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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 2.5. Days and Hours of Work [19851 - 19991.14] (Chapter 2.5 added by Stats. 1981, Ch. 230, Sec. 55.)

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ARTICLE 11. Absences [19991 - 19991.14] (Article 11 added by Stats. 1981, Ch. 230, Sec. 55.)

19991. (a) Upon giving two days' notice to his or her immediate superior, any state employee otherwise qualified shall be permitted to take any state civil service examination during working hours, if the examination is scheduled during such period, or to attend a meeting of the department or State Personnel Board at which is scheduled for consideration a matter specifically affecting his or her position concerning which he or she has requested to be heard, without deduction of pay or other penalty. Employment interviews for eligibles on employment lists shall be considered part of the examination process under this part.

(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.)

19991.1. (a) Subject to department rule an appointing power may grant a leave of absence without pay, to any employee under his or her jurisdiction for a period not exceeding one year. An extension to an unpaid leave of absence may be granted by the appointing power upon the prior approval of the department. A leave so granted assures to the employee the right to return under the provisions of Section 19143.

(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. 1993, Ch. 466, Sec. 2. Effective January 1, 1994.)

19991.2. (a) The appointing power may grant to an employee under his or her jurisdiction who has permanent civil service status or a probationer who immediately preceding his or her appointment to his or her position held permanent civil service status in the same or some other class a leave of absence without pay for not to exceed two years for service in a technical cooperation program as a temporary employee of another governmental agency, a nonprofit organization, or a recognized college or university upon the request of the agency. Within three months of termination of this service, the employee shall be reinstated to his or her former position pursuant to Section 19143.

(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. 1993, Ch. 466, Sec. 3. Effective January 1, 1994.)

19991.3. (a) Leaves of absence granted for jury duty may be with or without pay.

(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.)

19991.4. Any period of time during which an employee is required to be absent from his or her position by reason of an injury or disease for which he or she is entitled to receive temporary disability compensation under the provisions of Division 4 or 4.5 of the Labor Code is not a break in his or her continuous service for the purpose of his or her right to salary adjustments, sick leave, vacation, annual leave, or seniority.

If an employee is unable to return to work at the time or during the period he or she is entitled to permanent disability compensation under Division 4 or 4.5 of the Labor Code, he or she shall be paid any sick leave balance, vacation balance, annual leave balance, or accumulated compensable overtime. The payment shall be computed by projecting the accumulated time on a calendar basis as though the employee was taking time off. If during the period of projection the employee is able to return to work, he or she shall be returned to his or her former position as defined in Section 18522.

If a permanent or probationary employee is still not able to return to his or her former position and continues to receive permanent disability compensation, the appointing power shall take at least one of the actions described in Section 19253.5 or grant a leave of absence for the period during which the employee receives permanent disability compensation or is being retrained through rehabilitation.

If the employee is demoted or transferred pursuant to Section 19253.5 he or she shall receive the maximum of the salary range provided that salary is not greater than the salary he or she received on the date his or her accumulated time was exhausted.

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. 1993, Ch. 466, Sec. 4. Effective January 1, 1994.)

19991.5. (a) The department may permit the Commandant of the Veterans' Home of California to authorize members of the medical staff and medical technicians, to include X-ray, clinical laboratory, and dental laboratory technicians, of the Veterans' Home of California to attend medical and scientific meetings and medical and refresher courses, for a period not to exceed 30 days in any one calendar year, in recognized schools or colleges held in California. Any member so attending such schooling shall bear his or her own expenses but there shall be no interruption of normal salary or pay.

(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.)

19991.6. (a) Except as provided in subdivision (c), an appointing power shall grant a leave of absence without pay for the purposes of pregnancy, childbirth or the recovery therefrom for a period as determined by the employee not exceeding one year to any permanent female employee under the jurisdiction of the appointing power. When the employee has notified the appointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(b) If the provisions of subdivision (a) 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.

(c) For an employee who is excluded from the definition of state employee in subdivision (c) of Section 3513, the following shall apply:

(1) An appointing power shall grant a female permanent employee's request for a leave of absence without pay for the purposes of pregnancy, childbirth, or the recovery therefrom, for a period not to exceed one year. When the employee has notified the appointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(2) An appointing power shall grant the request of a male spouse who is a permanent employee or a male parent who is a permanent employee for a leave of absence without pay for a period not to exceed one year to care for his newborn child. When

the employee has notified the appointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(3) An appointing power may grant a permanent employee's request for a leave of absence without pay for the adoption of a child for a period not to exceed one year. The employee shall provide substantiation to support the employee's request for adoption leave. When the employee has notified the appointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(Amended by Stats. 1993, Ch. 109, Sec. 10. Effective January 1, 1994.)

19991.7. (a) For civil service employees employed in positions requiring teaching certification qualifications appointing powers may grant educational leave to attend study sessions at accredited schools, colleges or programs recommended by a trade advisory council for the purpose of receiving further instruction in pedagogy, vocational education, mental health or related fields. Such educational leave shall be granted with pay and credited to the employee by accumulation at the rate of $1\frac{1}{4}$ days for each month worked. Employees on educational leave shall maintain their merit salary adjustment date and shall receive credit for vacation, sick leave, educational leave or any other benefit which would normally accrue during such work period. The time when educational leave shall be taken shall be determined by the appointing power of the employee. The department shall provide by rule for the regulation, accumulation and transfer of educational leave and shall prescribe the methods by which employees leaving the employment of one state agency and entering the employment of another state agency may receive proper credit for their accumulated educational leave privileges.

(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.)

19991.8. During any state military emergency and subject to department rule, an appointing power may grant a leave of absence without pay to a permanent or probationary employee under his or her jurisdiction to:

(a) Engage in civilian warwork pursuant to mandatory order of the agency of the United States or of the state having authority to make that order.

(b) Assume active duty in the United States merchant marine.

(c) Assume other duty rather than active duty to fulfill a military obligation pursuant to mandatory order of the agency of the United States or of the state having authority to make such order.

(d) Assume active full-time duty for the American Red Cross.

Such a leave shall not exceed the period authorized in the order.

Such a leave assures to the employee reinstatement pursuant to Section 19143.

(Amended by Stats. 1993, Ch. 466, Sec. 5. Effective January 1, 1994.)

19991.9. Any permanent state civil service employee or an employee serving under another appointment who previously had permanent status and who, since that permanent status, has had no break in the continuity of his or her state service, who served in the armed forces, and who is eligible because of that service for education or training under applicable state or federal law shall upon application to his or her appointing power be granted an educational leave of absence without pay for the period during which he or she receives that education or training and for three months thereafter. In order for that leave to be granted or to remain in effect, the employee must enroll for a minimum of 10 credit hours of post-high-school grade or the equivalent amount of work on high school level each school year. No such leave shall remain in effect for longer than four years and three months of school attendance. A leave so granted assures to the employee a right of return pursuant to Section 19143.

(Amended by Stats. 1993, Ch. 466, Sec. 6. Effective January 1, 1994.)

19991.10. Where there exists no statutory authority to grant a paid leave of absence, no paid leave of absence shall exceed five working days without prior approval of the department. This section shall not be construed to provide or create any classification of paid leave of absence.

For the purposes of this section, a paid leave of absence does not include a paid leave authorized by Sections 1230.1, 3518.5, 3522.7, 19252, 19253.5, 19775, 19775.1, 19848, 19853, 19854, 19858.1, 19859, 19863, 19871, 19886.1, 19991.3, and 19991.7 of this code or Section 4800 of the Labor Code.

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. 1982, Ch. 828, Sec. 2.)

19991.11. (a) Subject to subdivision (c), an appointing power shall grant to an employee, who has exhausted all available sick leave, the following leaves of absence with pay:

(1) A leave of absence, not exceeding 30 days in a one-year period, to an employee who is an organ donor, for the purpose of donating the employee's organ to another person.

(2) A leave of absence, not exceeding five days in a one-year period, to an employee who is a bone marrow donor, for the purpose of donating the employee's bone marrow to another person.

(b) Subject to subdivision (c), an appointing power shall grant an additional unpaid leave of absence, not exceeding 30 business days in a one-year period, to an employee who has exhausted all available sick leave and is an organ donor for the purpose of donating the employee's organ to another person.

(c) In order to receive a leave of absence pursuant to subdivision (a) or (b), an employee shall provide written verification to the appointing power that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

(d) Any period of time during which an employee is required to be absent from the employee's position by reason of being an organ or bone marrow donor is not a break in the employee's continuous service for the purpose of the employee's right to salary adjustments, sick leave, vacation, annual leave, or seniority.

(e) If an employee is unable to return to work beyond the time or period that the employee is granted leave pursuant to this section, the employee shall be paid any vacation balance, annual leave balance, or accumulated compensable overtime. The payment shall be computed by projecting the accumulated time on a calendar basis as though the employee was taking time off. If, during the period of projection, the employee is able to return to work, the employee shall be returned to the employee's former position as defined in Section 18522.

(f) 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. 2019, Ch. 316, Sec. 3. (AB 1223) Effective January 1, 2020.)

19991.13. (a) At the discretion of the appointing power, excluded employees as defined in subdivision (b) of Section 3527, may transfer eligible leave credits to an excluded employee when a catastrophic illness or injury occurs.

(b) For the purposes of this section, the following terms are defined as follows:

(1) Catastrophic illness or injury means an illness or injury that is expected to incapacitate the employee and that creates a financial hardship because the employee has exhausted all of his or her sick leave and other paid time off. Catastrophic illness or injury may also include an incapacitated family member if this results in the employee being required to take time off from work for an extended period of time to care for the family member and the employee has exhausted all of his or her sick leave and other paid time off.

(2) Eligible leave credits include annual leave, vacation, compensating time off (CTO), and holiday leave credits, but do not include sick leave.

(c) Eligible leave credits may be donated for a catastrophic illness or injury if all of the following requirements are met:

(1) Upon the request of an employee.

(2) Upon determination by the department director that the employee in the department is unable to work due to the employee's or family member's catastrophic illness or injury.

(3) The employee has exhausted all paid leave credit.

(d) If catastrophic leave is approved by the department's director or his or her designee, any excluded employee, upon written notice, may donate eligible leave credits with a minimum donation of one hour. Donations thereafter must be in whole hour

increments. Donations will be reflected as an hour-for-hour deduction from the leave balance of the donating employee. When transferring eligible leave credits, the state agency should ensure that only credits that may be needed are transferred. An excluded employee may donate eligible leave credits to a represented employee and may be the recipient of eligible leave credits donated by a represented employee.

(e) In order to receive donated leave credits, an excluded employee must provide appropriate verification of illness or injury as determined by the state agency. An excluded employee eligible for this program shall have any time that is donated credited to his or her account in one-hour increments. Donated credits shall be reflected as an hour-for-hour addition to the vacation or annual leave balance of the receiving employee. Use of donated credits may not exceed a maximum of 12 continuous months for any one catastrophic illness. The total amount of leave credits donated may not exceed an amount sufficient to ensure the continuance of regular compensation. All transfers of leave credits are irrevocable. An excluded employee who receives time through this program shall use any leave credits he or she continues to accrue on a monthly basis prior to receiving time from this program.

(Added by Stats. 2005, Ch. 528, Sec. 1. Effective January 1, 2006.)

19991.14. (a) If a retired state employee dies from a nonwork-related illness or injury within 12 months of retirement, a request may be made to his or her employer to allow state employees to donate leave credits to a leave bank. This donated leave, not to exceed fifty thousand dollars (\$50,000), shall be cashed out to the person designated to receive the deceased employee's leave balance. Donations shall be accepted for 30 days following approval of the request, except as specified in subdivision (b).

(b) This section shall apply retroactively to any employee who retired on or after December 1, 2009. Any leave donations for a retired state employee who died on or before December 31, 2010, shall be accepted until January 31, 2011.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Leave" includes annual leave, vacation, holiday, personal leave, or excess leave.

(2) "Retired state employee" means any retired state employee who at the time of retirement was a member of a collective bargaining unit that had bargained for a survivor's benefit that authorizes the donation of leave credits from employees to a leave bank on behalf of an employee on pay status who dies from a nonwork-related illness or injury.

(Added by Stats. 2010, Ch. 608, Sec. 1. (AB 2742) Effective January 1, 2011.)