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CHAPTER 2

HISTORY OF CALIFORNIA'S EMPLOYEE RELATIONS LAWS

1. RALPH C. DILLS ACT.

- a. Introduction of Formal Collective Bargaining Law. The 1970s brought increasing employee demands for an expansion of their role in determining terms and conditions of employment. After several years of effort, the California State Employees Association (CSEA) sponsored the introduction of SB 839, the State Employer-Employee Relations Act (SEERA), by Senator Ralph C. Dills.
- b. State Employer-Employee Relations Act Becomes Law. The SEERA became effective July 1, 1978. Under this law, elected representatives of represented employees are recognized and deal as equals with the employer in determining wages, hours, and other terms and conditions of employment.
- c. State Employer-Employee Relations Act Challenged in Court. The SEERA constitutionality was subsequently challenged by the Pacific Legal Foundation, which claimed it violated the constitutional powers of the State Personnel Board to administer the state civil service system. On March 25, 1980, the Third District Court of Appeal invalidated SEERA in issuing its decision in Pacific Legal Foundation et al. v. Edmund G. Brown, Jr. as Governor et al. It held that California's SEERA violated the State Constitution and should be disregarded in its entirety by state officials and agencies.
- d. State Employer-Employee Relations Act Found Constitutional. The Appellate Court ruling was overturned by the California Supreme Court on March 12, 1981. It held that collective bargaining did not conflict with the general merit principle of civil service employment set by the Constitution.
- e. Collective Bargaining Begins. In January 1982, the collective bargaining process was initiated and resulted in the state's first contracts entered into with the exclusive representatives, effective July 1, 1982.
- f. State Employer-Employee Relations Act Renamed the Ralph C. Dills Act. On May 22, 1986, the Governor signed legislation (SB 2564) to retitle SEERA the Ralph C. Dills Act (Dills Act) to become effective January 1, 1987. The retitling of SEERA was formal recognition of Senator Ralph Dills' efforts and commitment to passage of the state's first comprehensive collective bargaining bill.

(1) Summary of the Dills Act. The Dills Act is a series of Government Code Sections which govern collective bargaining for represented employees of the State of California (Annex A). Annexes B and C list all represented and excluded classifications employed by the Department.

(2) Basic Elements of the Dills Act:

- (a) Covers all civil service employees.
- (b) Grants specific rights only to represented employees.
- (c) Requires the state and exclusive representatives to negotiate in good faith on wages, hours, and other terms and conditions of employment.
- (d) Contains criteria for determining which classifications are grouped into which bargaining units.
- (e) Provides for exclusive representation for represented employees.
- (f) Defines unfair labor practices by management and exclusive representatives.
- (g) Contains provisions for impasse procedures and public disclosure of bargaining proposals.

2. EXCLUDED EMPLOYEES' BILL OF RIGHTS - SUMMARY. The Excluded Employees' Bill of Rights is a chapter in the Government Code which sets forth representation rights for excluded state employees (Annex D).

3. RIGHT TO REPRESENTATION.

a. The Dills Act. Under the Dills Act, represented employees have the right to be represented by their exclusive representative regarding wages, hours, and other terms and conditions of employment.

b. Excluded Employees' Bill of Rights. Under this statute, supervisory employees have the right to be represented regarding all matters related to employment conditions and supervisory employer-employee relations. Other excluded employees have the right to be represented in their employment relations, including grievances, with the Department. The state employer and excluded employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against supervisory employees because of exercising their rights.

c. Contracts. Each contract outlines represented employees' rights to representation. When deciding whether management has an obligation to allow representation, supervisors, and managers should refer to the applicable contract.

d. Representational Rights Under the Public Safety Officers' Procedural Bill of Rights Act. Government Code Section 3303(i) provides a statutory right to a representative of the officer's choice "upon the filing of a formal written statement of charges or whenever an interrogation focuses on matters which are likely to result in punitive action..." By policy, the Department has extended the protection of the Public Safety Officers' Procedural Bill of Rights (POBR) to all employees. Information regarding representational rights under POBR may also be found in Highway Patrol Manual 10.2, Internal Investigations Manual, and/or the appropriate bargaining unit contract.

e. Weingarten. The Weingarten rule is based on a Supreme Court decision in National Labor Relations Board (NLRB) V. WEINGARTEN, INC., a private sector case. It established the right of a bargaining unit employee to be assisted by a union representative at an investigatory interview to which the employee has been summoned by management, when the employee **reasonably believes** disciplinary action may result from the interview. This right has been incorporated in statute at 5 United States Code, Chapter 71, Section 7114(a)(2)(B).

The Weingarten case was set in motion in June 1972, when an employee at the Weingarten Department store was suspected of theft and interrogated by a management representative. The employee's requests for assistance of the union steward were denied. Although the employee was not disciplined, the union filed an unfair labor practice charge. The National Labor Relations Board agreed that the employer's denial of the employee's request that a union representative be present at the investigatory interview, which the employee reasonably believed might result in disciplinary action, constituted an unfair labor practice, because it interfered with, restrained, and coerced the employee's right to have access to union representation. The Court of Appeals reversed the decision. However, upon appeal to the Supreme Court, the decision was again reversed in favor of the union.

4. REPRESENTED EMPLOYEES.

a. Definition of Represented Employee. "Represented employee" means an employee who is not designated as supervisory, managerial, confidential, or excluded under the Dills Act. Another name for represented employee is rank-and-file employee (Annex B).

b. Represented Employee Rights. Represented employees have certain rights as provided by the Dills Act and their contracts between the state and their exclusive representatives. If there is a conflict between departmental policy and the provisions of a negotiated contract, the contract shall be controlling. The Dills Act provides the following rights for represented employees:

(1) To form, join, and participate in the activities of exclusive representatives for representation on all matters regarding wages, hours, and other terms and conditions of employment.

(2) To refuse to join or participate in the activities of exclusive representatives.

(3) To select a single employee organization to be the exclusive representative of all employees in their bargaining unit. Thereafter, employees in that bargaining unit may only be represented by that exclusive representative.

(4) To represent themselves individually or use the services of a personal advisor as long as the representative has no ties to an organization which competes with the exclusive representative.

(5) No one may discriminate against employees, grant them preferential treatment, or withhold equitable treatment because they belong or do not belong to employee organizations.

c. Represented Employee Organization Rights. The exclusive representative is the only organization which may represent employees in a bargaining unit in employment relations with the state.

5. EXCLUDED EMPLOYEES.

a. Definitions.

(1) Managerial Employee. A managerial employee is defined in the Dills Act as any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department (Annex C).

(2) Confidential Employee. A confidential employee, under the Dills Act, is different than an employee who merely has access to confidential documents, such as personnel files. "Confidential employee," as defined by the Dills Act, means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties

normally require access to confidential information contributing significantly to the development of management bargaining positions (Annex C).

(3) Supervisory Employee. A supervisory employee is defined as any individual, regardless of the job description or title, having authority in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or has the responsibility to direct them or adjust their grievances or effectively recommend such action, if the exercise of this authority is not just routing or clerical, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates are not considered to be supervisory employees (Annex C).

(4) Other Excluded Employees. Other excluded employees are defined in Government Code Section 3527 of the Excluded Employees Bill of Rights (Annex D).

b. Rights of Managerial, Confidential, and Other Nonsupervisory Excluded Employees. These employees do not have the right to file an unfair labor practice charge, nor are they entitled to bargaining units, exclusive representation, or contracts.

(1) Excluded employees are afforded the following rights:

(a) Use of the grievance and appeal procedures for excluded employees set forth in Chapter 8, Excluded Employee Grievance and Appeal Procedures, of this manual.

(b) Ability to represent themselves in their employment relations and grievances with the state.

(c) Be represented by another excluded employee, personal advisor, or legal counsel in their employment relations or grievances with the state.

(d) These employees are prohibited from:

1 Holding elective office in an employee organization which represents any nonexcluded employees.

2 Representing any nonexcluded employees in meet-and-confer sessions.

3 Representing any nonexcluded employee in the grievance process.

4 Voting on questions of ratification or rejection of a contract reached on behalf of nonoccluded employees.

(2) Excluded Employee Organization Rights. Excluded employee organizations shall have the right to represent their excluded members in their employment relations, including grievances, with the State of California. Excluded employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of excluded employees from membership.

c. Supervisory Employee Rights.

(1) Employee Rights. Supervisory employees are not entitled to bargaining units, exclusive representation, contracts, or the right to file an unfair labor practice charge. The following limited rights are provided for supervisory employees:

(a) To form, join, and participate in activities of employee organizations for the purpose of representation on all matters of supervisory employee relations.

(b) To refuse to join or participate in the activities of employee organizations.

(c) To represent themselves individually in their employment relations with the state.

(d) To freely associate with represented employees and join and participate in the activities of such employee organizations.

(e) To use the grievance and appeal procedures set forth in Chapter 8, Excluded Employee Grievance and Appeal Procedures, of this manual, and be represented in these procedures.

(2) Supervisory Employee Organization Rights. The Excluded Employees Bill of Rights grants supervisory employee organizations the right to:

(a) Represent their supervisory employee members in their employment relations, including grievances, with the state.

(b) Meet-and-confer, upon request, with the employer prior to the employer arriving at a determination of policy or course of action. "Meet-and-confer" means that the employer shall consider, as fully as it deems reasonable, presentations made by the employee organization on behalf

of its supervisory employees. Under this process, the final decision rests with the employer.

(c) Establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of employees from membership. Nothing in the Ralph C. Dills Act prohibits any employee from appearing on their own behalf or through their chosen representative in their employment relations and grievances with the employer.

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ANNEX A

THE RALPH C. DILLS ACT

GOVERNMENT CODE SECTION 3512-3524

3512. It is the purpose of this chapter to promote full communication between the state and its employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the state and public employee organizations. It is also the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the State of California by providing a uniform basis for recognizing the right of state employees to join organizations of their own choosing and be represented by those organizations in their employment relations with the state. It is further the purpose of this chapter, in order to foster peaceful employer-employee relations, to allow state employees to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to permit the exclusive representative to receive financial support from those employees who receive the benefits of this representation.

Nothing in this chapter shall be construed to contravene the spirit or intent of the merit principle in state employment, nor to limit the entitlements of state civil service employees, including those designated as managerial and confidential, provided by Article VII of the California Constitution or by laws or rules enacted pursuant thereto.

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing these employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the State Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, supervisory employees, employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller's office engaged in technical or analytical duties in support of the state's personnel and payroll systems other than the training staff,

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employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the office of the Inspector General, employees of the board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Supervisory employee" means any individual, regardless of the job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

(h) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(i) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of that employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the Controller's office.

(j) "State employer," or "employer," for the purposes of

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bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

(k) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

3514. Any person who shall willfully resist, prevent, impede or interfere with any member of the board, or any of its agents, in the performance of duties pursuant to this chapter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000).

3514.5. The initial determination as to whether the charges of unfair practices are justified, and, if so, what remedy is necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. Procedures for investigating, hearing, and deciding these cases shall be devised and promulgated by the board and shall include all of the following:

(a) Any employee, employee organization, or employer shall have the right to file an unfair practice charge, except that the board shall not do either of the following: (1) issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge; (2) issue a complaint against conduct also prohibited by the provisions of the agreement between the parties until the grievance machinery of the agreement, if it exists and covers the matter at issue, has been exhausted, either by settlement or binding arbitration. However, when the charging party demonstrates that resort to contract grievance procedure would be futile, exhaustion shall not be necessary. The board shall have discretionary jurisdiction to review such settlement or arbitration award reached pursuant to the grievance machinery solely for the purpose of determining whether it is repugnant to the purposes of this chapter. If the board finds that such settlement or arbitration award is repugnant to the purposes of this chapter, it shall issue a complaint on the basis of a timely filed charge, and hear and decide the case on the merits; otherwise, it shall dismiss the charge. The board shall, in determining whether the charge was timely filed, consider the six-month limitation set forth in this subdivision to have been tolled during the time it took the charging party to exhaust the grievance machinery.

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(b) The board shall not have authority to enforce agreements between the parties, and shall not issue a complaint on any charge based on alleged violation of such an agreement that would not also constitute an unfair practice under this chapter.

(c) The board shall have the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

3515. Except as otherwise provided by the Legislature, state employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. State employees also shall have the right to refuse to join or participate in the activities of employee organizations, except that nothing shall preclude the parties from agreeing to a maintenance of membership provision, as defined in subdivision (i) of Section 3513, or a fair share fee provision, as defined in subdivision (k) of Section 3513, pursuant to a memorandum of understanding. In any event, state employees shall have the right to represent themselves individually in their employment relations with the state.

3515.5. Employee organizations shall have the right to represent their members in their employment relations with the state, except that once an employee organization is recognized as the exclusive representative of an appropriate unit, the recognized employee organization is the only organization that may represent that unit in employment relations with the state. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the state.

3515.6. All employee organizations shall have the right to have membership dues, initiation fees, membership benefit programs, and general assessments deducted pursuant to subdivision (a) of Section 1152 and Section 1153 until such time as an employee organization is recognized as the exclusive representative for employees in an appropriate unit, and then such deductions as to any employee in the negotiating unit shall not be permissible except to the exclusive representative.

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3515.7. (a) Once an employee organization is recognized as the exclusive representative of an appropriate unit it may enter into an agreement with the state employer providing for organizational security in the form of maintenance of membership or fair share fee deduction.

(b) The state employer shall furnish the recognized employee organization with sufficient employment data to allow the organization to calculate membership fees and the appropriate fair share fees, and shall deduct the amount specified by the recognized employee organization from the salary or wages of every employee for the membership fee or the fair share fee. These fees shall be remitted monthly to the recognized employee organization along with an adequate itemized record of the deductions, including, if required by the recognized employee organization, machine readable data. Fair share fee deductions shall continue until the effective date of a successor agreement or implementation of the state's last, best, and final offer, whichever occurs first. The Controller shall retain, from the fair share fee deduction, an amount equal to the cost of administering the provisions of this section. The state employer shall not be liable in any action by a state employee seeking recovery of, or damages for, improper use or calculation of fair share fees.

(c) Notwithstanding subdivision (b), any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to financially support the recognized employee organization. That employee, in lieu of a membership fee or a fair share fee deduction, shall instruct the employer to deduct and pay sums equal to the fair share fee to a nonreligious, nonlabor organization, charitable fund approved by the State Board of Control for receipt of charitable contributions by payroll deductions.

(d) A fair share fee provision in a memorandum of understanding which is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at anytime during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during the term. If the board determines that the appropriate number of signatures have been collected, it shall conduct the vote in a manner which it shall prescribe. Notwithstanding this subdivision, the state employer and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on a fair share fee provision.

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(e) Every recognized employee organization which has agreed to a fair share fee provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the board and to the employees in the unit, within 90 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or comparable officers. In the event of failure of compliance with this section, any employee in the unit may petition the board for an order compelling this compliance, or the board may issue a compliance order on its own motion.

(f) If an employee who holds conscientious objections pursuant to subdivision (c) requests individual representation in a grievance, arbitration, or administrative hearing from the recognized employee organization, the recognized employee organization is authorized to charge the employee for the reasonable cost of the representation.

(g) An employee who pays a fair share fee shall be entitled to fair and impartial representation by the recognized employee organization. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

3515.8. Any state employee who pays a fair share fee shall have the right to demand and receive from the recognized employee organization, under procedures established by the recognized employee organization, a return of any part of that fee paid by him or her which represents the employee's additional pro rata share of expenditures by the recognized employee organization that is either in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment, or applied towards the cost of any other benefits available only to members of the recognized employee organization. The pro rata share subject to refund shall not reflect, however, the costs of support of lobbying activities designed to foster policy goals and collective negotiations and contract administration, or to secure for the employees represented advantages in wages, hours, and other conditions of employment in addition to those secured through meeting and conferring with the state employer. The board may compel the recognized employee organization to return that portion of a fair share fee which the board may determine to be subject to refund under the provisions of this section.

3516. The scope of representation shall be limited to wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

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3516.5. Except in cases of emergency as provided in this section, the employer shall give reasonable written notice to each recognized employee organization affected by any law, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the employer, and shall give such recognized employee organizations the opportunity to meet and confer with the administrative officials or their delegated representatives as may be properly designated by law.

In cases of emergency when the employer determines that a law, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the administrative officials or their delegated representatives as may be properly designated by law shall provide such notice and opportunity to meet and confer in good faith at the earliest practical time following the adoption of such law, rule, resolution, or regulation.

3517. The Governor, or his representative as may be properly designated by law, shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action.

"Meet and confer in good faith" means that the Governor or such representatives as the Governor may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the state of its final budget for the ensuing year. The process should include adequate time for the resolution of impasses.

3517.5. If agreement is reached between the Governor and the recognized employee organization, they shall jointly prepare a written memorandum of such understanding which shall be presented, when appropriate, to the Legislature for determination.

3517.6. (a) (1) In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1,

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19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(2) Notwithstanding paragraph (1), this paragraph shall apply only to state employees in State Bargaining Unit 5. In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19576.1, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(3) Notwithstanding paragraph (1), this paragraph shall apply only to state employees in State Bargaining Unit 8. In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19574, 19574.1, 19574.2, 19575, 19576.1, 19578, 19582, 19582.1, 19175.1, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2,

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THE RALPH C. DILLS ACT (*continued*)

19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(4) Notwithstanding paragraph (1), this paragraph shall apply only to state employees in State Bargaining Unit 12 or 13. In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18670, 18714, 19080.5, 19100, 19143, 19261, 19574, 19574.1, 19574.2, 19575, 19578, 19582, 19583, 19702, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(b) In any case where the provisions of Section 19997.2, 19997.3, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12, 19997.13, or 19997.14 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where this finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature.

ANNEX A

THE RALPH C. DILLS ACT (*continued*)

3517.61. Notwithstanding Section 3517.6, for state employees in State Bargaining Unit 6, in any case where the provisions of Section 70031 of the Education Code, subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action. In any case where the provisions of Section 19997.2, 19997.3, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12, 19997.13, or 19997.14 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where this finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature.

3517.63. (a) Any side letter, appendix, or other addendum to a properly ratified memorandum of understanding that requires the expenditure of two hundred fifty thousand dollars (\$250,000) or more related to salary and benefits and that is not already contained in the original memorandum of understanding or the Budget Act, shall be provided by the Department of Human Resources to the Joint Legislative Budget Committee. The Joint Legislative Budget Committee shall determine within 30 days after receiving the side letter, appendix, or other addendum if it presents substantial additions that are not reasonably within the parameters of the original memorandum of understanding and thereby requires legislative action to ratify the side letter, appendix, or other addendum.

ANNEX A

THE RALPH C. DILLS ACT (*continued*)

(b) A side letter, appendix, or other addendum to a properly ratified memorandum of understanding that does not require the expenditure of funds shall be expressly identified by the Department of Human Resources if that side letter, appendix, or other addendum is to be incorporated in a subsequent memorandum of understanding submitted to the Legislature for approval.

3517.7. If the Legislature does not approve or fully fund any provision of the memorandum of understanding which requires the expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

Nothing herein shall prevent the parties from agreeing and effecting those provisions of the memorandum of understanding which have received legislative approval or those provisions which do not require legislative action.

3517.8. (a) If a memorandum of understanding has expired, and the Governor and the recognized employee organization have not agreed to a new memorandum of understanding and have not reached an impasse in negotiations, subject to subdivision (b), the parties to the agreement shall continue to give effect to the provisions of the expired memorandum of understanding, including, but not limited to, all provisions that supersede existing law, any arbitration provisions, any no strike provisions, any agreements regarding matters covered in the Fair Labor Standards Act of 1938 (Chapter 8 (commencing with Section 201) of Title 29 of the United States Code), and any provisions covering fair share fee deduction consistent with Section 3515.7.

(b) If the Governor and the recognized employee organization reach an impasse in negotiations for a new memorandum of understanding, the state employer may implement any or all of its last, best, and final offer. Any proposal in the state employer's last, best, and final offer that, if implemented, would conflict with existing statutes or require the expenditure of funds shall be presented to the Legislature for approval and, if approved, shall be controlling without further legislative action, notwithstanding Sections 3517.5, 3517.6, and 3517.7.. Implementation of the last, best, and final offer does not relieve the parties of the obligation to bargain in good faith and reach an agreement on a memorandum of understanding if any circumstances change, and does not waive any rights that the recognized employee organization has under this chapter.

3518. If after a reasonable period of time, the Governor and the recognized employee organization fail to reach agreement, the Governor and the recognized employee organization may agree upon the appointment of a mediator mutually agreeable to the parties, or either party may request the board to appoint a mediator. When both parties mutually agree upon a mediator, costs of mediation shall be

ANNEX A

THE RALPH C. DILLS ACT (*continued*)

divided one-half to the state and one-half to the recognized employee organization. If the board appoints the mediator, the costs of mediation shall be paid by the board.

3518.5. A reasonable number of employee representatives of recognized employee organizations shall be granted reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the state on matters within the scope of representation.

This section shall apply only to state employees, as defined by subdivision (c) of Section 3513, and only for periods when a memorandum of understanding is not in effect.

3518.7. Managerial employees and confidential employees shall be prohibited from holding elective office in an employee organization which also represents "state employees," as defined in subdivision (c) of Section 3513.

3519. It shall be unlawful for the state to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.

(b) Deny to employee organizations rights guaranteed to them by this chapter.

(c) Refuse or fail to meet and confer in good faith with a recognized employee organization.

(d) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.

(e) Refuse to participate in good faith in the mediation procedure set forth in Section 3518.

3519.5. It shall be unlawful for an employee organization to:

(a) Cause or attempt to cause the state to violate Section 3519.

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(c) Refuse or fail to meet and confer in good faith with a state agency employer of any of the employees of which it is the recognized employee organization.

(d) Refuse to participate in good faith in the mediation procedure set forth in Section 3518.

ANNEX A

THE RALPH C. DILLS ACT (*continued*)

3520. (a) Judicial review of a unit determination shall only be allowed: (1) when the board, in response to a petition from the state or an employee organization, agrees that the case is one of special importance and joins in the request for such review; or (2) when the issue is raised as a defense to an unfair practice complaint. A board order directing an election shall not be stayed pending judicial review.

Upon receipt of a board order joining in the request for judicial review, a party to the case may petition for a writ of extraordinary relief from the unit determination decision or order.

(b) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, may petition for a writ of extraordinary relief from such decision or order.

(c) Such petition shall be filed in the district court of appeal in the appellate district where the unit determination or unfair practice dispute occurred. The petition shall be filed within 30 days after issuance of the board's final order, order denying reconsideration, or order joining in the request for judicial review, as applicable. Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless such time is extended by the court for good cause shown. The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying, or setting aside the order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The provisions of Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded herein, apply to proceedings pursuant to this section.

(d) If the time to petition for extraordinary relief from a board decision has expired, the board may seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unit determination or unfair practice case occurred. If, after hearing, the court determines that the order was issued pursuant to procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce such order by writ of mandamus. The court shall not review the merits of the order.

3520.5. (a) The state shall grant exclusive recognition to employee organizations designated or selected pursuant to rules established

ANNEX A

THE RALPH C. DILLS ACT (*continued*)

by the board for employees of the state or an appropriate unit thereof, subject to the right of an employee to represent himself.

(b) The board shall establish reasonable procedures for petitions and for holding elections and determining appropriate units pursuant to subdivision (a).

(c) The board shall also establish procedures whereby recognition of employee organizations formally recognized as exclusive representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of such recognition.

3520.7. The state employer shall adopt reasonable rules and regulations for all of the following:

(a) Registering employee organizations, as defined by subdivision (c) of Section 1150, and bona fide associations, as defined by subdivision (d) of Section 1150.

(b) Determining the status of organizations and associations as employee organizations or bona fide associations.

(c) Identifying the officers and representatives who officially represent employee organizations and bona fide associations.

3521. (a) In determining an appropriate unit, the board shall be governed by the criteria in subdivision (b). However, the board shall not direct an election in a unit unless one or more of the employee organizations involved in the proceeding is seeking or agrees to an election in such a unit.

(b) In determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements; and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the state government, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the

ANNEX A

THE RALPH C. DILLS ACT (*continued*)

employer and the compatibility of the unit with the responsibility of state government and its employees to serve the public.

(4) The number of employees and classifications in a proposed unit and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer.

(6) Notwithstanding the foregoing provisions of this section, or any other provision of law, an appropriate group of skilled crafts employees shall have the right to be a separate unit of representation based upon occupation. Skilled crafts employees shall include, but not necessarily be limited to, employment categories such as carpenters, plumbers, electricians, painters, and operating engineers.

(c) There shall be a presumption that professional employees and nonprofessional employees should not be included in the same unit. However, the presumption shall be rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (b) establishes.

3521.5. The term "professional employee" means (a) any employee engaged in work (1) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (2) involving the consistent exercise of discretion and judgment in its performance; (3) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (4) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (b) any employee, who (1) has completed the courses of specialized intellectual instruction and study described in paragraph 4 of subdivision (a), and (2) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in subdivision (a).

3521.7. The board may, in accordance with reasonable standards, designate positions or classes of positions which have duties consisting primarily of the enforcement of state laws. Employees so designated shall not be denied the right to be in a unit composed solely of such employees.

ANNEX A

THE RALPH C. DILLS ACT (*continued*)

3522. (a) Physicians in any state bargaining unit may negotiate under this chapter for preauthorized travel outside the state for continuing medical education.

(b) The execution of a memorandum of understanding entered into pursuant to subdivision (a) shall constitute the approvals required under Sections 11032 and 11033, 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.

3523. (a) All initial meet and confer proposals of recognized employee organizations shall be presented to the employer at a public meeting, and such proposals thereafter shall be a public record.

All initial meet and confer proposals or counterproposals of the employer shall be presented to the recognized employee organization at a public meeting, and such proposals or counterproposals thereafter shall be a public record.

(b) Except in cases of emergency as provided in subdivision (d), no meeting and conferring shall take place on any proposal subject to subdivision (a) until not less than seven consecutive days have elapsed to enable the public to become informed, and to publicly express itself regarding the proposals, as well as regarding other possible subjects of meeting and conferring and thereafter, the employer shall, in open meeting, hear public comment on all matters related to the meet and confer proposals.

(c) Forty-eight hours after any proposal which includes any substantive subject which has not first been presented as proposals for public reaction pursuant to this section is offered during any meeting and conferring session, such proposals and the position, if any, taken thereon by the representatives of the employer, shall be a public record.

(d) Subdivision (b) shall not apply when the employer determines that, due to an act of God, natural disaster, or other emergency or calamity affecting the state, and which is beyond the control of the employer or recognized employee organization, it must meet and confer and take action upon such a proposal immediately and without sufficient time for the public to become informed and to publicly express itself. In such cases the results of such meeting and conferring shall be made public as soon as reasonably possible.

3523.5. The enactment of this chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to state employees.

3524. This chapter shall be known and may be cited as the Ralph C. Dills Act.

ANNEX B

CALIFORNIA HIGHWAY PATROL REPRESENTED CLASSIFICATIONS

PROFESSIONAL, ADMINISTRATIVE, FINANCIAL & STAFF SERVICES UNIT - (01)

Service Employees International Union

Accountant I (Specialist)
Accounting Administrator I (Specialist)
Accounting Officer (Specialist)
Assistant Information Systems Analyst (Specialist) (split class – confidential)*
Associate Accounting Analyst
Associate Administrative Analyst – Accounting Systems
Associate Budget Analyst
Associate Business Management Analyst
Associate Editor or Publications
Associate Governmental Program Analyst (split class – confidential)*
Associate Information Systems Analyst (Specialist)
Associate Management Auditor
Associate Personnel Analyst (split class – confidential)
Associate Programmer Analyst (Specialist)
Associate Transportation Planner
Business Service Assistant (Specialist)
Business Service Officer I (Specialist)
Information Officer I (Specialist)
Information Systems Technician
Information Systems Technician Specialist I
Instructional Systems Engineer, Commission on Peace Officer Standards and Training
Legal Analyst
Management Services Technician
Personnel Specialist
Personnel Technician I
Research Analyst II – General
Research Program Specialist II
Senior Accounting Officer (Specialist)
Senior Information Systems Analyst (Specialist)
Senior Legal Analyst
Senior Personnel Specialist
Senior Photographer
Senior Programmer Analyst (Specialist)
Staff Information Systems Analyst (Specialist)
Staff Programmer Analyst (Specialist)

ANNEX B

CALIFORNIA HIGHWAY PATROL REPRESENTED CLASSIFICATIONS (*continued*)

Staff Services Analyst (General)
Systems Software Specialist I (Technical)
Systems Software Specialist II (Technical)
Systems Software Specialist III (Technical)
Telecommunications Systems Analyst II
Telecommunications Systems Manager I (Specialist)
Television Assistant
Television Specialist

ATTORNEYS AND HEARING OFFICERS UNIT – (02)

California Attorneys, Administrative Law Judges & Hearing Officers in State Employment

Attorney
Attorney III

OFFICE AND ALLIED UNIT – (04)

Service Employees International Union

Accounting Technician
Executive Secretary I (split class – confidential)*
Mailing Machines Operator I
Office Assistant (General)
Office Assistant (Typing)
Office Technician (Typing) (split class – confidential)*
Program Technician
Program Technician II
Program Technician III
Property Controller I
Property Controller II
Property Inspection (Specialist)
Secretary
Word Processing Technician

ANNEX B

CALIFORNIA HIGHWAY PATROL REPRESENTED CLASSIFICATIONS (*continued*)

HIGHWAY PATROL UNIT – (05)

California Association of Highway Patrolmen

Cadet, CHP
Officer, CHP

PROTECTIVE SERVICES AND PUBLIC SAFETY UNIT – (07)

California Statewide Law Enforcement Association

Motor Carrier Specialist I, CHP
Public Safety Dispatcher, CHP
Public Safety Operator, CHP
School Pupil Transportation Safety Coordinator

PROFESSIONAL ENGINEERS UNIT – (09)

Professional Engineers in California Government

Associate Architect
Associate Automotive Equipment Standards Engineer
Associate Construction Analyst
Automotive Equipment Standards Engineer

CRAFT AND MAINTENANCE UNIT – (12)

International Union of Operating Engineers

Automobile Mechanic
Automotive Technician I
Automotive Technician II
Building Maintenance Worker
Commercial Vehicle Inspection Specialist I
Electronics Technician
Groundskeeper
Gunsmith

ANNEX B

CALIFORNIA HIGHWAY PATROL REPRESENTED CLASSIFICATIONS (*continued*)

Heavy Truck Driver
Inspector of Automotive Equipment
Junior Inspector of Automotive Equipment
Lead Automobile Mechanic
Lead Gunsmith
Lead Motorcycle Mechanic
Maintenance Mechanic
Maintenance Worker, CHP
Materials and Stores Specialist
Mill and Cabinet Worker
Motorcycle Mechanic
Painter I
Skilled Laborer
Telecommunications Facilities Technician I, CHP
Telecommunications Facilities Technician II, CHP
Warehouse Worker

STATIONARY ENGINEERS UNIT – (13)

International Union of Operating Engineers

Stationary Engineer

PRINTING AND ALLIED TRADES UNIT – (14)

Service Employees International Union

Bookbinder II
Digital Print Operator II
Graphic Designer II
Graphic Designer III
Sheetfed Offset Press Operator III

ANNEX B

CALIFORNIA HIGHWAY PATROL REPRESENTED CLASSIFICATIONS (*continued*)

ALLIED SERVICES UNIT – (15)

Service Employees International Union

Baker I
Cook Specialist I
Cook Specialist II
Custodian
Food Services Technician I
Lead Custodian

PHYSICIANS, DENTISTS, AND PODIATRISTS UNIT – (16)

Union of American Physicians and Dentists

Physician and Surgeon - Intermittent

MEDICAL AND SOCIAL SERVICES UNIT – (20)

Service Employees International Union

Support Services Assistant (Interpreter)

*split class – In some instances, a classification may be designated as either excluded or exempt depending upon the actual job duties.

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ANNEX C

CALIFORNIA HIGHWAY PATROL EXCLUDED CLASSIFICATIONS

PROFESSIONAL, ADMINISTRATIVE, FINANCIAL, & STAFF SERVICES UNIT – (01)

Managers

Accounting Administrator III
Assistant Chief, CHP (nonuniform)
Career Executive Assignment
Data Processing Manager III
Data Processing Manager IV
Staff Services Manager III
Staff Services Manager II (Managerial)
Supervising Personnel Selections Consultant

Supervisors

Accounting Administrator I (Supervisor)
Accounting Administrator II
Business Manager II
Business Service Officer II (Supervisor)
Data Processing Manager I
Data Processing Manager II
Director, Television Communication Center (Supervisor)
Information Officer II
Personnel Supervisor I
Personnel Supervisor II
Senior Accounting Officer (Supervisor)
Senior Information Systems Analyst (Supervisor)
Senior Management Auditor
Staff Information Systems Analyst (Supervisor)
Staff Management Auditor
Staff Services Manager I
Staff Services Manager II (Supervisory)
Telecommunications Systems Manager I (Supervisor)
Training Officer III

ANNEX C

CALIFORNIA HIGHWAY PATROL EXCLUDED CLASSIFICATIONS

ATTORNEYS AND HEARING OFFICERS UNIT – (02)

Managers

Chief Counsel I, C.E.A.
Administrative Adviser II C.E.A.

Supervisors

Supervising Attorney

OFFICE AND ALLIED UNIT – (04)

Supervisors

Office Services Supervisor I (Typing)
Office Services Supervisor III (General)
Supervising Program Technician I
Supervising Program Technician II
Supervising Program Technician III

HIGHWAY PATROL UNIT – (05)

Managers

Assistant Chief, CHP
Assistant Commissioner, CHP C.E.A.
Captain, CHP
Chief, CHP
Lieutenant, CHP

Supervisors

Sergeant, CHP

ANNEX C

CALIFORNIA HIGHWAY PATROL EXCLUDED CLASSIFICATIONS (*continued*)

PROTECTIVE SERVICES AND PUBLIC SAFETY UNIT – (07)

Managers

Manager of Motor Carrier Safety Program, CHP

Supervisors

Motor Carrier Specialist II, CHP (split class – exempt)*
Motor Carrier Specialist III, CHP
Public Safety Dispatch Supervisor I, CHP
Public Safety Dispatch Supervisor II, CHP

PROFESSIONAL ENGINEERS UNIT – (09)

Supervisors

Senior Automotive Equipment Standards Engineer

PROFESSIONAL SCIENTIFIC UNIT – (10)

Managers

Environmental Program Manager I (Managerial)

CRAFT AND MAINTENANCE UNIT – (12)

Supervisors

Automotive Technician III
Chief of Plant Operations I
Electronics Technician Supervisor
Materials and Stores Supervisor
Mill and Cabinet Supervisor
Program Manager, Transportation Services (Supervisory)
Senior Inspector of Automotive Equipment

ANNEX C

CALIFORNIA HIGHWAY PATROL EXCLUDED CLASSIFICATIONS (*continued*)

Supervising Groundskeeper II
Supervisor of Building Trades
Warehouse Manager I
Warehouse Manager II

PRINTING AND ALLIED TRADES UNIT – (14)

Supervisors

Printing Trade Supervisor I (General)
Graphic Services Supervisor

ALLIED SERVICES UNIT – (15)

Supervisors

Custodian Supervisor II
Food Manager
Supervising Cook I

EXEMPT CLASSIFICATIONS

Commander – Northern Section
Commander – Southern Section
Commissioner, CHP
Deputy Commissioner for Communications
Deputy Commissioner, CHP
Labor Relations Specialist
Staff Services Manager I

*split class – In some instances, a classification may be designated as either excluded or exempt depending upon the actual job duties.

ANNEX D

EXCLUDED EMPLOYEES BILL OF RIGHTS

GOVERNMENT CODE SECTION 3525-3539.5

3525. This chapter shall be known, and may be cited, as the Bill of Rights for State Excluded Employees.

3526. The purpose of this chapter is to inform state supervisory, managerial, confidential, and employees otherwise excepted from coverage under the Ralph C. Dills Act by subdivision (c) of Section 3513 of their rights and terms and conditions of employment, and to inspire dedicated service, to recognize their important and fundamental roles in the management of state government, and to promote harmonious personnel relations among those representing state management in the conduct of state affairs.

3527. As used in this chapter:

(a) "Employee" means a civil service employee of the State of California. The "State of California" as used in this chapter includes such state agencies, boards, and commissions as may be designated by law that employ civil service employees, except the University of California, Hastings College of the Law, and the California State University.

(b) "Excluded employee," means all managerial employees, as defined in subdivision (e) of Section 3513, all confidential employees, as defined in subdivision (f) of Section 3513, and all supervisory employees, as defined in subdivision (g) of Section 3513, and all civil service employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller's office engaged in technical or analytical duties in support of the state's personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the Public Employment Relations Board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

(c) "Supervisory employee organization" means an organization which represents members who are supervisory employees under subdivision (g) of Section 3513.

ANNEX D

EXCLUDED EMPLOYEES BILL OF RIGHTS

(d) "Excluded employee organization" means an organization which includes excluded employees of the state, as defined in subdivision (b), and which has as one of its primary purposes representing its members in employer-employee relations. Excluded employee organization includes supervisory employee organizations.

(e) "State employer" or "employer," for purposes of meeting and conferring on matters relating to supervisory employer-employee relations, means the Governor or his or her designated representatives.

3528. The Legislature hereby finds and declares that the rights and protections provided to excluded employees under this chapter constitute a matter of important concern. The Legislature further finds and declares that the efficient and effective administration of state programs depends upon the maintenance of high morale and the objective consideration of issues raised between excluded employees and their employer.

3529. (a) Except for supervisory employees as defined in subdivision (g) of Section 3513, excluded employees shall not hold any office in an employee organization which also represents nonexcluded employees.

(b) Excluded employees shall not participate in the handling of grievances on behalf of nonexcluded employees. Nonexcluded employees shall not participate in the handling of grievances on behalf of excluded employees.

(c) Excluded employees shall not participate in meet and confer sessions on behalf of nonexcluded employees. Nonexcluded employees shall not participate in meet and confer sessions on behalf of supervisory employees.

(d) The prohibition in subdivisions (b) and (c) shall not apply to the paid staff of an excluded or supervisory employee organization.

(e) Excluded employees shall not vote on questions of ratification or rejection of memoranda of understanding reached on behalf of nonexcluded employees.

3530. Excluded employee organizations shall have the right to represent their excluded members in their employment relations, including grievances, with the State of California. Excluded employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of excluded employees from membership. This section shall not prohibit any excluded employee from appearing on his or her own behalf or through his or her chosen representative in his or her employment relations and grievances with the State of California.

ANNEX D

EXCLUDED EMPLOYEES BILL OF RIGHTS (*continued*)

3531. Supervisory employees shall have the right to form, join, and participate in the activities of supervisory employee organizations of their own choosing for the purpose of representation on all matters of supervisory employer-employee relations, as set forth in Section 3532. Supervisory employees also shall have the right to refuse to join or participate in the activities of supervisory employee organizations and shall have the right to represent themselves individually in their employment relations with the public employer.

3532. The scope of representation for supervisory employees shall include all matters relating to employment conditions and supervisory employer-employee relations including wages, hours, and other terms and conditions of employment.

3533. Upon request, the state shall meet and confer with verified supervisory organizations representing supervisory employees on matters within the scope of representation. Prior to arriving at a determination of policy or course of action directly impacting supervisory employees, the state employer shall provide reasonable advance notice and provide the verified supervisory employee organizations an opportunity to meet and confer with the state employer to discuss alternative means of achieving objectives. Advance notice may be written, oral, or electronic. "Meet and confer" shall mean that the state employer shall consider as fully as it deems reasonable, such presentations as are made by the verified supervisory employee organization on behalf of its supervisory members prior to arriving at a determination of policy or course of action. The final determination of policy or course of action shall be the sole responsibility of the state employer.

When the state employer determines that, due to an emergency or other immediate operational necessity, a law, rule, resolution, or regulation must be adopted immediately without prior notice or meeting and conferring with excluded employee organizations, the state employer shall provide notice and opportunity to meet and confer at the earliest practical time following the adoption of the law, rule, resolution, or regulation.

3534. The state employer shall allow a reasonable number of supervisory public employee representatives of verified supervisory employee organizations reasonable time off without loss of compensation or other benefits when meeting and conferring with representatives of the state employer on matters within the scope of representation for supervisory employees.

ANNEX D

EXCLUDED EMPLOYEES BILL OF RIGHTS (*continued*)

3535. The Department of Personnel Administration may adopt rules and regulations for the administration of excluded employer-employee relations, including supervisory employer-employee relations, under these provisions. Such rules and regulations may include provisions for:

(a) Verifying that an excluded employee organization does in fact represent excluded employees.

(b) Verifying the official status of excluded employee organization officers and representatives.

(c) Access of excluded employee organization officers and representatives to work locations.

(d) Use of official bulletin boards and other means of communication by excluded employee organizations.

(e) Furnishing nonconfidential information pertaining to excluded employee relations to excluded employee organizations.

(f) Any other matters as are necessary to carry out the purposes of this chapter.

3536. The state may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the state and restricting these employees from representing any employee organization, which represents other employees of the state, on matters within the scope of representation. Except as specifically provided otherwise in this chapter, this section does not otherwise limit the right of excluded employees to be members of and to hold office in an excluded employee organization.

3537. Every excluded employee organization shall submit an annual registration statement on or before July 1 of each calendar year to the Department of Personnel Administration. The registration statement shall, at a minimum, list the name of the organization, its affiliations, headquarters, and other business addresses, its principal business telephone number, a list of principal officers and representatives, and a copy of its organization bylaws.

3538. The state employer and excluded employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against supervisory employees because of their exercise of their rights under this article.

3539. The enactment of this chapter shall not make Section 923 of the Labor Code applicable to state employees.

ANNEX D

EXCLUDED EMPLOYEES BILL OF RIGHTS (*continued*)

3539.5. The Department of Personnel Administration may adopt or amend regulations to implement employee benefits for those state officers and employees excluded from, or not otherwise subject to, the Ralph C. Dills Act.

These regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). These regulations shall become effective immediately upon filing with the Secretary of State.

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