reason of reinstatement of an employee or employees  
29 under Section 19780 unless the department determines  
30 that the reason for layoff is clearly not related to such  
31 reinstatement.

32 19997.6. A veteran, except a veteran who was  
33 reinstated from military leave, shall in the event of layoff  
34 receive seniority credit for recognized military service  
35 only as follows:

36 (a) The veteran must have entered the state service  
37 within one year after date of discharge or the end of the  
38 national emergency or the end of the state military  
39 emergency, whichever of these dates is the earlier, or; if  
40 more than one year has elapsed, he or she shall have been

1 in attendance at regular sessions at a college or vocational  
2 training school, for not more than five years,  
3 commencing within one year of his discharge.

4 (b) Such credit for recognized military service shall be  
5 computed as if it were service in the class to which the  
6 employee was first given permanent civil service or  
7 exempt appointment after his or her entry into the state  
8 service following recognized military service.

9 (c) Such seniority credits shall be forfeited in the  
10 event of a break in service as provided in Section 19143.

11 (d) Such seniority credit shall not exceed one years'  
12 credit if such veteran had no state service prior to  
13 entering the military service.

14 19997.7. Employees in the class under consideration,  
15 up to the number of positions to be abolished or  
16 discontinued, shall be laid off in the order as determined  
17 under the provisions of this part. As between two or more  
18 such employees who have the same score veterans shall  
19 have preference in retention. Other ties shall be resolved  
20 according to department rule which shall take into  
21 consideration other matters of record before names are  
22 drawn by lot.

23 19997.8. In lieu of being laid off an employee may  
24 elect demotion to: (a) any class with substantially the  
25 same or a lower maximum salary in which he or she had  
26 served under permanent or probationary status, or (b) a  
27 class in the same line of work as the class of layoff, but of  
28 lesser responsibility, if such a class is designated by the  
29 department. Whenever such a demotion requires a layoff  
30 in the elected class, the seniority score for the demoted  
31 employee shall be recomputed in that class. The  
32 appointing power shall inform the employee in the notice  
33 of layoff of the classes to which he or she has the right to  
34 demote. To be considered for demotion in lieu of layoff  
35 an employee must notify his or her appointing power in  
36 writing of his or her election not later than five calendar  
37 days after receiving notice of layoff.

38 Demotions in lieu of layoff, and layoffs resulting  
39 therefrom, shall be governed by the provisions of this  
40 article and shall be made within the subdivisions



1 approved by the department for this purpose. Such  
2 subdivisions need not be the same as those used to  
3 determine the area of layoff under Section 19997.2.

4 If the provisions of this section are in conflict with the  
5 provisions of a memorandum of understanding reached  
6 pursuant to Section 3517.5, the memorandum of  
7 understanding shall be controlling without further  
8 legislative action, except that if such provisions of a  
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 19997.9. (a) Any employee replaced by such  
13 demotion has the same option of demotion afforded by  
14 Section 19997.8 as if his or her position had been abolished  
15 or discontinued.

16 Except as authorized by the department under the  
17 provisions of Section 19837, any employee demoted  
18 pursuant to this article shall receive the maximum of the  
19 salary range of the class to which he or she is demoted;  
20 provided, that such salary is not greater than the salary he  
21 or she received at the time of demotion.

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

30 19997.10. (a) Any officer or employee, directly or  
31 indirectly, entitled to or having permanent status under  
32 the provisions of Article VII of the Constitution or the  
33 State Civil Service Act, who is displaced by one having a  
34 right to return shall be accorded the same rights to elect  
35 demotion in lieu of layoff as though he or she had had  
36 permanent status at all times in any previous position.

37 (b) If the provisions of this section are in conflict with  
38 the provisions of a memorandum of understanding  
39 reached pursuant to Section 3517.5, the memorandum of  
40 understanding shall be controlling without further

1 legislative action, except that if such provisions of a  
2 memorandum of understanding require the expenditure  
3 of funds, the provisions shall not become effective unless  
4 approved by the Legislature in the annual Budget Act.

5 19997.11. (a) The names of employees to be laid off  
6 or demoted shall be placed upon the reemployment list  
7 for the subdivision, if such a subdivision was designated,  
8 upon the departmental reemployment list and upon the  
9 general reemployment list, for the class from which the  
10 employees were laid off or demoted. The department  
11 may also place such names upon the general  
12 reemployment list for such other appropriate classes as  
13 the department determines.

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

22 19997.12. (a) An employee who is certified to a  
23 position in a class after layoff, or demotion in lieu of layoff,  
24 shall receive not less than the same step in the salary  
25 range as he or she received in the position in that class  
26 prior to such layoff or demotion.

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

35 19997.13. (a) An employee compensated on a  
36 monthly basis shall be notified that he or she is to be laid  
37 off 30 days prior to the effective date of layoff and not  
38 more than 60 days after the date of the seniority  
39 computation. The notice of layoff shall be in writing and  
40 shall contain the reason or reasons for the layoff. An

1 employee to be laid off may elect to accept such layoff  
2 prior to the effective date thereof.

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

11 19997.14. (a) An employee may appeal to the  
12 department within 30 days after receiving notice of layoff  
13 on the ground that the required procedure has not been  
14 complied with or that the layoff has not been made in  
15 good faith or was otherwise improper. Within 30 days  
16 after such an appeal, the department shall hold such  
17 hearing or investigation as it deems necessary.

18 On its own motion the department may also conduct  
19 such a hearing or investigation within 30 days after  
20 receiving a notice of layoff.

21 In rendering a decision on a layoff, the department  
22 may order the reinstatement of the employee with or  
23 without pay if it appears that the required procedure was  
24 not followed or that the layoff was not made in good faith  
25 or was otherwise improper.

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

34

### 35 Article 3. Layoff Reemployment

36

37 19998. (a) It is the policy of the state that when an  
38 employee is to be separated from state service because  
39 the tasks he or she was assigned are to be eliminated or  
40 substantially changed due to management-initiated

1 changes, including but not limited to automation or other  
2 technological changes, steps should be taken on an  
3 interdepartmental basis to assist such employee in  
4 locating, preparing to qualify for, and being placed in  
5 other positions in the state civil service. This provision  
6 shall not be construed to restrict the authority of the  
7 executive branch or the Legislature to effect economies  
8 or make organizational or other changes to increase  
9 efficiency in state government.

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

18 19998.1. (a) The department may temporarily  
19 restrict the choice of methods of appointment available  
20 to an appointing power if such restriction is deemed  
21 necessary in the placement in other state civil service  
22 positions of employees whose positions have been or are  
23 about to be changed substantially or eliminated by such  
24 management-initiated changes.

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

33 SEC. 56. This act shall become effective at the start of  
34 the first payroll period immediately following the  
35 decision by the California Supreme Court in the  
36 consolidated cases of Pacific Legal Foundation v. Brown,  
37 3 Civil 18364, and People v. Brown, 3 Civil 18412. In the  
38 event the decision of the California Court of Appeals in  
39 the above cases is affirmed in whole or part by the  
40 California Supreme Court, the provisions of this act

1 which are directly affected by the court's decision shall  
2 not become operative.

O