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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 2. Administration of Salaries [19820 - 19850.7]** ( Chapter 2 added by Stats. 1981, Ch. 230, Sec. 55. )

**ARTICLE 4. Miscellaneous Compensation [19839 - 19849.9]** ( Article 4 added by Stats. 1981, Ch. 230, Sec. 55. )

**19839.** (a) Upon separation from service without fault on his or her part, a person is entitled to a lump-sum payment as of the time of separation for any unused or accumulated vacation or annual leave or for any time off to which he or she is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the appointing power or by rules of the department. This sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount which the employee would have been paid had he or she taken the time off but not separated from the service.

(b) Persons separated from service through fault of their own are entitled to a lump-sum payment for compensating time off for overtime work, and in addition, the portion, if any, of unused vacation or annual leave as the department may determine. The computation of this sum shall be based on actual accumulated time without projection as provided in subdivision (a).

(c) Lump-sum payment for vacation or annual leave shall not be made to a person who separates from a position for the purpose of accepting another position in the state service except upon movement to a position in which vacation credits or annual leave are neither accrued nor used. However, a lump-sum payment shall not be made to a person who returns to a position in the same class and agency within 15 working days of the date of his or her resignation.

(d) Except for payment authorized or excluded under subdivision (c), an employee who returns to state service during the period through which his or her lump-sum payment was computed may refund the amount of lump-sum payment which exceeds his or her break in service and have the balance of credits restored as though he or she had remained in state service and taken the time off.

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

(Amended by Stats. 1986, Ch. 657, Sec. 1.)

**19839.5.** Unless in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, every department shall calculate and forward to the Controller a request for payment of all undisputed amounts due under Section 19839 within 25 days of the date of separation of the employee.

(Added by Stats. 1989, Ch. 509, Sec. 1.)

**19840.** (a) Any time off to which an employee is entitled by reason of overtime worked prior to June 9, 1948, may be compensated by a lump sum payment in the manner provided in Section 19839 at any time prior to the separation of the employee from service or upon such separation. Payment shall be at the rate established for the position as of the date of payment or the date of separation as the case may be.

(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 Stats. 1981, Ch. 230, Sec. 55.)

**19841.** (a) Notwithstanding Section 11030, whenever a state officer or employee is required by the appointing power because of a change in assignment, promotion, or other reason related to his or her duties to change his or her place of residence, the officer, agent, or employee shall receive his or her actual and necessary moving, traveling, lodging, and meal expenses incurred by him or her both before and after and by reason of the change of residence. The maximum allowances for these expenses shall be as follows: the costs of packing, transporting, and unpacking 11,000 pounds of household effects, traveling, lodging, and meal expenses for 60 days while locating a permanent residence, storage of household effects for 60 days, and additional miscellaneous allowances not in excess of two hundred dollars (\$200). The maximum allowances may be exceeded where the director determines that the change of residence will result in unusual and unavoidable hardship for the officer or employee, and in those cases the director shall determine the maximum allowances to be received by the officer or employee.

(b) If a change of residence reasonably requires the sale of a residence or the settlement of an unexpired lease, the officer or employee may be reimbursed for any of the following expenses:

- (1) The settlement of the unexpired lease to a maximum of one year. Upon the date of surrender of the premises by the employee who is the lessee, the rights and obligations of the parties to the lease shall be as determined by Section 1951.2 of the Civil Code.

The state shall be absolved of responsibility for an unexpired lease if the department determines the employee knew or reasonably should have known that a transfer involving a physical move was imminent before entering into the lease agreement.

- (2) In the event of residence sale, reimbursement for brokerage and other related selling fees or charges, as determined by regulations of the department, customarily charged for like services in the locality where the residence is located.

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

*(Amended by Stats. 2002, Ch. 1, Sec. 24. Effective January 16, 2002.)*

**19842.** (a) For the purpose of facilitating either the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants or hiring to achieve goals developed pursuant to Section 19790, the department may authorize payment of all or a part of the travel expense of applicants who are called for interview and all or a part of the travel and moving expense of persons who change their place of residence to accept employment with the state. These payments shall be authorized only upon the certification of the appointing power and the department that the expenditure is necessary in order to recruit qualified persons needed by the state.

If, for reasons that do not meet the approval of the state department concerned, the employee or applicant for employment does not accept or continue the employment for a period of two years, he or she shall reimburse the state department for the moving and travel expenses for the full or proportionate amount.

For the purposes of this section, satisfactory reasons for not completing two years of employment shall be death, prolonged illness, disability, unacceptability of the applicant or employee to the state department, and similar eventualities beyond the control of the applicant or employee.

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

*(Amended by Stats. 1991, Ch. 833, Sec. 2.)*

**19842.5.** For persons employed on an intermittent or irregular time base, the vacation and sick leave privileges, salary, and other conditions of employment governed by this part shall be subject to department rule.

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

*(Added by renumbering Section 19100 by Stats. 1989, Ch. 103, Sec. 9.)*

**19843.** (a) For each class or position for which biweekly, monthly, or annual salary range is established by the department, the department shall establish and adjust workweek groups and shall assign each class or position to a workweek group. The department, after considering the needs of the state service and prevailing overtime compensation practices, may establish workweek groups of different lengths or of the same length but requiring different methods of recognizing or providing compensation

for overtime. The department may also provide for the payment of overtime in designated classes for work performed after the normal scheduled workday or normal scheduled workweek.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of 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.

*(Amended by Stats. 2024, Ch. 52, Sec. 12. (AB 171) Effective July 2, 2024.)*

**19844.** (a) The department shall provide the extent to which, and establish the method by which, ordered overtime or overtime in times of critical emergency is compensated. The department may provide for cash compensation at a rate not to exceed  $1\frac{1}{2}$  times the regular rate of pay, and the rate may vary within a class depending upon the conditions of work, or the department may provide for compensating time off at a rate not to exceed  $1\frac{1}{2}$  hours of time off for each hour of overtime worked. The provisions made under this section shall be based on the practices of private industry and other public employment, the needs of state service, and internal relationships.

(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 Stats. 1981, Ch. 230, Sec. 55.)*

**19844.1.** (a) Notwithstanding any other provision of law, personal leave, sick leave, annual leave, vacation, bereavement leave, holiday leave, and any other paid or unpaid leave, shall not be considered as time worked by the employee for the purpose of computing cash compensation for overtime or compensating time off for overtime.

(b) If subdivision (a) is in conflict with the provisions of a memorandum of understanding reached or amended pursuant to Section 3517.5 on or after February 1, 2009, or the date that the act adding this section takes effect, whichever is later, that memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

*(Added by Stats. 2009, 3rd Ex. Sess., Ch. 4, Sec. 5. Effective February 20, 2009.)*

**19844.5.** (a) A state employee who is called into service by the Office of Emergency Services pursuant to a mission assignment number for the purpose of engaging in a search and rescue operation, disaster mission, or other life-saving mission conducted within the state is entitled to administrative time off from his or her appointing power. The appointing power shall not be liable for payment of any disability or death benefits in the event the employee is injured or killed in the course of service to the Office of Emergency Services, but the employee shall remain entitled to any benefits currently provided by the agency.

(b) The period of the duty described in subdivision (a) shall not exceed 10 calendar days per fiscal year, including the time involved in going to and returning from the duty. A single mission shall not exceed three days, unless an extension of time is granted by the office and the appointing power.

(c) This section shall apply only to volunteers participating in the California Explorer Search and Rescue Team, Drowning Accident Rescue Team, Wilderness Organization of Finders, California Rescue Dog Association, and the California Wing of the Civil Air Patrol.

(d) A state employee engaging in a duty as described in this section shall not receive overtime compensation for the hours of time off taken but shall receive normal compensation.

(e) A state employee shall be released to engage in a duty described in this section at the discretion of the appointing power. However, leave shall not be unreasonably denied. The appointing power shall also establish a procedure whereby state employees who receive weekend or evening requests to serve may be released to do so.

*(Amended by Stats. 2013, Ch. 352, Sec. 303. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)*

**19844.7.** (a) Pursuant to regulations adopted by the Department of Human Resources, and subject to the collective bargaining agreement between the state and the employee's exclusive representative, a state employee who has been appointed as a member of a precinct board and takes time off from state employment to serve as a member of that precinct board on election day shall receive payment of his or her regular wages or salary for that election day, without forfeiting any compensation received for his or her service as a precinct board member. As used in this section, "state employee" does not include any officer or employee appointed or employed by the Legislature, or any officer, deputy, or employee selected or appointed by an elected state officer.

(b) The eligibility of a state employee to receive time off for the purposes of subdivision (a) shall be subject to approval of the employee's manager or supervisor and pursuant to the terms of the collective bargaining agreement, when applicable.

(c) The Department of Human Resources shall adopt regulations to implement this section. The regulations shall include, among other things, consideration of such items as the impact of the employee's absence on state services and operations and the documentation necessary for a state employee to establish that he or she has taken time off from state employment to serve as a member of a precinct board and is therefore eligible to receive his or her regular wages or salary as provided in subdivision (a). The regulations required by this section shall be drafted and adopted as soon as practicable.

*(Amended by Stats. 2012, Ch. 665, Sec. 98. (SB 1308) Effective January 1, 2013.)*

**19845.** (a) Notwithstanding any other provision of this chapter, the department is authorized to provide for overtime payments as prescribed by the Federal Fair Labor Standards Act to state employees.

(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 provisions of this section shall be controlling unless the memorandum of understanding provides a greater benefit, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 1987, Ch. 1185, Sec. 1. Effective September 26, 1987.)*

**19846.** (a) It is the policy of the state that the normal workweek of permanent employees in fire suppression classes of the Department of Forestry and Fire Protection shall not exceed 84 hours a week. Work in excess of the designated normal workweek may be compensated for in cash or compensating time off in accordance with the regulations of the department.

(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.

*(Amended by Stats. 1992, Ch. 427, Sec. 54. Effective January 1, 1993.)*

**19846.5.** (a) Notwithstanding any other law, including Section 201 of the Labor Code, if the Franchise Tax Board determines that there is a lack of work for a seasonal clerk employed by the board, the board may, without permanent separation of the clerk, do any of the following:

- (1) Pay the clerk in a lump-sum payment for accumulated vacation or annual leave credit.
- (2) By mutual agreement between the board and the clerk, schedule the clerk for vacation or annual leave.
- (3) Allow the clerk to retain his or her vacation or annual leave credit.
- (4) Effect a combination of any or all of the actions described in paragraphs (1) to (4), inclusive.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling.

*(Added by Stats. 2012, Ch. 482, Sec. 1. (AB 2271) Effective January 1, 2013.)*

**19847.** (a) Every state agency in which there are employees not subject to state civil service shall submit to the department all information necessary for determination of the workweek for each employee.

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

*(Amended by Stats. 1983, Ch. 1040, Sec. 22.)*

**19848.** (a) The granting of compensating time off in lieu of cash compensation is not prohibited where compensating time off can be granted within 12 calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing state agency.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, 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 Stats. 1981, Ch. 230, Sec. 55.)*

**19849.** (a) The department shall adopt rules governing hours of work and overtime compensation and the keeping of records related thereto, including time and attendance records. Each appointing power shall administer and enforce such rules.

(b) (1) Notwithstanding any other law, the department shall adopt a plan for the period from July 1, 2012, to June 30, 2013, inclusive, by which all state employees not subject to the Personal Leave Program 2012 (PLP 2012 Program), as described in paragraph (1) of subdivision (c) of Section 19851, shall be furloughed for one workday per calendar month. The department shall further adopt rules for the implementation, administration, and enforcement of this furlough plan. This subdivision shall not apply to retired annuitants or to employees of entities listed in Section 3.90 of the Budget Act of 2012.

(2) Notwithstanding any other law, the department shall adopt a plan for the period from July 1, 2020, to June 30, 2021, inclusive, by which all state employees not subject to the Personal Leave Program 2020 (PLP 2020 Program), as described in paragraph (2) of subdivision (c) of Section 19851, shall be furloughed for two workdays per calendar month. The department shall further adopt rules for the implementation, administration, and enforcement of this furlough plan. This subdivision shall not apply to retired annuitants or to employees or entities listed in Section 3.90 of the Budget Act of 2020.

(c) Except as provided in subdivision (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.

*(Amended by Stats. 2020, Ch. 16, Sec. 4. (AB 84) Effective June 29, 2020.)*

**19849.1.** (a) The department may provide by rule for compensation to employees who are required to report back to work after completion of the normal workday, workweek, or when otherwise off duty. In determining the rate and method of compensation, the department shall take into consideration the needs of state service and the practices prevailing in private business and other public employment.

(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 Stats. 1981, Ch. 230, Sec. 55.)*

**19849.2.** Any state agency may, subject to rules and regulations of the department, insure its employees against injury or death incurred while flying on state business in any except regularly scheduled passenger aircraft.

*(Added by Stats. 1981, Ch. 230, Sec. 55.)*

**19849.3.** When a state employee dies while traveling on official state business the state shall, under rules and regulations adopted by the department, pay the approved traveling expenses necessary to return the body to his or her official headquarters or the place of burial. This subdivision shall not be construed to authorize the payment of the traveling expenses, either going or returning, of one accompanying the body.

*(Amended by Stats. 1992, Ch. 9, Sec. 1. Effective January 1, 1993.)*

**19849.4.** (a) Any state employee when working overtime at his or her headquarters on state business may receive his or her actual and necessary expenses, during his or her regular workweek, subject to rules and regulations adopted by the department limiting the amount of the expenses and prescribing the conditions under which the expenses may be paid; provided, however, that each state agency may determine the necessity for and limit such expenses of its employees in such manner as does not conflict with and is within the limitations prescribed by the department.

(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 Stats. 1981, Ch. 230, Sec. 55.)*

**19849.5.** The headquarters of members of all boards and commissions unless fixed by law, shall be determined and fixed by the department, and the headquarters of all other employees shall be determined and fixed by the department.

*(Amended by Stats. 1982, Ch. 1095, Sec. 17.3.)*

**19849.6.** Any person who vacates a position in the state civil service to accept appointment by the Governor or by the Legislature to a position or an office for which the salary is fixed by statute and who thereafter is reinstated to his or her former position as provided by Section 19141 shall be credited only with such accumulated sick leave, and with such unused or accumulated vacation or annual leave for which he or she did not receive a lump-sum payment, as he or she was entitled to at the time he or she vacated the position.

*(Amended by Stats. 1986, Ch. 657, Sec. 2.)*

**19849.7.** (a) Each state agency shall at the time of each payment of salary or wages, whether by direct deposit by electronic fund transfer pursuant to Sections 12480 and 12481 or otherwise, furnish each employee an itemized statement showing all deductions made from the employee's salary or wages as required by Section 226 of the Labor Code.

(b) The itemized statement described in subdivision (a) shall be provided electronically to each employee who has authorized the direct deposit by electronic fund transfer of salary or wages pursuant to Section 12480, unless the employee has requested, in writing, to receive a paper version of the statement.

(c) The provision of an electronic statement of itemized deductions pursuant to this section shall be contingent upon the funding of the necessary technology to provide this information and its implementation by the Controller.

*(Amended by Stats. 2019, Ch. 29, Sec. 108. (SB 82) Effective June 27, 2019.)*

**19849.8.** The department in which an employee is employed may pay the cost of replacing or repairing eyeglasses, hearing aids, dentures, watches, or articles of clothing necessarily worn or carried when damaged in the line of duty without fault of the employee. If the eyeglasses, hearing aids, dentures, watches or clothes are damaged beyond repair, the department may pay the actual value of such eyeglasses, hearing aids, dentures, watches or clothing. The value of such eyeglasses, hearing aids, dentures, watches or clothing shall be determined as of the time of the damage thereto.

*(Added by Stats. 1981, Ch. 230, Sec. 55.)*

**19849.9.** (a) Any appointing power may present to an employee who has completed 25 or more years of state service a certificate, plaque, or other suitable memento and the cost of the same shall be a proper charge against the support appropriation of the department or office in which the employee serves. The cost of any certificate, plaque, or memento shall not exceed the sum of ninety dollars (\$90). A presentation may likewise be made to a retired employee who on the date of his or her retirement had completed 25 or more years of state service.

(b) Beginning January 1, 2005, and every five years thereafter, the director may adjust the limit specified in subdivision (a) to reflect the average rate of inflation since the dollar amount was last adjusted.

*(Amended by Stats. 1999, Ch. 272, Sec. 1. Effective August 31, 1999.)*