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SB-95 State employees: memorandum of understanding. (2015-2016)

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Senate Bill No. 95

CHAPTER 12

An act to amend Sections 22871.3, 22875.5, 22879, and 22944.5 of, and to add Sections 19829.9842, 19829.9843, 22874.3, and 22958.1 to, the Government Code, relating to state employees, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor May 10, 2016. Filed with Secretary of State May 10, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 95, Committee on Budget and Fiscal Review. State employees: memorandum of understanding.

(1) Existing law provides that a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions of a memorandum of understanding entered into between the state employer and State Bargaining Unit 6, the California Correctional Peace Officers Association, that require the expenditure of funds, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.

This bill would provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for those provisions are specifically appropriated by the Legislature, and would require the state employer and the affected employee organization to meet and confer to renegotiate the affected provisions if funds for those provisions are not specifically appropriated by the Legislature. The bill would appropriate \$31,869,000 in augmentation of certain items of the Budget Act of 2015, according to a specified schedule, for State Bargaining Unit 6 employee compensation for expenditure in the 2015–16 fiscal year. The bill would appropriate to the Controller from the General Fund, unallocated special funds, including federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the memoranda of understanding described above if the Budget Act is not enacted on or before July 1 in the 2016–17 or 2017–18 fiscal years, as specified.

(2) The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, prescribes methods for calculating the state employer contribution for postemployment health care benefits for eligible retired public employees and their families and for the vesting of these benefits. PEMHCA requires the employer contribution for an employee or annuitant who is in employment or retired from state service to be adjusted by the Legislature in the annual Budget Act, as specified. PEMHCA prescribes different ways of calculating the employer contributions for employees and annuitants depending on date of hire, years of service, and bargaining unit.

This bill, for state employees who are first employed and become members of the retirement system on or after January 1, 2017, and are represented by State Bargaining Unit 6, as specified, would limit the employer contribution for annuitants to 80% of the weighted average of the health benefit plan premiums for an active employee enrolled for self-alone, during the benefit year to which the formula is applied, for the 4 health benefit plans with the largest state civil service enrollment, as specified. The bill would similarly limit the employer contribution for an enrolled family member of an annuitant to 80% of the weighted average of the additional premiums required for enrollment of those family members during the benefit year to which the formula is applied and would provide the same limit on employer contributions for annuitants enrolled in Medicare health benefit plans.

(3) PEMHCA requires state employees to have a specified number of years of state service, depending on hiring date and other factors, before they may receive any portion of the employer contribution payable for annuitants for postretirement health benefits and increases the percentage they may receive based upon additional years of service.

This bill would prohibit state employees who are first employed and become members of the retirement system on or after January 1, 2017, and are represented by State Bargaining Unit 6, as specified, from receiving any portion of the employer contribution payable for annuitants unless the person is credited with at least 15 years of state service at the time of retirement. The bill would prescribe the percentage of the employer contribution payable for postretirement health benefits for these employees based on the number of completed years of credited state service at retirement, with 50% after 15 credited years of service and 100% after 25 or more years of service.

(4) Existing law permits the state to assume a function from a public agency and the related personnel and, in this circumstance, prohibits service being credited pursuant to specified provisions for purposes of employer contributions for postretirement health benefits, unless certain conditions are met.

This bill would additionally apply the prohibition described above to specified formulations for the payment of employer contributions for postretirement health benefits that are related to Bargaining Units 6, 9, 10, and 12.

(5) PEMHCA generally requires that an employee or annuitant who is enrolled in, or whose family member is enrolled in, a Medicare health benefit plan be paid the amount of the Medicare Part B premiums, as specified, and prohibits this payment from exceeding the difference between the maximum employer contribution and the amount contributed by the employer toward the cost of premiums for the health benefit plan in which the employee or annuitant and his or her family members are enrolled. Existing law excepts from this requirement state employees who are first employed and become members of the retirement system on or after January 1, 2016, and are represented by State Bargaining Unit 9 or 10.

This bill would also except from the requirement described above state employees who are first employed and become members of the retirement system on or after January 1, 2017, and are represented by State Bargaining Unit 6, as specified.

(6) PEMHCA establishes the Public Employees' Contingency Reserve Fund for the purpose of funding health benefits and funding administrative expenses. PEMHCA establishes the Annuitants' Health Care Coverage Fund, which is continuously appropriated, for the purpose of prefunding of health care coverage for annuitants, including administrative costs. PEMHCA defines "prefunding" for these purposes. Existing law requires the state and employees of State Bargaining Unit 9 or 10 to prefund retiree health care with the goal of reaching a 50% cost sharing of normal costs by July 1, 2019, and prescribes schedules of contribution percentages in this regard.

This bill would require the state and employees of State Bargaining Unit 6 to prefund retiree health care with the goal of reaching a 50% cost sharing of normal costs by July 1, 2018, and would prescribe a schedule of contribution percentages in this regard, with the contributions to be deposited in the Annuitants' Health Care Coverage Fund. By depositing new revenue in a continuously appropriated fund, this bill would make an appropriation.

(7) Existing law, the State Employees' Dental Care Act, authorizes the state to enter into contracts, upon negotiations with employee organizations, with carriers for dental care plans for employees, annuitants, and eligible family members. Existing law permits these plans to include premiums to be paid by employees and annuitants and also authorizes the plans to be self-funded if an employer determines it to be cost effective. Existing law prohibits specified employees from receiving an employer contribution for these benefits for annuitants unless the person is credited with 10 or more years of state service.

This bill would prohibit state employees, as specified, who are first employed and become members of the retirement system on or after January 1, 2017, and are represented by State Bargaining Unit 6 from receiving an employer contribution for dental benefits, as described above, for annuitants unless the person is credited with 15 or more years of state service. The bill would prescribe the percentage of the employer contribution payable for these dental benefits for these employees based on the number of completed years of credited state service at retirement, with 50% after 15 credited years of service and 100% after 25 or more years of service.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve the agreement entered into by the state employer and State Bargaining Unit 6 pursuant to Section 3517.5 of the Government Code.

SEC. 2. The provisions of the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 6, dated March 15, 2016, and that require the expenditure of funds, are hereby approved for the purposes of subdivision (b) of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memorandum of understanding approved in Section 2 of this act that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If funds for these provisions are not specifically appropriated by the Legislature, either the state employer or the affected employee organization may reopen negotiations on all or part of the memorandum of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of the memorandum of understanding included in Section 2 of this act that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. The sum of thirty-one million eight hundred sixty-nine thousand dollars (\$31,869,000) is hereby appropriated for State Bargaining Unit 6 for expenditure in the 2015–16 fiscal year in augmentation of, and for the purpose of, state employee compensation, as provided in Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2015 (Chapter 10 of the Statutes of 2015), in accordance with the following schedule:

(a) Thirty-one million six hundred eighty-seven thousand dollars (\$31,687,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) One hundred twenty-two thousand dollars (\$122,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Sixty thousand dollars (\$60,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 6. Section 19829.9842 is added to the Government Code, to read:

19829.9842. (a) Notwithstanding Section 13340, for the 2016–17 fiscal year, if the Budget Act of 2016 is not enacted by July 1, 2016, for the memorandum of understanding entered into between the state employer and State Bargaining Unit 6 (effective July 3, 2015, to July 2, 2018, inclusive) there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memorandum of understanding until the Budget Act of 2016 is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memorandum of understanding for work performed between July 1, 2016, of the 2016–17 fiscal year and the enactment of the Budget Act of 2016.

(b) If the memorandum of understanding entered into between the state employer and State Bargaining Unit 6 (effective July 3, 2015, to July 2, 2018, inclusive) is in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by this bargaining unit shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the Budget Act of 2016, these expenditures shall be subsumed by the expenditure authority approved in the Budget Act of 2016 for each affected department.

(d) This section shall only apply to an employee covered by the term of the State Bargaining Unit 6 (effective July 3, 2015, to July 2, 2018, inclusive) memorandum of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding has expired. For purposes of this section, the memorandum of understanding for State Bargaining Unit 6 expires on July 2, 2018.

SEC. 7. Section 19829.9843 is added to the Government Code, to read:

19829.9843. (a) Notwithstanding Section 13340, for the 2017–18 fiscal year, if the Budget Act of 2017 is not enacted by July 1, 2017, for the memorandum of understanding entered into between the state employer and State Bargaining Unit 6 (effective July 3, 2015, to July 2, 2018, inclusive) there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state

employees covered by the above memorandum of understanding until the Budget Act of 2017 is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memorandum of understanding for work performed between July 1, 2017, of the 2017–18 fiscal year and the enactment of the Budget Act of 2017.

(b) If the memorandum of understanding entered into between the state employer and State Bargaining Unit 6 (effective July 3, 2015, to July 2, 2018, inclusive) is in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by this bargaining unit shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the Budget Act of 2017, these expenditures shall be subsumed by the expenditure authority approved in the Budget Act of 2017 for each affected department.

(d) This section shall only apply to an employee covered by the term of the State Bargaining Unit 6 (effective July 3, 2015, to July 2, 2018, inclusive) memorandum of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding has expired. For purposes of this section, the memorandum of understanding for State Bargaining Unit 6 expires on July 2, 2018.

SEC. 8. Section 22871.3 of the Government Code is amended to read:

22871.3. (a) The employer contribution for each annuitant enrolled in a basic plan shall be an amount equal to 80 percent of the weighted average of the health benefit plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each annuitant with enrolled family members, the employer contribution shall be an amount equal to 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(b) The employer contribution for each annuitant enrolled in a Medicare health benefit plan in accordance with Section 22844 shall be an amount equal to 80 percent of the weighted average of the health benefit plan premiums for an annuitant enrolled in a Medicare health benefit plan for self-alone, during the benefit year to which the formula is applied, for the four Medicare health benefit plans that had the largest state annuitant enrollment, excluding family members, during the previous benefit year. For each annuitant with enrolled family members, the employer contribution shall be an amount equal to 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four Medicare health benefit plans that had the largest state annuitant enrollment, excluding family members, during the previous benefit year. If the annuitant is eligible for Medicare Part A, with or without cost, and Medicare Part B, regardless of whether the annuitant is actually enrolled in Medicare Part A or Part B, the employer contribution shall not exceed the amount calculated under this subdivision.

(c) This section applies to:

(1) A state employee who is first employed by the state and becomes a state member of the system on or after January 1, 2016, and who is represented by State Bargaining Unit 9 or 10.

(2) A state employee related to State Bargaining Unit 9 or 10 who is excepted from the definition of “state employee” in subdivision (c) of Section 3513 and first employed by the state and becomes a state member of the system on or after January 1, 2016.

(3) A state employee represented by State Bargaining Unit 6 who is first employed by the state and becomes a state member of the system on or after January 1, 2017.

(4) A state employee related to State Bargaining Unit 6 who is excepted from the definition of “state employee” in subdivision (c) of Section 3513 and first employed by the state and becomes a state member of the system on or after January 1, 2017.

(d) 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 those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

SEC. 9. Section 22874.3 is added to the Government Code, to read:

22874.3. (a) Notwithstanding Sections 22870, 22871, 22873, and 22874 a state employee, defined by subdivision (c) of Section 3513, who is first employed by the state and becomes a state member of the system on or after January 1, 2017, and who is represented by State Bargaining Unit 6, shall not receive any portion of the employer contribution payable for annuitants unless the person is credited with 15 years of state service at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Years of Service Contribution	Credited Years Percentage of Employer Contribution
15	50
16	55
17	60
18	65
19	70
20	75
21	80
22	85
23	90
24	95
25 or more	100

(c) This section shall apply only to state employees that retire for service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation.

(d) This section does not apply to:

- (1) Former state employees previously employed before January 1, 2017, who return to state employment on or after January 1, 2017.
- (2) State employees hired prior to January 1, 2017, who become subject to representation by State Bargaining Unit 6 on or after January 1, 2017.
- (3) State employees on an approved leave of absence employed before January 1, 2017, who return to active employment on or after January 1, 2017.
- (4) State employees hired after January 1, 2017, who are first represented by a State Bargaining Unit other than Bargaining Unit 6, who later become represented by State Bargaining Unit 6.

(e) Notwithstanding Section 22875, this section shall also apply to a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 and is first employed by the state and becomes a state member of the system on or after January 1, 2017.

SEC. 10. Section 22875.5 of the Government Code is amended to read:

22875.5. (a) If the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elective officers of that public agency may not be credited as state service for the purposes of Section 22874, 22874.1, 22874.2, 22874.3, or 22875 unless both of the following apply:

- (1) The former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee health benefits that were vested at the time that the function and the related personnel were assumed by the state.
- (2) The Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement health benefit costs of those personnel.

(b) For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under Section 22874, 22874.1, 22874.2, 22874.3, or 22875.

SEC. 11. Section 22879 of the Government Code is amended to read:

22879. (a) The board shall pay monthly to an employee or annuitant who is enrolled in, or whose family member is enrolled in, a Medicare health benefit plan under this part the amount of the Medicare Part B premiums, exclusive of penalties, except as provided in Section 22831. This payment may not exceed the difference between the maximum employer contribution and the amount contributed by the employer toward the cost of premiums for the health benefit plan in which the employee or annuitant and his or her family members are enrolled. No payment may be made in any month if the difference is less than one dollar (\$1).

(b) This section shall be applicable only to state employees, annuitants who retired while state employees, and the family members of those persons.

(c) With respect to an annuitant, the board shall pay to the annuitant the amount required by this section from the same source from which his or her allowance is paid. Those amounts are hereby appropriated monthly from the General Fund to reimburse the board for those payments.

(d) There is hereby appropriated from the appropriate funds the amounts required by this section to be paid to active state employees.

(e) This section does not apply to:

(1) A state employee who is first employed by the state and becomes a state member of the system on or after January 1, 2016, and who is represented by State Bargaining Unit 9 or 10.

(2) A state employee related to State Bargaining Unit 9 or 10 who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 and is first employed by the state and becomes a state member of the system on or after January 1, 2016.

(3) A state employee who is first employed by the state and becomes a state member of the system on or after January 1, 2017, and who is represented by State Bargaining Unit 6.

(4) A state employee related to State Bargaining Unit 6 who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 and is first employed by the state and becomes a state member of the system on or after January 1, 2017.

SEC. 12. Section 22944.5 of the Government Code is amended to read:

22944.5. (a) (1) The state and employees in State Bargaining Unit 9 or 10 shall prefund retiree health care, with the goal of reaching a 50-percent cost sharing of actuarially determined normal costs for both employer and employees by July 1, 2019.

(2) The state and employees in State Bargaining Unit 6 shall prefund retiree health care, with the goal of reaching a 50-percent cost sharing of actuarially determined normal costs for both employer and employees by July 1, 2018.

(b) (1) The employees in State Bargaining Unit 9 shall make contributions to prefund retiree health care based on the following schedule, and the state shall make a matching contribution:

(A) Effective July 1, 2017, 0.5 percent of pensionable compensation.

(B) Effective July 1, 2018, an additional 0.5 percent for a total employee contribution of 1.0 percent of pensionable compensation.

(C) Effective July 1, 2019, an additional 1.0 percent for a total employee contribution of 2.0 percent of pensionable compensation.

(2) The employees in State Bargaining Unit 10 shall make contributions to prefund retiree health care based on the following schedule, and the state shall make a matching contribution:

(A) Effective July 1, 2017, 0.7 percent of pensionable compensation.

(B) Effective July 1, 2018, an additional 0.7 percent for a total employee contribution of 1.4 percent of pensionable compensation.

(C) Effective July 1, 2019, an additional 1.4 percent for a total employee contribution of 2.8 percent of pensionable compensation.

(3) The employees in State Bargaining Unit 6 shall make contributions to prefund retiree health care based on the following schedule, and the state shall make a matching contribution:

(A) Effective July 1, 2016, 1.3 percent of pensionable compensation.

(B) Effective July 1, 2017, an additional 1.3 percent for a total employee contribution of 2.6 percent of pensionable compensation.

(C) Effective July 1, 2018, an additional 1.4 percent for a total employee contribution of 4.0 percent of pensionable compensation.

(c) This section only applies to employees in State Bargaining Unit 6, 9, or 10 who are eligible for health benefits, including permanent intermittent employees.

(d) Contributions paid pursuant to this section shall be deposited in the Annuitants' Health Care Coverage Fund and shall not be refundable under any circumstances to an employee in State Bargaining Unit 6, 9, or 10 or his or her beneficiary or survivor.

(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 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.

(f) This section shall also apply to a state employee related to State Bargaining Unit 6, 9, or 10 who is excepted from the definition of "state employee" in subdivision (c) of Section 3513.

SEC. 13. Section 22958.1 is added to the Government Code, to read:

22958.1. (a) Notwithstanding Sections 22953, 22957, and 22958, the following employees shall not receive any portion of the employer contribution payable for annuitants unless the person is credited with 15 or more years of state service, as defined by this section, at the time of retirement:

(1) A state employee, as defined by subdivision (c) of Section 3513, who is first employed by the state and becomes a state member of the system on or after January 1, 2017, and is represented by State Bargaining Unit 6.

(2) A state employee related to State Bargaining Unit 6 who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 and is first employed by the state and becomes a state member of the system on or after January 1, 2017.

(b) The percentage of the employer contribution payable for postretirement dental care benefits for an employee subject to this section shall be based on the funding provision of the plan and the completed years of credited state service at retirement as shown in the following table:

Years of Service Contribution	Credited Years Percentage of Employer Contribution
15	50
16	55
17	60
18	65
19	70
20	75
21	80
22	85
23	90
24	95
25 or more	100

(c) This section shall apply only to state employees that retire for service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation.

(d) This section does not apply to:

(1) Former state employees previously employed before January 1, 2017, who return to state employment on or after January 1, 2017.

(2) State employees hired prior to January 1, 2017, who become subject to representation by State Bargaining Unit 6 on or after January 1, 2017.

(3) State employees on an approved leave of absence employed before January 1, 2017, who return to active employment on or after January 1, 2017.

(4) State employees hired after January 1, 2017, who are first represented by a State Bargaining Unit other than Bargaining Unit 6, who later become represented by State Bargaining Unit 6.

(e) In those cases where the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that public agency may not be credited as state service for the purposes of this section unless the former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee dental benefits that were vested at the time that the function and the related personnel were assumed by the state, and the Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement dental benefit costs of those personnel. For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under this section.

SEC. 14. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.