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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 2.6. PERSONNEL ADMINISTRATION [19815 - 19999.7] (Part 2.6 added by Stats. 1981, Ch. 230, Sec. 55.)

CHAPTER 1. Department of Human Resources [19815 - 19819.7] (Heading of Chapter 1 amended by Stats. 2012, Ch. 665, Sec. 86.)

ARTICLE 2. Powers and Duties [19816.2 - 19816.21] (Article 2 added by Stats. 1981, Ch. 230, Sec. 55.)

19816.2. Notwithstanding any other provision of this part, regulations and other provisions pertaining to the layoff or demotion in lieu of layoff of civil service employees that are established or agreed to by the department shall be subject to review by the State Personnel Board for consistency with merit employment principles as provided for by Article VII of the California Constitution.
(Amended by Stats. 2002, Ch. 1, Sec. 18. Effective January 16, 2002.)

19816.4. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use by the State Personnel Board and the department in the performance of the duties, powers, purposes, responsibilities, and jurisdiction that are vested in the department.
(Amended by Stats. 2012, Ch. 360, Sec. 79. (SB 1309) Effective January 1, 2013.)

19816.6. All officers and employees of the State Personnel Board and the Department of Personnel Administration, who, on the operative date of this part, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department shall be transferred to the department. The status, positions, and rights of these persons shall not be affected by the transfer and shall be retained by them as officers and employees of the department pursuant to the State Civil Service Act, except as to positions exempt from civil service.
(Amended by Stats. 2013, Ch. 427, Sec. 107. (AB 1062) Effective January 1, 2014.)

19816.8. The department may expend, in accordance with law, all moneys made available for its use or for the administration of any statute administered by it.
(Added by renumbering Section 19819 by Stats. 1985, Ch. 1015, Sec. 16. Effective September 26, 1985.)

19816.10. (a) In order to secure substantial justice and equality among employees in the state civil service, the department may provide by rule for days, hours and conditions of work, taking into consideration the varying needs and requirements of the different state agencies and the prevailing practices for comparable services in other public employment and in private business.
(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.
(Added by renumbering Section 19819.1 by Stats. 1985, Ch. 1015, Sec. 17. Effective September 26, 1985.)

19816.12. The department shall establish and maintain in suitable form an official roster of all persons holding positions under this part and enter thereupon their names, complete record of state employment, and other facts prescribed by rule.
(Amended by Stats. 2013, Ch. 427, Sec. 108. (AB 1062) Effective January 1, 2014.)

19816.14. The department, with the concurrence of the Department of Finance, shall provide for such audit and certification of payrolls as it deems necessary to insure that all persons in the state civil service, for whom claim for payment of salaries or

compensation is made on the Controller, are holding positions as provided by law.

(Added by Stats. 1985, Ch. 1015, Sec. 19. Effective September 26, 1985.)

19816.16. The department shall implement the State Employee Assistance Program established by Executive Order B96-82 and may enter into one or more contracts to provide problem assessment and referral services. If the department enters into one or more contracts, the Controller shall transfer from the operating budgets of departments participating in the contract to the State Payroll Revolving Fund, an amount sufficient to fund each department's per capita cost, including state administrative fees. The Controller shall pay the contractor or contractors pursuant to the master payment schedule and monthly certification from the department.

(Amended by Stats. 1989, Ch. 342, Sec. 1.)

19816.17. The department may enter into contracts for the provision of legally authorized employee benefits not requiring voluntary participation or payroll deductions. Where these contracts are made, the Controller shall transfer from the operating budgets of the departments participating in the contract to the State Payroll Revolving Fund, an amount sufficient to fund each department's per capita cost. The Controller shall pay the contractor or contractors pursuant to the master payment schedule and the certification from the department.

(Added by Stats. 1987, Ch. 1148, Sec. 2. Effective September 26, 1987.)

19816.18. (a) The department may either self-fund or self-insure any benefit program under its administration when it is cost effective to do so. The department may administer the self-funded or self-insured benefit program directly or may contract with a third party administrator. The Treasurer, Controller, and the Department of Finance shall assist the department to ensure that the appropriate fiscal and administrative procedures are established. These procedures shall include, but not be limited to, processes, fund accounts, and transfers from each department's operating budget, including a pro rata share of the cost of administration. Notwithstanding any other law, the Public Employees' Retirement System shall assist the department upon request by providing retiree names and addresses to the department solely for the purpose of notifying retirees of eligibility for enrollment into a dental plan, vision plan, group legal insurance plan, or life insurance plan offered by the department. Any information provided to the department shall be treated as confidential by the department.

(b) Funds appropriated for self-funded or self-insured benefit programs established pursuant to this section shall be maintained in the State Employees' Self-Funded Benefit Fund, which is hereby created in the State Treasury. Moneys in this fund shall be used by the department to make benefit payments and pay related administrative costs. Income of whatever nature earned on the moneys in the State Employees' Self-Funded Benefit Fund during any fiscal year shall be credited to the fund. The Controller and the Department of Finance may establish individual accounts within the fund, as deemed appropriate, for individual self-funded or self-insured benefit programs. Notwithstanding Section 13340, moneys in this fund and accounts within the fund that are used to pay benefits for a self-funded or self-insured program established pursuant to this section are continuously appropriated, without regard to fiscal years.

(Amended by Stats. 2020, Ch. 25, Sec. 17. (SB 116) Effective June 29, 2020.)

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

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

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

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 2000, Ch. 402, Sec. 9. Effective September 11, 2000.)

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

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

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

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

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

(Amended by Stats. 2012, Ch. 665, Sec. 91. (SB 1308) Effective January 1, 2013.)