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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 2. Layoff and Demotion [19997 - 19997.15]** ( Article 2 added by Stats. 1981, Ch. 230, Sec. 55. )

**19997.** Whenever it is necessary because of lack of work or funds, or whenever it is advisable in the interests of economy, to reduce the staff of any state agency, the appointing power may lay off employees pursuant to this article and department rule. All layoff provisions and procedures established or agreed to under this article shall be subject to State Personnel Board review pursuant to Section 19816.2.

(Amended by Stats. 2002, Ch. 1, Sec. 28. Effective January 16, 2002.)

**19997.1.** The duties performed by any employee laid off may be assigned to any other employee or employees in the state agency holding positions in appropriate classes.

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

**19997.2.** (a) With the approval of the department, only the employees of a designated geographical, organizational or functional subdivision of a state agency need be considered for layoff, and reemployment lists shall be established for such subdivision. Such lists take priority over the departmental and other reemployment or employment lists.

(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.)

**19997.3.** (a) Layoff shall be made in accordance with the relative seniority of the employees in the class of layoff. In determining seniority scores, one point shall be allowed for each complete month of full-time state service regardless of when the service occurred. Department rules shall establish all of the following:

(1) The extent to which seniority credits may be granted for less than full-time service.

(2) The seniority credit to be granted for service in a class that has been abolished, combined, divided, or otherwise altered under the authority of Section 18802.

(3) The basis for determining the sequence of layoff whenever the class and subdivision of layoff includes employees whose service is less than full time.

(4) Any other matters as are necessary or advisable to the operation of this chapter.

(b) For professional, scientific, administrative, management, and executive classes, the department shall prescribe standards and methods by rule whereby employee efficiency shall be combined with seniority in determining the order of layoffs and the order of names on reemployment lists. These standards and methods may vary for different classes, and shall take into consideration the needs of state service and practice in private industry and other public employment.

(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 incur either present or future costs, or require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 2003, Ch. 62, Sec. 127. Effective January 1, 2004.)*

**19997.4.** (a) For the purposes of determining seniority pursuant to subdivision (a) of Section 19997.3, the term "state service" shall include all service that is exempt from state civil service.

(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 may not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 2002, Ch. 1, Sec. 30. Effective January 16, 2002.)*

**19997.5.** (a) Separations that are necessary by reason of reinstatement of an employee or employees after recognized military service as provided for in Section 19780 shall be made by layoff. In making these separations, the regular method of determining the order of layoff shall be used unless this would result in the layoff of an employee who has been reinstated in the class and subdivision of layoff under Section 19780, and in the retention of an employee who was appointed in the class and subdivision of layoff during the time that a reinstated employee was on military leave. Under these circumstances, seniority shall not be counted as provided in Section 19997.3. Instead, service in the subdivision of layoff that qualifies under Section 19997.3 for credit is the only state service that shall be counted.

Whenever such a layoff results in the demotion to a lower class of an employee who has been reinstated after recognized military service as provided in Section 19780, the resulting layoff, if any, in the lower class shall be made as though that reinstated employee had been in that lower class at the time he or she went on military leave.

Any layoff occurring within one year after reinstatement of an employee after recognized military service shall be presumed to have been necessary by reason of reinstatement of an employee or employees under Section 19780 unless the department determines that the reason for layoff is clearly not related to the reinstatement.

(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 may not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 2002, Ch. 1, Sec. 31. Effective January 16, 2002.)*

**19997.6.** (a) A veteran, except a veteran who was reinstated from military leave, shall in the event of layoff receive seniority credit for recognized military service if the veteran entered the state service after discharge, the end of the national emergency, or the end of the state military emergency.

(b) Seniority credit for recognized military service shall be computed as if it were service in the class to which the employee was first given permanent civil service or exempt appointment after his or her entry into the state service following recognized military service.

(c) Seniority credit for recognized military service shall not exceed one year's credit if the veteran had no state service prior to entering the military service.

(d) This section shall become operative on July 1, 1993.

*(Amended by Stats. 2002, Ch. 1, Sec. 32. Effective January 16, 2002.)*

**19997.7.** (a) Employees in the class under consideration, up to the number of positions to be abolished or discontinued, shall be laid off in the order as determined under this part. As between two or more of these employees who have the same score, veterans shall have preference in retention. Other ties shall be resolved according to department rule that shall take into consideration other matters of record before names are drawn by lot.

(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 may not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 2002, Ch. 1, Sec. 33. Effective January 16, 2002.)*

**19997.8.** (a) In lieu of being laid off an employee may elect demotion to: (1) any class with substantially the same or a lower maximum salary in which he or she had served under permanent or probationary status, or (2) a class in the same line of work as the class of layoff, but of lesser responsibility, if a class is designated by the department. Whenever a demotion requires a layoff in the elected class, the seniority score for the demoted employee shall be recomputed in that class. The appointing power shall inform

the employee in the notice of layoff of the classes to which he or she has the right to demote. To be considered for demotion in lieu of layoff an employee shall notify his or her appointing power in writing of his or her election not later than five calendar days after receiving notice of layoff.

(b) Demotions in lieu of layoff, and layoffs resulting therefrom, shall be governed by this article and shall be made within the subdivisions approved by the department for this purpose. These subdivisions need not be the same as those used to determine the area of layoff under Section 19997.2.

(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. 34. Effective January 16, 2002.)*

**19997.9.** (a) Any employee replaced by such demotion has the same option of demotion afforded by Section 19997.8 as if his or her position had been abolished or discontinued.

Except as authorized by the department under the provisions of Section 19837, any employee demoted pursuant to this article shall receive the maximum of the salary range of the class to which he or she is demoted; provided, that such salary is not greater than the salary he or she received at the time of demotion.

(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.)*

**19997.10.** (a) Any officer or employee, directly or indirectly, entitled to or having permanent status under the provisions of Article VII of the Constitution or the State Civil Service Act, who is displaced by one having a right to return shall be accorded the same rights to elect demotion in lieu of layoff as though he or she had had permanent status at all times in any previous position.

(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.)*

**19997.11.** (a) The names of employees to be laid off or demoted shall be placed upon the reemployment list for the subdivision, if such a subdivision was designated, upon the departmental reemployment list and upon the general reemployment list, for the class from which the employees were laid off or demoted. The department may also place these names upon the general reemployment list for any other appropriate classes as the department determines.

(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. 2002, Ch. 1, Sec. 35. Effective January 16, 2002.)*

**19997.12.** (a) An employee who is certified to a position in a class after layoff, or demotion in lieu of layoff, shall receive not less than the same step in the salary range as he or she received in the position in that class prior to such layoff or demotion.

(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.)*

**19997.13.** (a) An employee shall be notified that the employee is to be laid off 30 days prior to the effective date of layoff and not more than 60 days after the date of the seniority computation. The notice of layoff shall be in writing and shall contain the reason or reasons for the layoff. An employee to be laid off may elect to accept this layoff prior to the effective date of the layoff.

(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. 2024, Ch. 52, Sec. 17. (AB 171) Effective July 2, 2024.)*

**19997.14.** (a) An employee may appeal to the department within 30 days after receiving notice of layoff on the ground that the required procedure has not been complied with or that the layoff has not been made in good faith or was otherwise improper. Within 30 days after such an appeal, the department shall hold such hearing or investigation as it deems necessary.

On its own motion the department may also conduct such a hearing or investigation within 30 days after receiving a notice of layoff.

In rendering a decision on a layoff, the department may order the reinstatement of the employee with or without pay if it appears that the required procedure was not followed or that the layoff was not made in good faith or was otherwise improper.

(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.)*

**19997.15.** (a) In order to provide state civil service employees of the California Maritime Academy with an opportunity to remain in the state civil service system, there shall be a transition period from January 1, 1994, to June 30, 1995, inclusive. Any civil service employee of the California Maritime Academy who does not transfer with the California Maritime Academy to the California State University system shall be eligible for all job placement provisions available pursuant to Sections 19998 and 19998.1. Any civil service employee who does not intend to transfer with the academy to the California State University system prior to July 1, 1995, must file a statement, on or before December 30, 1994, in the form as the Director of the Department of Personnel Administration shall prescribe rejecting employment in the California State University. Those employees shall be subject to state civil service layoff and reemployment in accordance with Part 2 (commencing with Section 18500), regulations adopted pursuant to those provisions, provisions of applicable memoranda of understanding, or any other provision governing layoff and reemployment within the state civil service. Any employee who does not file the statement rejecting California State University employment shall be considered an employee of the California State University, effective July 1, 1995.

(b) In order to provide for the orderly transition of California Maritime Academy employees from the state civil service to the California State University, the following shall apply:

(1) The terms of any memorandum of understanding shall remain in effect until the memorandum of understanding expires or is amended or replaced.

(2) After January 1, 1994, employees of the California Maritime Academy, with the agreement of the exclusive representative and the Trustees of the California State University, may petition the Public Employment Relations Board to effect a bargaining unit modification; however, any modification ordered by the board shall not be effective until July 1, 1995, at the earliest.

(3) If no modification is effected, the state classifications used by the California Maritime Academy on June 30, 1995, shall, on July 1, 1995, be placed in new bargaining units under the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4 of Title 1) for the California Maritime Academy parallel to the bargaining units as they exist on June 30, 1995, and shall continue unless and until a unit modification is ordered by the Public Employment Relations Board.

(4) The exclusive representatives for each state bargaining unit representing California Maritime Academy employees, as those representatives and units exist on June 30, 1995, shall continue as the exclusive representatives for their respective bargaining units unless an election is called, but in no case may any such change in exclusive representative occur prior to July 1, 1995. An election is not required to be held, and if no election occurs, the exclusive representatives shall continue as the exclusive representatives with responsibility to meet and confer with the Trustees of the California State University or their designees on collective bargaining issues. Notwithstanding any provision of the act that added this section to the Government Code, and to the extent authorized by law, the scope of representation shall at least include any subject matter contained in the current memoranda of understanding.

*(Added by Stats. 1993, Ch. 1298, Sec. 6. Effective January 1, 1994. Note: See this section, as modified on July 1, 2012, in Governor's Reorganization Plan No. 1 of 2011.)*