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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 7. Separations from Service [19996 - 19998.4] (Chapter 7 added by Stats. 1981, Ch. 230, Sec. 55.)

ARTICLE 1. General [19996 - 19996.2] (Article 1 added by Stats. 1981, Ch. 230, Sec. 55.)

19996. The tenure of every permanent employee holding a position is during good behavior. Any such employee may be temporarily separated from the state civil service through layoff, leave of absence, or suspension, permanently separated through resignation or removal for cause, or permanently or temporarily separated through retirement or terminated for medical reasons under the provisions of Section 19253.5.

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

19996.1. (a) Resignations from the state civil service are subject to department rules. A resignation, except as provided in this section, does not jeopardize any rights and privileges of the employee except those pertaining to the position from which he or she resigns. A written resignation may expressly waive all or any rights or privileges provided for by this chapter, including but not limited to, accumulated vacation, and in such event the records of the department shall be made to conform therewith. No resignation shall be set aside on the ground that it was given or obtained pursuant to or by reason of mistake, fraud, duress, undue influence or that for any other reason it was not the free, voluntary and binding act of the person resigning, unless a petition to set it aside is filed with the department within 30 days after the last date upon which services to the state are rendered or the date the resignation is tendered to the appointing power, whichever is later. In the event a resignation is set aside pursuant to this section, the person resigning shall be reinstated to his or her former position and paid his or her salary for the period he or she was removed from state service as the result of such resignation. From any such salary due there shall be deducted compensation that the employee earned, or might reasonably have earned, during any period commencing more than six months after the initial date of resignation.

(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.)

19996.2. (a) Absence without leave, whether voluntary or involuntary, for five consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked.

A permanent or probationary employee may within 90 days of the effective date of such separation, file a written request with the department for reinstatement; provided, that if the appointing power has notified the employee of his or her automatic resignation, any request for reinstatement must be made in writing and filed within 15 days of the service of notice of separation. Service of notice shall be made as provided in Section 18575 and is complete on mailing. Reinstatement may be granted only if the employee makes a satisfactory explanation to the department as to the cause of his or her absence and his or her failure to obtain leave therefor, and the department finds that he or she is ready, able, and willing to resume the discharge of the duties of his or her position or, if not, that he or she has obtained the consent of his or her appointing power to a leave of absence to commence upon reinstatement.

An employee so reinstated shall not be paid salary for the period of his or her absence or separation or for any portion thereof.

(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.)