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Agreement between the Association of California State Attorneys and Administrative Law Judges (ACSA ), Bargaining Unit 2, Attorneys and Hearing Officers and the State of California, 1999-2001

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**Union** ACSA (Association of California State Attorneys and Administrative Law Judges)

### Local

Occupations Represented
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Lawyers

**Bargaining Agency** State of California

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### Contact

**Full text contract begins on following page.**

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## **AGREEMENT**

between

**STATE OF CALIFORNIA**

and

**ASSOCIATION OF CALIFORNIA STATE ATTORNEYS AND ADMINISTRATIVE LAW JUDGES  
(ACSA)**

covering

# **BARGAINING UNIT 2 ATTORNEYS AND HEARING OFFICERS**

Effective

**07/01/99 through 06/30/01**

<http://www.dpa.ca.gov/collbarg/contract/Unit02Contract99.shtm>

**ASSOCIATION OF CALIFORNIA STATE ATTORNEYS  
AND ADMINISTRATIVE LAW JUDGES**

**BARGAINING UNIT 2  
ATTORNEYS AND HEARING OFFICERS**

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## **ARTICLE 1 - RECOGNITION AND PURPOSE**

### **1.1 Recognition and Purpose**

A. This Memorandum of Understanding (hereinafter "MOU" or "Agreement") is entered into by and between the State of California (hereinafter "State" or "State employer") and the Association of California State Attorneys and Administrative Law Judges (hereinafter "ACSA"), pursuant to the Ralph C. Dills Act, Government Code Section 3512 et seq.

B. Its purpose is to improve employer-employee relations between the parties by establishing wages, hours, and other terms and conditions of employment.

C. Pursuant to the Dills Act and PERB certification No. S-SR-2, the State recognizes ACSA as the exclusive representative of all employees in the Attorney and Hearing Officer Unit, Unit 2 (hereinafter "bargaining unit").

D. Pursuant to Government Code section 3517, ACSA recognizes the Director of the Department of Personnel Administration (DPA) or his/her designee, as the designated representative of the Governor for the purposes of negotiating this MOU.

## **ARTICLE 2 - ACSA RIGHTS**

### **2.1 ACSA Representation**

#### **A. Representational Activity**

The State recognizes and agrees to deal with ACSA representatives on all matters relating to bargaining unit grievances and claims and appeals to the State Personnel Board. An employee and an ACSA representative shall be authorized a reasonable amount of time off during work hours without loss of compensation (consistent with workload requirements) to prepare and present grievances and claims and appeals before SPB. ACSA employee representatives may be required to notify their immediate supervisors and obtain approval regarding the time of day for conducting such activities.

#### **B. ACSA Representatives**

A written list of ACSA representatives at each work location shall be furnished to the State immediately after their designation, and ACSA shall notify the State promptly of any changes of such representatives. ACSA officers or representatives shall not be recognized by the State until such lists or changes thereto are received.

#### **C. Organizational Activity**

Fifteen (15) ACSA Board members shall each be released without loss of compensation from work for up to and including one (1) day per month for organizational (board-level) activity, subject to the following.



1. Release time will be dependent on departmental operational needs.
2. Appointing authorities need not release more than one (1) Board member at a time who works in the same geographic location within a department, agency, board or commission.
3. Board members may be required to notify their immediate supervisor in advance and obtain approval for use of release time.

Organizational activity is that which is performed on behalf of ACSA and generally affects its membership at-large.

## **2.2 Access**

- A. With prior notification to the official in charge of the area to be visited, ACSA representatives shall have access to bargaining unit employees at the work site for representation purposes. Access shall not be disruptive.
- B. The department head or designee may restrict access to certain work sites or areas for reasons of safety, security, or other legitimate business necessities. Access shall not be unreasonably withheld.

## **2.3 Bulletin Boards**

- A. ACSA shall have access to State-furnished ACSA bulletin board space at each work site where Unit 2 employees are located to post material related to ACSA business. Any materials posted shall be dated and initialed by the ACSA representative responsible for the posting. A copy of all materials posted shall be distributed to the designated management representative at the time of posting.
- B. ACSA agrees not to post any material of an illegal, libelous, obscene, defamatory, or solely noneducational partisan political nature on bulletin boards.

## **2.4 Distribution of Literature**

ACSA representatives may distribute ACSA material during nonwork time and shall not disrupt the work of others. ACSA shall not distribute material of an illegal, libelous, obscene, or of a solely noneducational partisan political nature.

## **2.5 Bargaining Unit Information**

- A. The State employer shall continue to provide ACSA with a list of bargaining unit employees. The list shall be arranged in alphabetical order according to surname and shall include each employee's name, classification, agency, work location, home address, and information regarding ACSA payroll deductions.
- B. On a monthly basis, the State employer shall continue to provide ACSA with any changes to the list, including information contained therein, which occurred subsequent to the previous list of changes.
- C. ACSA agrees to reimburse the State Controller for all reasonable costs to produce these lists.

## **2.6 Use of State Rooms and Phones**

A. The State will permit use of its rooms for ACSA meetings subject to the operating needs of the State. Requests for use of such State rooms shall be made in advance to the designated State official. ACSA agrees to leave such rooms in the condition in which they were found.

B. ACSA representatives shall be permitted reasonable use of State phones to make calls for ACSA representation purposes provided, however, that such use of State phones shall not mean additional charges to the State or interfere with the operation of the State.

## **2.7 Fair Share Fees/Dues Deduction**

A. The State agrees to deduct and transmit to ACSA all membership dues authorized on a form provided by ACSA. Effective with the beginning of the first pay period following ratification of this agreement by the Legislature and the Union, the State agrees to deduct and transmit to ACSA Fair Share fees from State employees in Unit 2 who do not become members of ACSA.

B. The State and ACSA agree that a system of authorized dues deductions and a system of Fair Share deductions shall be operated in accordance with Government Code sections 3513(h), 3513(j), 3515, 3515.6, 3515.7, and 3515.8, subject to the following provisions:

1. The State and ACSA agree that if a Fair Share rescission election is conducted in Unit 2 pursuant to Government Code section 3515.7(d), a majority of those votes cast, rather than the majority of the members of the Unit, shall determine whether the Fair Share deductions shall continue.

2. The written authorization for ACSA membership deductions shall remain in full force and effect during the life of this agreement; provided that any employee may withdraw from ACSA by sending a signed withdrawal letter to ACSA with a copy to the State Controller at any time. A withdrawal under this paragraph does not then relieve an employee from the Agency Shop provision of this agreement. An employee who so withdraws his or her membership shall be subject to paying a Fair Share fee if such a fee is applicable to Unit 2.

3. The amount of dues and fees deducted from ACSA members' and fee payers' pay warrants shall be set by ACSA and changed by the State upon written request of ACSA.

4. ACSA agrees to indemnify, defend and hold the State and its agents harmless against any claims made of any nature and against any suit instituted against the State arising from this Article and the deductions arising therefrom.

5. ACSA agrees to annually notify all State employees in Unit 2 who pay Fair Share fees of their right to demand and receive from ACSA a return of part of that fee pursuant to Government Code section 3515.8.

6. No provision of this Article, nor any disputes arising thereunder, shall be subject to the grievance and arbitration procedure contained in this Agreement.

## **2.8 Safety Committee**

Upon request by ACSA, appointing authorities for Unit 2 employees shall establish at least one safety committee, with at least one Unit 2 employee representative and at least one representative from management. Where safety committees (or like forums) already exist or are established for purposes of addressing safety matters of concern to more than just Unit 2 employees, then at least one Unit 2 employee representative may instead be permitted to join that committee. The safety committee(s) may be constituted for purposes of addressing issues at one, or more than one work site.

## **2.9 New Employee Orientation**

Upon initial appointment of an employee in a Bargaining Unit 2 classification, the appointing authority shall, within a reasonable period of time, inform the employee that ACSA is the exclusive representative for his/her bargaining unit. The appointing authority shall also present the employee with a copy of this memorandum of understanding and a packet of information pertaining to representation by ACSA, if supplied to that appointing authority in advance by ACSA.

# **ARTICLE 3 - STATE RIGHTS**

## **3.1 State Rights**

A. All State rights and functions, except those which are expressly abridged by this MOU, shall remain vested with the State.

B. To the extent consistent with law and this MOU, the rights of the State include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; train, direct, schedule, assign, promote, and transfer its employees; initiate disciplinary action; relieve its employees from duty because of lack of work, lack of funds, or for other legitimate reasons; maintain the efficiency of State operations; determine the methods, means and personnel by which State operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. The State has the right to make reasonable rules and regulations pertaining to employees consistent with this MOU.

C. This MOU is not intended to, nor may it 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 provided by Article VII of the State Constitution or by-laws and rules enacted thereto.

## ARTICLE 4 - GENERAL PROVISIONS

### 4.1 No-Strike Clause

A. During the term of this MOU, neither ACSA nor its agents nor any Bargaining Unit 2 employee, for any reason, will authorize, institute, aid, condone or engage in a work slowdown, work stoppage, strike, or any other interference with the work and statutory functions or obligations of the State.

B. ACSA agrees to notify all of its officers, stewards, representatives, agents, and staff of their obligation and responsibility for maintaining compliance with this Section, including the responsibility to remain at work during any interference which may be caused or initiated by others and to encourage employees violating this Section to return to work.

### 4.2 Savings Clause

Should any provision of this MOU be found unlawful by a court of competent jurisdiction, the remainder of the MOU shall continue in force. Upon occurrence of such an event, the parties shall meet and confer as soon as practical to renegotiate the invalidated provision(s).

### 4.3 Entire Agreement

A. This MOU sets forth the full and entire understanding of the parties regarding the matters contained herein, and any other prior or existing understanding or MOU by the parties, whether formal or informal, regarding any such matters are hereby superseded. Except as provided in this MOU, it is agreed and understood that each party to this MOU voluntarily waives its right to negotiate with respect to any matter raised in negotiations or covered in this MOU, for the duration of the MOU.

With respect to other matters within the scope of negotiations, negotiations may be required during the term of this MOU as provided in Subsection b. below.

B. The parties agree that the provisions of this Subsection shall apply only to matters which are not covered in this MOU.

The parties recognize that during the term of this MOU, it may be necessary for the State to make changes in areas within the scope of negotiations. Where the State finds it necessary to make such changes, the State shall notify ACSA of the proposed change 30 days prior to its proposed implementation.

The parties shall undertake negotiations regarding the impact of such changes on the employees in Unit 2, when all three of the following exist:

1. Where such changes would have an impact on working conditions of a significant number of employees in Unit 2;
2. Where the subject matter of the change is within the scope of representation pursuant to the Dills Act;

3. Where ACSA requests to negotiate with the State.

Any agreement resulting from such negotiations shall be executed in writing and shall become an addendum to this MOU. If the parties are in disagreement as to whether a proposed change is subject to this Subsection, such disagreement may be submitted to the arbitration procedure for resolution. The arbitrator's decision shall be binding. In the event negotiations on the proposed change are undertaken, any impasse which arises may be submitted to mediation pursuant to Section 3518 of the Dills Act.

**4.4 Supersession**

A The following Government Code Sections and all DPA regulations related thereto are hereby incorporated into this MOU. However, if any other provision of this MOU is in conflict with any of the Government Code Sections listed below or the DPA regulations related thereto, such MOU provision shall be controlling. The Government Code Sections listed below are cited in Section 3517.6 of the Dills Act.

**1. GENERAL**

- 19824 Establishes monthly pay periods.
- 19839 Provides lump sum payment for unused vacation accrued or compensating time off upon separation.

**2. Step Increases**

- 19829 Requires DPA to establish minimum and maximum salaries with intermediate steps.
- 19832 Establishes annual Merit Salary Adjustments (MSA's) for employees who meet standards of efficiency.
- 19834 Requires MSA payments to qualifying employees when funds are available.
- 19835 Provides employees with the right to cumulative adjustments for a period not to exceed two years when MSA's are denied due to lack of funds.
- 19836 Provides for hiring at above the minimum salary limit in specified instances.

**3. Holidays**

- 19853 Establishes legal holidays.
- 19854 Provides for personal holiday.

**4. Vacations**

- 19858.1 Defines amount earned and methods of accrual by full-time employees.
- 19856 Requires DPA to establish rules regulating vacation accrual for part-time employees and those transferring from one State agency to another.

- 19856.1 Requires DPA to define the effect of absence of 10 days or less on vacation accrual.
- 19863 Allows vacation use while on temporary disability (due to work-incurred injury) to augment paycheck.
- 19143 Requires DPA to establish rules regarding vacation credit when employees have a break in service over six months.
- 19991.4 Provides that absence of an employee for a work-incurred compensable injury or disease is considered continuous service for the purpose of the right to vacation.

**5. Sick Leave**

- 19859 Defines amount earned and methods of accrual for full-time and part-time employees.
- 19861 Allows DPA to define the effect on sick leave credits of absences of 10 days or less in any calendar month.
- 19862 Permits sick leave to be accumulated.
- 19862.1 Allows employees who enter civil service from an exempt position within six months to carry unused sick leave credits.
- 19863 Allows sick leave use while on temporary disability (due to work-occurred injury) to augment paycheck.
- 19864 Allows the DPA to provide by rule for sick leave without pay for employees who have used up their sick leave with pay.
- 19866 Provides sick leave accumulation for non-civil service employees.
- 19143 Requires DPA to establish rules regarding sick leave credit when employees have a break in service over six months.
- 19991.4 Provides that absence of an employee for a work-incurred compensable injury or disease is considered continuous service for the purpose of the right to sick leave.

**6. Paid Leaves of Absence**

- 19991.3 Jury duty.
- 19991 5 30-day educational leave for the medical staff and medical technicians of the Veterans' Home.
- 19991.7 Teachers' educational leave and earned credits subject to DPA rule.

**7. Uniforms, Work Clothes, and Safety Equipment**

- 19850 Definitions.
- 19850.1 Provides for uniform allowances.

- 19850.3 Requires DPA to establish procedures to determine need for uniforms and the amount and frequency of uniform allowances.
- 19850.4 Provides for work clothes for purposes of sanitation or cleanliness to be maintained and owned by the State.
- 19850.5 Provides for initial issuance of required safety equipment at State expense.

**8. Industrial Disability Leave (IDL)**

- 19869 Defines who is covered.
- 19870 Defines "IDL" and "full pay".
- 19871 Provides terms of IDL coverage in lieu of workers' compensation temporary disability payment.
- 19871.1 Provides for continued benefits while on IDL.
- 19872 Prohibits payment of temporary disability or sick leave pay to employees on IDL.
- 19873 Inapplicability of retraining and rehabilitation provisions of Labor Code to employees covered by IDL.
- 19874 Allows employees to receive Workers' Compensation benefits after exhaustion of IDL benefits.
- 19875 Requires three-day waiting period, unless hospitalized or disabled more than 14 days.
- 19876 Payments contingent on medical certification and vocational rehabilitation.
- 19877 Authorizes DPA to adopt rules governing IDL.
- 19877.1 Sets effective date.

**9. Non-Industrial Disability Insurance (NDI)**

- 19878 Definitions.
- 19879 Sets the amount of benefits and duration of payment.
- 19880 Sets standards and procedures.
- 19880.1 Allows employee option to exhaust vacation prior to NDI.
- 19881 Bans NDI coverage if employee is receiving unemployment compensation.
- 19882 Bans NDI coverage if employee is receiving other cash payment benefits.
- 19883 Provides for discretionary deductions from benefit check, including employer contributions; employee does not accrue sick leave or vacation credits or service credits for any other purpose.
- 19884 Filing procedures; determination and payment of benefits.
- 19885 Authorizes DPA to establish rules governing NDI.

**10. Life Insurance**

- 20750.11 Provides for employer contributions.
- 21400 Establishes group term life insurance benefits.
- 21404 Provides for Death Benefit from PERS.
- 21405 Sets Death Benefit at \$5,000 plus 50 percent of one year's salary.

**11. Health Insurance**

- 22825 Provides for employee and employer contribution.
- 22825.1 Sets employer contribution.

**12. Workweek**

- 19851 Sets 40-hour workweek and 8-hour day.
- 19843 Directs the DPA to establish and adjust workweek groups.

**13. Overtime**

- 19844 Directs DPA to establish rules regarding cash compensation and compensating time off.
- 19848 Permits the granting of compensating time off in lieu of cash compensation within 12 calendar months after overtime worked.
- 19849 Requires DPA to adopt rules governing overtime and the appointing power to administer and enforce them.
- 19863 Allows use of accumulated compensable overtime while on temporary disability (due to work-incurred injury) to augment paycheck.

**14. Callback Time**

- 19849.1 Allows DPA to set rules and standards for callback time based on prevailing practices and the needs of State service.

**15. Deferred Compensation**

- 19993 Allows employees to deduct a portion of their salaries to participate in a deferred compensation plan.

**16. Relocation Expenses**

- 19841 Provides relocation expenses for involuntary transfer or promotion requiring a change in residence.

**17. Travel Expenses**

- 19820 Provides reimbursement of travel expenses for officers and employees of the State on State business.
- 19822 Provides reimbursement to State for housing, maintenance and other services provided to employees.

**18. Unpaid Leaves of Absence**



- 19991.1 Allows the appointing power to grant a one-year leave of absence; assures the employee a right of return.
- 19991.2 Allows the appointing power to grant a two-year leave for service in a technical cooperation program.
- 19991.3 Jury duty.
- 19991.4 Provides that absence of an employee for work-incurred compensable injury or disease is considered as continuous service for purposes of salary adjustments, sick leave, vacation or seniority.
- 19991.6 Provides one year of pregnancy leave or less as required by a permanent female employee.

**19. Performance Reports**

- 19992 Provides for establishment of performance standards by State agencies.
- 19992.1 Provides for a system of performance reports and allows DPA to enforce adherence to appropriate standards.
- 19992.2 Requires the appointing power to prepare performance reports and show them to the employee.
- 19992.3 Requires performance reports to be considered in salary increases and decreases, layoffs, transfers, demotions, dismissals and promotional examinations as prescribed by DPA rule.
- 19992.4 Allows DPA to establish rules leading to reduction in class and compensation or dismissal for unsatisfactory service.

**20. Involuntary Transfers**

- 19841 Provides relocation expenses for involuntary transfer or promotion requiring a change in residence.
- 19994.1 Authorizes involuntary transfers. Requires 60-day prior written notice when transfer requires change in residence.
- 19994.2 Allows seniority to be considered when two or more employees are in a class affected by involuntary transfers which require a change in residence.

**21. Demotion and Layoff**

- 19143 Requires DPA to establish rules concerning seniority credits for employees with breaks in service over six months.
- 19997.2 Provides for subdivisional layoffs in a State agency subject to DPA approval. Subdivisional reemployment lists take priority over others.

- 19997.3 Requires layoffs according to seniority in a class, except for certain classes in which employee efficiency is combined with seniority to determine order of layoff.
- 19997.8 Allows demotion in lieu of layoff.
- 19997.9 Provides for salary at maximum step on displacement by another employee's demotion, provided such salary does not exceed salary received when demoted.
- 19997.10 An employee displaced by an employee with return rights may demote in lieu of layoff.
- 19997.11 Establishes reemployment lists for laid-off or demoted employees.
- 19997.12 Guarantees same step of salary range upon recertification after layoff or demotion.
- 19997.13 Requires 30-day written notice prior to layoff and not more than 60 days after seniority computed.
- 19998 Employees affected by layoff due to management-initiated changes should receive assistance in finding other placement in State service.

**22. Incompatible Activities**

- 19990 Requires each appointing power to determine activities which are incompatible, in conflict with, or inimical to their employees' duties; provides for identification of and prohibits such activities.

**23. Use of State Time**

- 1999 Provides State time for taking civil service examinations including employment interviews for eligibles on employment lists, or attending a meeting of DPA or SPB on certain matters.

**24. Training**

- 19995.2 Provides for counseling and training programs for employees whose positions are to be eliminated by automation, technological or management-initiated changes.
- 19995.3 Provides for Department of Rehabilitation to retrain and refer disabled State employees to positions in State service.

## **ARTICLE 5 - SALARIES**

### **5.1 SALARIES**

A. Effective July 1, 1999, all Unit 2 classifications and employees shall receive a general salary increase of four percent (4%). The increase shall be calculated by multiplying the base salary by 1.04. The parties recognize that the actual salary increase for each classification may vary slightly due to rounding.

B. Effective September 1, 2000, all Unit 2 classifications and employees shall receive a general salary increase of four percent (4%). The increase shall be calculated by multiplying the base salary by 1.04. The parties recognize that the actual salary increase for each classification may vary slightly due to rounding.

### **5.2 Merit Salary Adjustments**

The State shall pay an amount sufficient to enable employees, after completion of their first year in a position, to receive annual merit salary adjustments in accordance with Government Code Section 19832 and applicable Department of Personnel Administration rules.

### **5.3. Range Changes**

Employees shall receive upon movement to an alternate range the salary and MSA provided in the Alternate Range Criteria for the class. If there are no specific salary regulations provided in the Alternate Range Criteria, the employee shall receive the salary and MSA as provided in DPA Rule 599.681. Employees, at their discretion, who are eligible for a range change may defer their range change up to six (6) qualifying pay periods in order to coincide the range change with the effective date of their MSA. Said request by employee shall be in writing and submitted no less than thirty (30) days prior to the employee's anniversary date for purposes of the range change.

### **5.4 Bilingual Differential Pay**

Bilingual Differential Pay applies to those positions designated by the Department of Personnel Administration as eligible to receive bilingual pay according to the following standards:

#### **A. Definition of bilingual positions for Bilingual Differential Pay**

1. A bilingual position for salary differential purposes requires the use of a bilingual skill on a continuing basis averaging ten percent (10%) of the time. Anyone using their bilingual skills ten- percent (10%) or more of the time will be eligible whether they are using them in a conversational, interpretation, or translation setting. In order to receive bilingual differential pay, the position/employee must be certified by the using department and approved by the Department of Personnel Administration. (Time should be an average of the time spent on bilingual activities during a given fiscal year.)

2. The position must be in a work setting that requires the use of bilingual skills to meet the needs of the public in either:
  - a. A direct public contact position;
  - b. A hospital or institutional setting dealing with patient or inmate needs;
  - c. A position utilized to perform interpretation, translation, or specialized bilingual activities for the department and its clients.
3. Position(s) must be in a setting where there is a demonstrated client or correspondence flow where bilingual skills are clearly needed.
4. Where organizationally feasible, departments should ensure that positions clearly meet the standards by centralizing the bilingual responsibility in as few positions as possible.
5. Actual time spent conversing or interpreting in a second language and closely related activities performed directly in conjunction with the specific bilingual transaction will count toward the ten percent (10%) standard.

**B. Rate**

1. An employee meeting the bilingual differential pay criteria during the entire monthly pay period would receive a maximum \$100.00 per monthly pay period, including holidays.
2. A monthly employee meeting the bilingual differential pay criteria less than the entire pay period would receive the differential on a pro rata basis.
3. A fractional month employee meeting the bilingual differential pay criteria would receive the differential on a pro rata basis.
4. An employee paid by the hour meeting the bilingual differential pay criteria would receive a differential of \$.58 per hour.
5. An employee paid by the day meeting the bilingual differential pay criteria would receive a differential of \$4.61 per day.

C. Employees, regardless of the time base or tenure, who use their bilingual skills more than ten percent (10%) of the time on a continuing basis and are approved by the Department of Personnel Administration will receive the bilingual differential pay on a regular basis.

D. Bilingual differential payments will become earnings and subject to contributions to the State Retirement System, OASDI, levies, garnishments, Federal and State taxes.

E. Employees working in positions which qualify for regular bilingual differential pay as authorized by the Department of Personnel Administration may receive the appropriate pay during periods of paid time off and absences (e.g., sick leave, vacation, holidays, etc.).

F. Employees will be eligible to receive the bilingual differential payments on the date the Department of Personnel Administration approves the departmental pay request. The effective date shall be retroactive to the date of appointment, not to exceed one (1) year, and may be retroactive up to two (2) years, to a position requiring bilingual skills when the appointment documentation has been delayed. The effective date for bilingual pay differential shall coincide with the date qualified employees begin using their bilingual skills on a continuing basis averaging ten percent (10%) of the time, consistent with the other provisions of this section.

G. Bilingual salary payments will be included in the calculation of lump sum vacation, sick leave and extra hour payments to employees terminating their State service appointment while on bilingual status.

H. Employees will not receive bilingual salary compensation for overtime hours worked, except upon separation from State service, regardless of total hours during the pay period. Agencies may not include bilingual salary compensation when computing overtime rate.

I. Employees receiving regular bilingual differential pay will have their transfer rights determined from the maximum step of the salary range for their class. Incumbents receiving bilingual pay will have the same transfer opportunities that other class incumbents are provided.

J. The bilingual differential pay shall be included in the rate used to calculate temporary disability; industrial disability and non-industrial disability leave benefits.

## **5.5 Overpayments/Payroll Errors**

Overpayments/payroll errors shall be administered in accordance with Government Code Section 19838.

## **5.6 Late Docks**

A. Notwithstanding Section 5.5 (Overpayments and Payroll Errors) and Section 5.7 (Timely Payment of Wages), departments may elect to proceed as follows as it pertains to "late docks".

1. Whenever an employee is charged with a "late dock" as defined by the State Controller's Office (SCO) for the purpose of issuing salary through the negative payroll system, departments may issue the employee's paycheck for that period as if no late dock occurred. This means that:

- a. The employee will receive a regular pay warrant on pay day (unless it would have been withheld for purposes other than the late dock);
- b. The employee will be overpaid, since the dock time will not have been deducted from the employee's pay check; and,

c. The employee's pay will be adjusted for any dock time occurring before the SCO cut off date, since late docks occur on or after the cut off date established by SCO.

2. Employees who are overpaid because of paragraph 1 above, will repay the State for their overpayment by an automatic payroll deduction of the total amount from their next month's pay check/warrant (or successive warrants where needed to satisfy the debt). Departments shall notify employees about the overpayment and the automatic payroll deduction in writing at the time the determination is made. The absence of said notification will not preclude the department from automatically deducting overpayments as otherwise permitted by this section.

3. Departments that elect to proceed under this section may do so on an employee-by-employee basis thereby reserving the right to issue salary advances in lieu of a regular paycheck in order to avoid an overpayment due to a late dock as the department deems prudent.

4. If an employee separates or retires from State service before satisfying late dock overpayments as a result of this section, the State shall deduct the total amount due from any other pay owing the employee at the time of his/her separation or retirement.

## **5.7 Timely Payment of Wages**

A. When a permanent full-time employee receives no pay warrant on payday, the State agrees to issue a salary advance, consistent with departmental policy and under the following conditions:

1. When there are errors or delays in processing the payroll documents and the delay is through no fault of the employee, a salary advance will normally be issued within two (2) work days after payday for an amount close to the actual net pay (gross salary less deductions) in accordance with departmental policy.

2. When a regular paycheck is late for reasons other than (1) above (e.g., AWOL, late dock), a salary advance of no less than 50% of the employee's actual net pay will normally be issued within five work days after payday. No more than two salary advances per calendar year may be issued under these circumstances.

3. The difference between the employee's net pay and the salary advance shall not be paid until after receipt of the Controller's warrant for the pay period.

4. The circumstances listed in (1), (2) and (3) are not applicable in remote areas where difficulties in the payroll process would not allow these timelines to be met. In these areas, the State agrees to attempt to expeditiously correct payroll errors and issue salary advances.

B. It will be the responsibility of the employee to make sure voluntary deductions (e.g., credit union deductions, union dues, etc.) are paid. Nothing in this subsection shall be construed as a waiver of any individual right an employee may have apart from this agreement, to bring a personal action against the State (e.g., to recover late fees due creditors) (e.g., credit unions, etc.) as the result of payroll errors or delays. Said actions shall not be the subject of the grievance and arbitration procedure contained in this agreement.

C. This provision does not apply to those employees who have direct deposit. This provision does not preclude advances if they are provided for under any other rules or policies where direct deposit is involved.

## **5.8 Recruitment and Retention, State Prisons**

A. Effective July 1, 1998, Unit 2 employees who are employed at Avenal, Ironwood, Calipatria or Chuckawalla Valley State Prisons, Department of Corrections, for twelve (12) consecutive qualifying pay periods, shall be eligible for a recruitment and retention bonus of \$2,400, payable thirty (30) days following the completion of the twelve (12) consecutive qualifying pay periods.

B. If an employee voluntarily terminates, transfers, or is discharged prior to completing twelve (12) consecutive pay periods at Avenal, Ironwood, Calipatria or Chuckawalla Valley State Prisons, there will be no pro rata payment for those months at either facility.

C. If an employee is mandatorily transferred by the Department, he/she shall be eligible for a pro rata share for those months served.

D. If an employee promotes to a different facility, or department other than Avenal, Ironwood, Calipatria or Chuckawalla Valley State Prisons prior to completion of the twelve (12) consecutive qualifying pay periods, there shall be no pro rata of this recruitment and retention bonus. After completing the twelve (12) consecutive qualifying pay periods, an employee who promotes within the Department will be entitled to a pro rata share of the existing retention bonus.

E. Part-time and intermittent employees shall receive a pro rata share of the annual recruitment and retention differential based on the total number of hours worked excluding overtime during the twelve (12) consecutive qualifying pay periods.

F. Annual recruitment and retention payments shall not be considered as compensation for purposes of retirement contributions.

G. Employees on IDL shall continue to receive this stipend.

H. If an employee is granted a leave of absence, the employee will not accrue time towards the twelve (12) qualifying pay periods, but the employee shall not be required to start the calculation of the twelve (12) qualifying pay periods all over. For example, if an employee has worked four (4) months at qualifying institution and then takes six (6) months' maternity leave, the employee will have only eight (8) additional qualifying pay periods before receiving the initial payment of \$2,400.

### **5.9 Special Salary Adjustment – Hearing Adviser, CEC**

A. The Hearing Adviser, California Energy Commission, shall receive an additional 2.35 percent special salary adjustment, effective July 1, 1999.

B. The new minimum and maximum salary rates shall be calculated by multiplying each rate by 1.0235 respectively and rounding to the nearest dollar. The parties recognize that the actual salary increase for the classification may vary slightly due to rounding. All employees in the class shall be entitled to the 2.35 percent increase. The increase shall be calculated by multiplying the employee's salary rate by 1.0235 percent and rounding to the nearest dollar. Employees shall retain their salary anniversary date.

### **5.10 Out-of-State Differential Pay**

Unit 2 employees who are headquartered out-of-State or who are on permanent assignment to travel at least 50% of the time out-of-State shall receive a pay differential of \$350.00 per month.

### **5.11 Special Salary Adjustment – Attorneys II/III/IV and Deputy Labor Commissioners I/II**

A. Attorney classifications at the II (and comparable Range D levels), III and IV levels, and Deputy Labor Commissioners I and II, shall have the maximum of the salary ranges increased by two (2) percent, effective July 1, 1999.

B. The new maximum salary rate shall be calculated by multiplying the current maximum rate by 1.02 respectively and rounding to the nearest dollar. The parties recognize that the actual salary increase for each classification may vary slightly due to rounding. Employees who have been at the top step of their salary range for twelve (12) months or more shall move to the new maximum salary effective July 1, 1999.

### **5.12 National Judicial College Differential**

Employees in classes enumerated in Article XIII, section 13.6(D) who receive a certificate from the National Judicial College shall receive a monthly differential of 5% of their salary beginning no later than July 1, 2000.



**5.13 Special Salary Adjustment – Deputy Commissioner, Board of Prison Terms**

A. The Deputy Commissioner, Board of Prison Terms, shall receive an additional three (3) percent special salary adjustment, effective July 1, 1999.

B. The new minimum and maximum salary rates shall be calculated by multiplying each rate by 1.03 respectively and rounding to the nearest dollar. The parties recognize that the actual salary increase for each classification may vary slightly due to rounding. All employees in the class shall be entitled to the three (3) percent increase. The increase shall be calculated by multiplying the employee's salary rate by three (3) percent and rounding to the nearest dollar. Employees shall retain their salary anniversary date.

## **ARTICLE 6 - HOURS OF WORK**

### **6.1 Overtime – Effective September 1, 1999**

#### A. Travel Time

Notwithstanding any other contract provision, departmental policy or practice, the travel time of employees who are covered by FLSA shall only be considered as time worked if it meets the definitions and requirements of travel time in Sections 785.34 through 785.41 of Title 29 of the Code of Federal Regulations.

#### B. Paid Leave Counted As Time Worked – WWG 2

Time during which a Unit 2 employee assigned to Work Week Group (WWG) 2 is excused from work on paid leave (e.g., sick leave, vacation, annual leave) shall be counted as hours worked within the workweek for purposes of determining if overtime has been earned.

#### C. Overtime Compensation – WWG 2

Employees in classes assigned to Work Week Group 2 shall be compensated at time and one-half in cash or compensating time off at the discretion of each department head or his or her designee for ordered/authorized overtime of at least one-quarter hour at any one time.

Employees shall obtain authorization to work overtime. Employees will only be compensated for overtime ordered or authorized by a supervisor.

The employee's preference will be considered when determining whether overtime will be compensated by cash or CTO except as otherwise provided by this agreement.

Overtime will be credited on a one-quarter hour basis with a full quarter of an hour credit granted if half or more of the period is worked. Smaller fractional units will not be accumulated.

### **6.2 Work Week Groups – Effective September 1, 1999**

#### A. Work Week Group "2" – Graduate Legal Assistants and Deputy Labor Commissioners I

Work Week Group "2" applies to those classifications in State service subject to the provisions of the Fair Labor Standards Act (FLSA). Overtime for employees subject to the provisions of the FLSA is defined as all hours worked in excess of 40 hours in a period of 168 hours or seven consecutive 24-hour periods. Employees in Work Week Group 2 may accrue up to 240 hours of compensating time off. All hours in excess of the 240 hour maximum accrual will be compensated in cash.

All Unit 2 employees/classifications assigned to Work Week Group 1, 4A (e.g., Graduate Legal Assistants) and 4B Deputy Labor Commissioners I shall be moved to Work Week Group 2.

**B. Work Week Group "E" - Hearing Advisors, Hearing Officers, Judges, Referees**

Work Week Group "E" includes classes that are exempted from coverage under the FLSA because of the "white-collar" (administrative, executive, professional) exemptions. To be eligible for this exemption a position must meet both the "salary basis" and the "duties" test.

Exempt (WWG E) employees are paid on a "salaried" basis and the regular rate of pay is full compensation for all hours worked to perform assigned duties. However, these employees shall receive up to 8 hours holiday credit when authorized to work on a holiday. Work Week Group E employees shall not receive any form of additional compensation, whether formal or informal, unless otherwise provided by this agreement.

All employees/classifications presently assigned to Work Week 4C who are not in an attorney/counsel classification shall be moved to Work Week Group E (e.g., hearing advisors, hearing officers, judges, referees, Deputy Labor Commissioner II, Deputy Commissioner-Board of Prison Terms).

**C. Work Week Group "SE" – Attorneys**

Work Week Group "SE" applies to those positions/employees that under Federal law are statutorily exempt from coverage under the Fair Labor Standards Act. To be eligible for this exemption a person must hold a valid license or certificate permitting the practice of law and be engaged in the practice of law.

The regular rate of pay is full compensation for all time that is required for the WWG SE employees to perform assigned duties. However, WWG SE employees shall receive up to 8 hours holiday credit when authorized to work on a holiday. Work Week Group SE employees shall not receive any form of additional compensation, whether formal or informal, unless otherwise provided by this agreement.

All attorney-counsel employees/classifications presently assigned to Work Week Group 4C shall be moved to Work Week Group SE.

**6.3 Hours of Work and Work Schedules – WWGs E and SE – Effective September 1, 1999**

The following shall apply to employees/classifications assigned to Work Week Groups E and SE.

A. Employees are expected to work all hours necessary to accomplish their assignments and fulfill their responsibilities. Employees will normally average 40 hours of work per week including paid leave; however, work weeks of a longer duration may occasionally be necessary.

B. Employees shall not be denied either flexible working hours or reduced work time except for operational needs which shall be in writing. Employees with flexible work schedules shall comply with reasonable procedures established by their department. This section concerning flexible working hours and reduced work time is subject to the grievance procedure up to and including the third level of review. It shall not be subject to arbitration.

C. Employees are responsible for keeping management reasonably apprised of their schedule and whereabouts; and, must respond to directions from management to complete work assignments. Employees may be required to record time for purposes such as client billing, budgeting, case or project tracking.

D. Employees shall not:

1. Be charged any paid leave for absences in less than whole day increments.
2. Be docked or have their salary reduced for absences of less than an entire day.
3. Be suspended in increments of less than one complete work week (i.e., one week, two weeks, three weeks, etc.)
4. Have their pay reduced as a result of a disciplinary (adverse) action pursuant to Government Code section 19572.
5. Have absences of less than one day recorded for attendance record keeping or compensation purposes.

#### **6.4 Telecommuting**

A. The State and ACSA recognize that telecommuting has been proven to improve employee morale, reduce traffic congestion and improve productivity. Employee requests to telecommute shall not be denied except for operational needs.

B. This section shall not be subject to the grievance and arbitration procedure contained in Article 7, except that employees who believe their request to telecommute was denied in violation of this telecommuting section may file a grievance that can be appealed to the third level of the grievance procedure.

### **ARTICLE 7 - GRIEVANCE AND ARBITRATION**

#### **7.1 Purpose**

A. This grievance procedure shall be used to process and resolve grievances arising under this MOU and employment-related complaints.

B. The purposes of this procedure are:

1. To resolve grievances informally at the lowest possible level.
2. To provide an orderly procedure for reviewing and resolving grievances and complaints promptly.

## **7.2 Definitions**

A. A grievance is a dispute of one or more employees, or a dispute between the State and ACSA, involving the interpretation, application, or enforcement of the express terms of this MOU.

B. A complaint is a dispute of one or more employees, or ACSA, involving the application or interpretation of a written rule or policy not covered by this MOU and not under the jurisdiction of the SPB. Complaints shall only be processed as far as the department head or designee.

C. As used in this procedure, the term "immediate supervisor" means the individual identified by the department head.

D. As used in this procedure, the term "party" means ACSA, an employee, or the State.

E. An "ACSA representative" refers to an employee designated as an ACSA steward or a paid staff representative.

## **7.3 Time Limits**

Each party involved in a grievance shall act quickly so that the grievance may be resolved promptly. Every effort should be made to complete action within the time limits contained in the grievance procedure. However, with the mutual consent of the parties, the time limitation for any step may be extended.

## **7.4 Waiver of Steps**

The parties may mutually agree to waive any step of the grievance procedure.

## **7.5 Presentation**

At any step of the grievance procedure, the State representative may determine it desirable to hold a grievance conference. If a grievance conference is scheduled, the grievant or an ACSA steward, or both, may attend without loss of compensation.

## **7.6 Informal Discussion**

An employee grievance initially shall be discussed with the employee's immediate supervisor. Within seven (7) calendar days, the immediate supervisor shall give his/her decision or response.

### **7.7 Formal Grievance - Step 1**

- A. If an informal grievance is not resolved to the satisfaction of the grievant, a formal grievance may be filed no later than:
1. Twenty-one (21) calendar days after the employee can reasonably be expected to have known of the event occasioning the grievance;
  2. Within fourteen (14) calendar days after receipt of the decision rendered in the informal grievance procedure.
- B. However, if the informal grievance procedure is not initiated within the period specified in Item (1) above, the period in which to bring the grievance shall not be extended by Item (2) above.
- C. A formal grievance shall be initiated in writing on a form provided by the State and shall be filed with a designated supervisor or manager identified by each department head as the first level of appeal.
- D. Within fourteen (14) calendar days after receipt of the formal grievance, the person designated by the department head as the first level of appeal shall respond in writing to the grievance.
- E. No contract interpretation or grievance settlement made at this stage of the grievance procedure shall be considered precedential.

### **7.8 Formal Grievance - Step 2**

- A. If the grievant is not satisfied with the decision rendered pursuant to Step 1, the grievant may appeal the decision within twenty-one (21) calendar days after receipt to a designated supervisor or manager identified by each department head as the second level of appeal. If the department head or designee is the first level of appeal, the grievant may bypass Step 2.
- B. Within twenty-one (21) calendar days after receipt of the appealed grievance, the person designated by the department head as the second level of appeal shall respond in writing to the grievance.
- C. No contract interpretation or grievance settlement made at this stage of the grievance procedure shall be considered precedential.

### **7.9 Formal Grievance - Step 3**

- A. If the grievant is not satisfied with the decision rendered pursuant to Step 2, the grievant may appeal the decision within twenty-one (21) calendar days after receipt to a designated supervisor or manager identified by each department head as the third level of appeal. If the department head or designee is the second level of appeal, the grievant may bypass Step 3.
- B. Within twenty-one (21) calendar days after receipt of the appealed grievance, the person designated by the department head as the third level of appeal shall respond in writing to the grievance.

#### **7.10 Formal Grievance - Step 4**

A. If the grievant is not satisfied with the decision rendered at Step 3, the grievant may appeal the decision within twenty-one (21) calendar days after receipt to the Director of the Department of Personnel Administration or designee.

B. Within thirty (30) calendar days after receipt of the appealed grievance, the Director of the Department of Personnel Administration or designee shall respond in writing to the grievance.

#### **7.11 Response**

If the State fails to respond to a grievance within the time limits specified for that step, the grievant shall have the right to appeal to the next step.

#### **7.12 Formal Grievance - Step 5**

A. If the grievance is not resolved at Step 4, within thirty (30) calendar days after receipt of the 4th level response, ACSA shall have the right to submit the grievance to arbitration.

B. Within 14 calendar days after the notice requesting arbitration has been served on the State or at a date mutually agreed to by the parties, the parties shall meet to select an arbitrator. If no agreement is reached on the selection of an arbitrator the parties shall, immediately and jointly, request the State Mediation and Conciliation Service or the American Arbitration Association to submit to them a panel of nine (9) arbitrators from which the State and ACSA shall alternately strike names until one name remains and this person shall be the arbitrator. If the parties cannot agree from which service to obtain the list of arbitrators, the party requesting arbitration shall pay all costs, if any, of obtaining the list of arbitrators.

C. The arbitration hearing, itself, shall be conducted in accordance with the Voluntary Labor Arbitration Rules of the American Arbitration Association. The cost of arbitration shall be borne equally between the parties.

D. An arbitrator may, upon request of ACSA and the State, issue his/her decision, opinion, or award orally upon submission of the arbitration. Either party may request that the arbitrator put his/her decision, opinion, or award in writing and that a copy be provided.

E. The arbitrator shall not have the power to add to, subtract from, or modify this MOU. Only grievances as defined in Section 2a. of this Article shall be subject to arbitration. In all arbitration cases, the award of the arbitrator shall be final and binding upon the parties.

## ARTICLE 8 - HOLIDAYS

### 8.1 Holidays

- A. All full-time employees shall be entitled to such holidays with pay as provided herein, in addition to any official State holidays declared by the Governor.
- B. Such holidays shall include January 1, the third Monday in January, February 12, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, Thanksgiving Day, the day after Thanksgiving and December 25.
- C. Every full-time employee, upon completion of six (6) months of his/her initial probationary period in State service, shall be entitled to one (1) personal holiday per fiscal year. The personal holiday shall be credited to each full-time employee on the first day of July.
- D. The department head or designee may require five (5) days advance notice before a personal holiday is taken and may deny use subject to operational needs. When an employee is denied use of a personal holiday, the department head or designee may allow the employee to reschedule the personal holiday; or shall, at the department's discretion allow the employee to either carry the personal holiday to the next fiscal year or, cash out the personal holiday on a straight time (hour for hour) basis. Employees shall not be allowed to carry over or cash out more than two (2) personal holidays in any fiscal year.
- E. Subject to Item d. above, use of personal holidays shall be granted in accordance with departmental policies on this subject.
- F. When November 11 falls on a Saturday, full-time employees shall be entitled to the preceding Friday as a holiday with pay.
- G. When a holiday other than a personal holiday or November 11 falls on a Saturday, full-time employees shall, regardless of whether they work on the holiday, only accrue an additional eight (8) hours of personal holiday credit per fiscal year per said holiday.
- H. When a holiday other than a personal holiday falls on Sunday, full-time employees shall be entitled to the Monday following as a holiday with pay.
- I. For the purpose of computing the number of hours worked, time during which the employee is excused from work because of a holiday shall be considered as time worked by the employee.
- J. Full-time employees who are required to work on a holiday shall be entitled to pay or compensating time off for such work in accordance with their classification's assigned workweek group and this MOU.
- K. Less than full-time employees shall receive holidays in accordance with existing Department of Personnel Administration rules.



## ARTICLE 9 - LEAVES

### 9.1 Vacation Leave

A. Employees shall not be entitled to vacation leave credit for the first six (6) months of service. On the first day of the monthly pay period following completion of six (6) qualifying monthly pay periods of continuous service, all full-time employees covered by this Section shall receive a one-time vacation bonus of 42 hours of vacation credit. Thereafter, for each additional qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay periods as follows:

7 months to 3 years	7 hours per month
37 months to 10 years	10 hours per month
121 months to 15 years	12 hours per month
181 months to 20 years	13 hours per month
20 years and over	14 hours per month

An employee who returns to State service after an absence of six (6) months or longer, caused by a permanent separation, shall receive a one-time vacation bonus on the first monthly pay period following completion of six (6) qualifying pay periods of continuous service in accordance with the employee's total State service before and after the absence.

B. A full-time employee who has eleven (11) or more working days of service in a monthly pay period shall receive vacation leave credits as set forth under Subsection a., above. Absences from State service resulting from a temporary or permanent separation for more than eleven (11) consecutive working days which fall into two consecutive qualifying pay periods shall disqualify the second pay period.

C. Employees working less than full-time accrue vacation in accordance with the following schedule.

CHART FOR COMPUTING VACATION, SICK LEAVE, AND HOLIDAY CREDITS FOR ALL  
 FRACTIONAL TIME BASE EMPLOYEES SUPERCEDES ACCRUAL RATES IN MANAGEMENT  
 MEMORANDUM 84-20-1

TIME BASE	HOURS OF MONTHLY VACATION CREDIT PER VACATION GROUP							HOURS OF MONTHLY SICK LEAVE AND HOLIDAY CREDIT
	7	10	11	12	13	14	15	SL/HOL 8
1/5	1.40	2.00	2.20	2.40	2.60	2.80	3.00	1.60
2/5	2.80	4.00	4.40	4.80	5.20	5.60	6.00	3.20
3/5	4.20	6.00	6.60	7.20	7.80	8.40	9.00	4.80
4/5	5.60	8.00	8.80	9.60	10.40	11.20	12.00	6.40
1/8	0.88	1.25	1.38	1.50	1.63	1.75	1.88	1.00
1/4	1.75	2.50	2.75	3.00	3.25	3.50	3.75	2.00
3/8	2.63	3.75	4.13	4.50	4.88	5.25	5.63	3.00
1/2	3.50	5.00	5.50	6.00	6.50	7.00	7.50	4.00
5/8	4.38	6.25	6.88	7.50	8.13	8.75	9.38	5.00
3/4	5.25	7.50	8.25	9.00	9.75	10.50	11.25	6.00
7/8	6.13	8.75	9.63	10.50	11.38	12.25	13.13	7.00
1/10	0.70	1.00	1.10	1.20	1.30	1.40	1.50	0.80
3/10	2.10	3.00	3.30	3.60	3.90	4.20	4.50	2.40
7/10	4.90	7.00	7.70	8.40	9.10	9.80	10.50	5.60
9/10	6.30	9.00	9.90	10.80	11.70	12.60	13.50	7.20

D. If an employee does not use all of the vacation that the employee has accrued in a calendar year, the employee may carry over his/her accrued vacation credits to the following calendar year to a maximum of 640 hours. A department head or designee may permit an employee to carry over more than 640 hours of accrued vacation leave hours if an employee was unable to reduce his/her accrued hours because the employee was:

1. Required to work as a result of fire, flood, or other extensive emergency;
2. Assigned work of a priority or critical nature over an extended period of time;
3. Absent on full salary for compensable injury;
4. Prevented by department regulations from taking vacation until December 31 because of sick leave; or
5. On jury duty; or,
6. Prevented by the department head or designee from utilizing accrued vacation.

E. It is the employee's responsibility to utilize all vacation hours in excess of the 640 hour cap by the end of each calendar year unless otherwise prevented from doing so as enumerated in subsection D (1-6) above. Whenever an employee's vacation accumulation exceeds 640 hours, the department head or designee has the right to order the employee to submit a vacation request which will demonstrate how and when the employee plans to use any hours which will exceed the cap by the end of the calendar year. If the employee does not use the time as planned for reasons other than those listed above, the department head or designee may then order the employee to take the excess time at the convenience of the department.

F. Upon termination from State employment, the employee shall be paid for accrued vacation credits for all accrued vacation time.

G. Vacation requests must be submitted in accordance with departmental policies on this subject. Vacation shall be taken as agreed by the employee and the department head or designee. Requests for vacation may be denied for operational needs.

H. If an employee's failure to take a vacation for an extended period of time adversely affects his/her work performance, the employee may be required to take vacation leave.

I. Each department head or designee will make every effort to act on vacation requests in a timely manner.

J. Vacations will be cancelled only when operational needs require it.

K. Vacation leave credits may be used in thirty (30) minute increments, except that fractional vacation leave credits may be used where/when accumulated.

## 9.2 Unpaid Leave of Absence

A. A department head or designee may grant an unpaid leave of absence for a period not to exceed one (1) year. The employee shall provide substantiation to support the employee's request for an unpaid leave of absence.

B. Except as otherwise provided in Subsection c. below, an unpaid leave of absence shall not be granted to any employee who is accepting some other position in State employment; or who is leaving State employment to enter other outside employment; or does not intend to, nor can reasonably be expected to, return to State employment on or before the expiration of the unpaid leave of absence. A leave, so granted, shall assure an employee the right to his/her former position upon termination of the leave. The term "former position" is defined in Government Code Section 18522.

C. An unpaid leave of absence may be granted for, but not limited to, the following reasons:

1. union activity;
2. for temporary incapacity due to illness or injury;
3. to be loaned to another governmental agency for performance of a specific assignment;
4. to seek or accept other employment during a layoff situation or otherwise lessen the impact of an impending layoff;
5. education; or
6. research project.

D. Extensions of an unpaid leave of absence may be requested by the employee and may be granted by the department head or designee.

E. A leave of absence shall be terminated by the department head or designee (1) at the expiration of the leave; or (2) prior to the expiration date with written notice at least thirty (30) work days prior to the effective date of the revocation, when required by the State.

F. Employees denied an unpaid leave of absence or whose leave is terminated prior to the expiration date shall be provided specific business reasons, in writing, for the denial or termination.

## 9.3 Sick Leave

A. Definition. As used in this Section, "sick leave" means the necessary absence from duty of an employee because of:

1. Illness or injury;
2. Exposure to a contagious disease;
3. Dental, eye, and other physical or medical examination or treatment by a licensed practitioner;

4. Absence from duty for attendance upon employee's ill or injured mother, father, husband, wife, son, daughter, brother, sister, or any person residing in the immediate household, or to transport any of the above to an examination or treatment listed in Item (3) above. Such absence shall be limited by the department head or designee to the time reasonably required for such attendance.

B. Credit for Full-Time Employment. On the first day of the monthly pay period following completion of each qualifying pay period of continuous service, each full-time employee in the State civil service shall earn eight (8) hours of credit for sick leave with pay. A full-time employee who has eleven (11) or more working days of service in a monthly pay period shall earn full sick-leave credit. Absences from State service resulting from a temporary or permanent separation for more than eleven (11) consecutive working days which fall into two consecutive qualifying pay periods shall disqualify the second pay period.

1. Intermittent Employees. On the first day of the monthly pay period following completion of each period of 160 hours or 20 days of paid employment, each intermittent employee in the State civil service shall be allowed one (1) day of credit for sick leave with pay. The hours or days worked in excess of 160 hours or 20 days in a monthly pay period shall not be counted or accumulated.

2. Part-Time Employees. On the first day of the monthly pay period following completion of each monthly pay period of continuous service, each part-time employee in the State civil service shall be allowed, on a pro rata basis, the fractional part of one (1) day of credit for sick leave with pay.

3. Multiple Positions. Under this rule:

a. An employee holding a position in addition to other full-time employment with the State shall not receive credit for sick leave with pay for service in the additional position.

b. Where an employee holds two (2) or more less than full-time positions, the time worked in each position shall be combined for purposes of computing credits for sick leave with pay, but such credits shall not exceed full-time employment credit.

C. Sick Leave Usage. The department head or designee may require the employee to submit a physician's or licensed practitioner's certificate if:

1. The employee is absent on sick leave for more than two (2) consecutive work days; or

2. Where the supervisor has good cause to believe the employee's use of sick leave is improper.

The department head or designee may deny the request for sick leave if the required certificate is not provided or sick leave was taken under false pretenses.

#### **9.4 Bereavement Leave**

A. A department head or designee shall authorize bereavement leave with pay for a permanent full-time or probationary full-time employee due to the death of his/her parent, step-parent, spouse, child, grandchild, grandparent, brother, sister, aunt, uncle, niece, nephew, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, step-child, adopted child, or death of any person residing in the immediate household of the employee at the time of death. An intervening period of absence for medical reasons shall not be disqualifying when, immediately prior to the absence, the person resided in the household of the employee.

Such bereavement leave shall be authorized for up to three (3) eight-hour days in a fiscal year. The employee shall give notice to his/her immediate supervisor as soon as possible and shall, if requested by the employee's supervisor, provide substantiation to support the request.

B. If the death of a person as enumerated above requires the employee to travel over four hundred (400) miles one way from his/her home, upon request, additional time off with pay shall be granted for two (2) additional days which shall be deducted from accrued sick leave. Should additional leave be necessary, the employer shall grant permission to use accrued CTO, personal holiday, vacation or authorized leave without pay, subject to operational needs.

C. Permanent full-time employees who have used their three (3) paid days of bereavement leave may on each subsequent request be authorized to use up to three (3) eight-hour days of sick leave, CTO, or any other earned leave credits if they suffer more than one bereavement as enumerated in Paragraph a. above during the fiscal year. If more than three (3) eight-hour days are requested, the provisions of subsection B shall apply.

D. Permanent-intermittent employees will be eligible for bereavement leave pursuant to subsections A, B and C above on a pro-rata basis, based upon the hours worked in the pay period. Bereavement leave may only be taken if the employee is scheduled to work on the day(s) for which the leave is requested and only for the number of hours the employee is scheduled to work on the day or days.

In no case shall the number of hours of leave per day exceed the number of hours computed from the schedule below:

HOURS WORKED	LEAVE CREDIT IN HOURS PER DAY
0 - 10.9	0
11 - 30.9	1
31 - 50.9	2
51 - 70.9	3
71 - 90.9	4
91 - 110.9	5
111 - 130.9	6
131 - 150.9	7
Over 151.0	8

E. Fractional time base (part-time) employees will be eligible for bereavement leave pursuant to Paragraphs a., b., and c. above on a pro-rata basis, based on the employee's fractional time base. (See DPA Management Memo 83-7-1 for fractional time base employees.)

### 9.5 Parental Leave

A. A female permanent employee shall be entitled, upon request, to an unpaid leave of absence for purposes of pregnancy, child birth, recovery therefrom or care for the newborn child for a period not to exceed one (1) year from the birth of the child. The employee shall provide medical substantiation to support her request for pregnancy leave. The request must include the beginning and ending dates of the leave and must be requested no later than 30 calendar days after the birth of the child. Any changes to the leave, once approved, are permissive and subject to authorization of the department head or designee.

If the initial request for parental leave is less than the maximum period allowed, subsequent requests to extend the leave to the maximum one year timeframe are permissive and may be considered by the department head or designee.

If the request for parental leave is made more than 30 calendar days after the birth of the child, a permissive unpaid leave of absence may be considered by the department head or designee in accordance with Article 9, Section 9.2, Unpaid Leave of Absence.

B. A male spouse or male parent, who is a permanent employee, shall be entitled, upon request, to an unpaid leave of absence for a period not to exceed one (1) year from the birth of the child to care for his newborn child. The employee shall provide medical substantiation to support his request for parental leave. The request must include the beginning and ending dates of the leave and must be requested no later than 30 calendar days after the birth of the child. Any changes to the leave, once approved, are permissive and subject to authorization of the department head or designee.

If the initial request for parental leave is less than the maximum period allowed, subsequent requests to extend the leave to the maximum one year timeframe are permissive and may be considered by the department head or designee.

If the request for parental leave is made more than 30 days after the birth of the child, a permissive unpaid leave of absence may be considered by the department head or designee in accordance with Article 9, Section 9.2, Unpaid Leave of Absence.

C. During the period of time an employee is on parental leave, he/she shall be allowed to continue their health, dental and vision benefits. The cost of these benefits shall be paid by the employee at the group rate.

### **9.6 Adoption Leave**

A. A department head or designee shall grant a permanent employee's request for an unpaid leave of absence for the adoption of a child for a period not to exceed one year. The employee shall provide substantiation to support the employee's request for adoption leave.

B. During the period of time an employee is on adoption leave, he/she shall be allowed to continue their health and dental benefits. The cost of these benefits shall be paid by the employee and the rate that the employee will pay will be the group rate.

### **9.7 Catastrophic Leave**

A. Upon request of an employee and upon approval of a department director or designee, annual leave, CTO, vacation, and/or holiday leave credits may be transferred from one or more employees to another employee, in accordance with departmental policies and under certain conditions listed below. Sick leave credits cannot be transferred under this provision.

1. When the receiving employee faces financial hardship due to injury or the prolonged illness of the employee, employee's spouse or child.
2. The receiving employee has exhausted all leave credits.
3. The donations must be in whole-hour increments and credited as vacation or annual leave.



4. Transfer of annual leave, vacation, CTO and holiday credits shall be allowed across departmental lines in accordance with the policies of the receiving department.

5. The total leave credits received by the employee shall normally not exceed three months; however, if approved by the appointing authority, the total leave credits received may be six months.

6. Donations shall be made on a form to be developed by the State and signed by the donating employee and verified by the donating department. These donations are irrevocable.

B. This section is not subject to the grievance and arbitration article of this contract.

### **9.8 Catastrophic Leave - Natural Disaster**

A. Upon request of an employee and upon approval of a department director or designee, leave credits (CTO, vacation and/or holiday) may be transferred from one or more employees to another employee, in accordance with departmental policies, under the following conditions:

1. Sick leave credits cannot be transferred.

2. When the receiving employee faces financial hardship due to the effect of a natural disaster on the employee's principal residence.

3. The receiving employee has exhausted all vacation, annual leave, or CTO credits and resides in one of the counties where a State of Emergency exists as declared by the Governor.

4. The donations must be in whole hour increments and credited as vacation or annual leave.

5. Transfer of annual leave, vacation, CTO and holiday credits shall be allowed to cross departmental lines in accordance with the policies of the receiving department.

6. The total leave credits received by the employee shall normally not exceed three (3) months; however, if approved by the appointing authority, the total leave credits received may be six (6) months.

7. Donations shall be made on a form to be developed by the State, signed by the donating employee, and verified by the donating department. These donations are irrevocable.

B. This section is not subject to the grievance and arbitration article of this contract.

## 9.9 Jury Duty

A. An employee shall be allowed such time off without loss of compensation as is required in connection with mandatory jury duty. If payment is made for such time off, the employee is required to remit to the State jury fees received. When night jury service is required of an employee, the employee shall be allowed time off without loss of compensation for such portion of the required time that coincides with the employee's normal work schedule. This includes any necessary travel time.

B. An employee shall notify his/her supervisor immediately upon receiving notice of jury duty.

C. If an employee elects to use accrued vacation leave or compensating time off while on jury duty, the employee is not required to remit jury fees.

D. For purposes of this Section, "jury fees" means fees received for jury duty excluding payment for mileage, parking, meals or other out-of-pocket expenses.

E. An employee may be allowed time off without loss of compensation if approved by the department head or designee for voluntary jury duty such as county grand jury. If approved by the department, subsections C and D apply.

## 9.10 Personal Leave

A. Accrued personal leave shall be requested/used by the employee in the same manner as vacation or annual leave. Requests to use personal leave must be submitted in accordance with departmental policies on vacation or annual leave.

B. At the discretion of the State, all or a portion of unused personal leave credits may be cashed out at the employee's salary rate at the time the personal leave payment is made. It is understood by both parties that the application of this cash out provision may differ from department-to-department and from employee-to-employee. Upon termination from State employment, the employee shall be paid for unused personal leave credits in the same manner as vacation or annual leave. Cash out or lump sum payment for any personal leave credits shall not be considered "compensation" for purposes of retirement.

## 9.11 Annual Leave Program

A. Employees may elect to enroll in the annual leave program to receive annual leave credit in lieu of vacation and sick leave credits. Employees enrolled in the annual leave program may elect to enroll in the vacation and sick leave program at any time except that once an employee elects to enroll in either the annual leave program or vacation and sick leave program, the employee may not elect to enroll in the other program until 24 months has elapsed from date of enrollment.

B. Each full-time employee shall receive credit for annual leave in lieu of the vacation and sick leave credits of this agreement in accordance with the following schedule:

1 month to 3 years	11 hours per month
37 months to 10 years	14 hours per month
121 months to 15 years	16 hours per month
181 months to 20 years	17 hours per month
241 months and over	18 hours per month

Part-time and hourly employees shall accrue proportional annual leave credits, in accordance with the applicable DPA rules. Employees shall have the continued use of any sick leave accrued as of the effective date of this Agreement, in accordance with applicable laws, rules, or memorandum of understanding.

All provisions necessary for the administration of this Section shall be provided by DPA rule or memorandum of understanding.

C. A full-time employee who has 11 or more working days of service in a monthly pay period shall earn annual leave credits as set forth in DPA Rules 599.608 and 599.609.

Absences from State service resulting from a temporary or permanent separation for more than 11 consecutive days which fall into two consecutive qualifying pay periods shall disqualify the second pay period.

D. Employees who work in multiple positions may participate in annual leave, provided an election is made while employed in an eligible position subject to these provisions. Annual leave accrual for employees in multiple positions will be computed by combining all positions, as in vacation leave, provided the result does not exceed the amount earnable in full-time employment, and the rate of accrual shall be determined by the schedule which applies to the position or collective bargaining status under which the election was made.

E. If an employee does not use all of the annual leave that the employee has accrued in a calendar year, the employee may carry over his/her accrued annual leave credits to the following calendar year to a maximum of 640 hours. A department head or designee may permit an employee to carry over more than 640 hours of accrued hours because the employee: (1) was required to work as a result of fire, flood, or other extensive emergency; (2) was assigned work of a priority or critical nature over an extended period of time; (3) was absent on full salary for compensable injury; (4) was prevented by department regulations from taking annual leave until December 31 because of sick leave; or (5) was on jury duty.

F. Upon termination from State employment, the employee shall be paid for accrued annual leave credits for all accrued annual leave time.

G. The time when annual leave shall be taken by the employee shall be determined by the department head or designee. If on January 1 of each year an employee's annual leave bank exceeds the cap in Subsection e., the department may order the employee to take annual leave.

H. Annual leave requests must be submitted in accordance with departmental policies on this subject. However, when two or more employees on the same shift (if applicable) in a work unit (as defined by each department head or designee) request the same annual leave time and approval cannot be given to all employees requesting it, employees shall be granted their preferred annual leave period in order of State seniority.

I. Each department head or designee will make every effort to act on annual leave requests in a timely manner.

J. Annual leave that is used for purposes of sick leave is subject to the requirements set forth in section 9.3, Sick Leave, of this agreement.

K. The Enhanced Non-Industrial Disability Insurance (ENDI) in Section 11.9 applies only to those in the annual leave program described above in this Section.

L. Employees who are currently subject to vacation and sick leave provisions may elect to enroll in the annual leave program at any time after 24 months has elapsed from date of last enrollment. The effective date of the election shall be the first day of the pay period in which the election is received by the appointing power. Once enrolled in annual leave, an employee shall become entitled to an enhanced NDI benefit (50 percent of gross salary).

### **9.12 Mentoring Leave**

A. Eligible Bargaining Unit 2 employees may receive up to forty (40) hours of "mentoring leave" per calendar year to participate in mentoring activities once they have used an equal amount of their personal time for these activities. "Mentoring leave" is paid leave time which may only be used by an employee to mentor. This leave does not count as time worked for purposes of overtime. "Mentoring leave" may not be used for travel time unless the employee is accompanied by a mentee.

B. An employee must use an equal number of hours of his or her personal time (approved annual leave, vacation, personal leave, personal holiday, or CTO during the work day and/or personal time during non-working hours) prior to requesting "mentoring leave". For example, if an employee requests two (2) hours of "mentoring leave", he or she must have used two (2) verified hours of his or her personal time prior to receiving approval for the "mentoring leave". "Mentoring leave" does not have to be requested in the same week or month as the personal time was used. It does, however, have to be requested and used before the end of the calendar year.

C. Prior to requesting mentoring leave and in accordance with departmental policy, an employee shall provide his or her supervisor with verification of personal time spent mentoring from the mentoring organization.

D. Requests for approval of vacation, MODTO, CTO, and/or annual leave for mentoring activities are subject to approval requirements in this agreement and in existing departmental policies. Requests for approval of mentoring leave are subject to operational needs of the State, budgetary limits, and any limitations imposed by law.

E. In order to be eligible for "mentoring leave", an employee must:

1. have a permanent full-time appointment;
2. have successfully completed the probationary period for his or her current position; and
3. have committed to mentor a child or youth through a bonafide mentoring organization for a minimum of one school year. (Most programs are aligned with the child's normal school year, however, there may be some that are less or more. Department management may make exceptions to the one school year commitment based on the mentor program that is selected.)

F. In addition, an employee is not eligible to receive "mentoring leave" if:

1. he or she is assigned to a "post" position in the Departments of Corrections or Youth Authority; or
2. he or she works in a level of care position in the Departments of Developmental Services, Mental Health, Education and Veterans' Affairs.

## **ARTICLE 10 - LAYOFF**

### **10.1 Layoff and Reemployment**

#### **A. Application**

Whenever it is necessary because of a lack of work or funds, or whenever it is advisable in the interest of economy to reduce the number of permanent and/or probationary employees (hereinafter known as "employees") in any State agency, the State may lay off employees pursuant to this Section.

#### **B. Order of Layoff**

Employees shall be laid off in order of seniority pursuant to Government Code Sections 19997.2 through 19997.7 and applicable State Personnel Board and Department of Personnel Administration rules.

#### **C. Notice**

Employees compensated on a monthly basis shall be notified 30 calendar days in advance of the effective date of layoff. Where notices are mailed, the 30 calendar day time period will begin to run on date of mailing of the notice. The State agrees to notify ACSA no later than 30 calendar days prior to the actual date of layoff.

#### D. Transfer or Demotion in Lieu of Layoff

The State may offer affected employees a transfer or a demotion in lieu of layoff pursuant to Government Code Sections 19997.8 through 19997.10 and applicable Department of Personnel Administration rules. If an employee refuses a transfer or demotion, the employee shall be laid off.

#### E. Reemployment

In accordance with Government Code Sections 19997.11 and 19997.12, the State shall establish a reemployment list by class for all employees who are laid off. Such lists shall take precedence over all other types of employment lists for the classes in which employees were laid off. Employees shall be certified from department or subdivisional reemployment lists in accordance with Section 19056 of the Government Code.

#### F. State Service Credit for Layoff Purposes

In determining seniority scores, one point shall be allowed for each qualifying monthly pay period of full-time State service regardless of when such service occurred. A pay period in which a full-time employee works eleven or more days will be considered a qualifying pay period except that when an absence from State service resulting from a temporary or permanent separation for more than eleven consecutive working days falls into two consecutive qualifying pay periods, the second pay period shall be disqualified.

G. Any dispute regarding the interpretation or application of any portion of this layoff provision shall be resolved solely through the procedures established in Government Code section 19997.14. The hearing officer's decision shall be final and upon its issuance the Department of Personnel Administration (DPA) shall adopt the hearing officer's decision as its own. In the event that either the employee(s) or appointing power seeks judicial review of the decision pursuant to Government Code section 19815.8, DPA, in responding thereto, shall not be precluded from making arguments of fact or law that are contrary to those set forth in the decision.

H. Departments filling vacancies shall offer positions to current employees facing layoff, demotion in lieu of layoff or mandatory geographic transfer who meet the minimum qualifications for the vacancy being filled, provided that the vacancy is equivalent in salary and responsibility and in the same geographic area and bargaining unit.

## **ARTICLE 11 - HEALTH AND WELFARE**

### **11.1 Health Benefit Plan**

#### **A. Health Contribution Amounts**

1. From July 1, 1999 to December 31, 1999, the State agrees to pay the following contribution for health benefits. To be eligible for this contribution, an employee must positively enroll in a health plan administered or approved by PERS.

a. The State shall pay \$174 per month for coverage on an eligible employee.

b. The State shall pay \$332 per month for coverage of an eligible employee plus one dependent.

c. The State shall pay \$432 per month for coverage of an employee plus two or more dependents.

2. From January 1, 2000 to June 30, 2001, the State agrees to pay the following contribution for health benefits. To be eligible for this contribution, an employee must positively enroll in a health plan administered or approved by PERS.

a. The State shall pay \$174 per month for coverage on an eligible employee.

b. The State shall pay \$346 per month for coverage of an eligible employee plus one dependent.

c. The State shall pay \$452 per month for coverage of an employee plus two or more dependents.

3. The parties agree to work cooperatively with CalPERS and the health plans to control premium increases. One method to control premiums would be to incorporate higher co-payments into the health plans as soon as possible. Any premium savings that result from these co-payment changes will be used to offset employee out-of-pocket premium costs.

## B. Dental Benefits

### 1. Contributions

a. From July 1, 1999 to July 31, 1999, the State agrees to pay the following contribution for dental benefits. To be eligible for this contribution, an employee must positively enroll in a dental plan administered by DPA.

(1) The State shall pay \$23.97 per month for coverage of an eligible employee.

(2) The State shall pay \$43.41 per month for coverage of an eligible employee plus one dependent.

(3) The State shall pay \$63.54 per month for coverage of an eligible employee plus two dependents.

b. From August 1, 1999 to June 30, 2001, The State agrees to pay the following contributions for dental benefits. To be eligible for this contribution, an employee must positively enroll in a dental plan administered by DPA.

(1) The State shall pay \$30.70 per month for coverage of an eligible employee.

(2) The State shall pay \$55.60 per month for coverage of an eligible employee plus one dependent.

(3) The State shall pay \$81.38 per month for coverage of an eligible employee plus two or more dependents.

c. The employee will pay any premium amount for the dental plan in excess of the State's contribution, except that the employee's share of the cost shall not exceed 25% of the total premium.

d. The State agrees that \$23,553.77 of the money remaining in the Delta Dental Surplus Account shall be applied to the employees' share of any rate increases incurred in the dental indemnity program during the plan year ending December 31, 1999. If no rate increase occurs, then said amount shall be applied to the employees' share of any dental benefit rate increase occurring during the plan year ending December 31, 2000. ACSA agrees that this is a full and final settlement and release of all known and all unknown disputes, claims, injuries, debts, or damages relating to Delta Dental premiums deducted under the terms of the 1992 - 1995 collective bargaining agreement.

## 2. Coverage During First 24 Months of Employment

Employees appointed into State service on or after January 1, 1993, and who meet the above eligibility criteria, will not be eligible for enrollment in the State sponsored fee-for-service plan until they have completed 24 consecutive months of employment without a permanent break in service. However, if no alternative plan or prepaid plan is available within a 50-mile radius of the employee's residence, the employee will be allowed to enroll in the fee-for-service plan.

### C. Vision Benefit

The employer agrees to provide a vision benefit to eligible employees and dependents. The vision benefit provided by the State shall have an employee copayment of \$10 for the comprehensive annual eye examination and \$25 for materials.

## 11.2 Eligibility for Benefits

### A. Health Benefits – Eligibility for Benefits

For purposes of this section, "eligible employee" shall be defined by the Public Employees' Medical and Hospital Care Act. For purposes of this section, "eligible family member" shall be defined by the Public Employees' Medical and Hospital Care Act.

### B. Dental Benefits – Eligibility for Benefits



Employee eligibility and family member eligibility for dental benefits will be the same as that prescribed for health benefits under subsection A.

C. Vision Benefits – Eligibility for Benefits

Employee eligibility and family member eligibility for vision benefits will be the same as that prescribed for health benefits under subsection A.

### 11.3 Rural Subsidy Program

The State shall establish a rural subsidy program for Bargaining Unit 2 members, which may be administered in conjunction with a similar program for state employees in other bargaining units, for excluded employees, and for annuitants. DPA shall administer any fund involving Bargaining Unit 2 members.

The program shall operate in the following fashion:

1. The State shall contribute \$1,500 per year on behalf of each bargaining unit member (employee) who lives in a defined rural area, as more definitely described in Senate Bill 514 (Senator Chesbro), which is incorporated herein by reference. For Bargaining Unit 2 members, payments may be on a monthly basis.
  - a. For permanent employees, as in the "Medical Reimbursement Account" situation, the employee does not have to wait for reimbursement of covered medical expenses until the full amount has been deposited.
2. As to any employee who enters state service or leaves state service during a fiscal year, contributions for such employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving the bargaining unit (e.g., promotion in mid-fiscal year).
3. The money shall be available for use as defined in SB 514.
4. Pursuant to that bill, a Rural Healthcare Equity Trust Fund(s) (hereafter Fund) will be established with a separate account for Bargaining Unit 2 members, as one of several similar accounts.
5. Each Unit 2 employee shall be able to utilize up to \$1,500 per year, pursuant to said bill, but with the exceptions for greater utilization hereafter noted. The pro rata limitation pursuant to paragraph 2. is applicable here.
6. If an employee does not utilize the complete \$1,500 pursuant to the procedures and limitations described in the bill, then the unused monies shall be put in a "same year pool". That same year pool shall be utilized to pay those who have incurred health care expenses in excess of the \$1,500, but again according to the procedures and limitations in the attached bill. The monies in the same year pool would be distributed at the end, or even soon after, each fiscal year to that group of employees who had expenses in excess of \$1,500 in the relevant fiscal year. Those monies shall be distributed on a *pro tanto (pro rata)* basis.
  - a. Any employee not in Bargaining Unit 2 all year shall receive credit under this paragraph 6 utilizing the same pro rata formula as in paragraph 2 above.
  - b. If an employee is entitled to less than \$25.00 under this paragraph 6, the money shall instead go into next year's fund pursuant to paragraph 6 hereafter.

7. If monies still remain after a distribution to such employees (i.e., all employees who spent more than \$1,500 as provided in the bill were completely reimbursed), then those surplus monies shall be rolled over into the next fiscal year's funds available for distribution to employees whose expenses pursuant to the bill exceed \$1,500 in such subsequent year. Similar "rollovers" would occur in any years where all employees were completely reimbursed (or had payments made on their behalf) pursuant to the bill and monies still remained in the pool.

8. Beyond the text of the bill, the parties will structure and administer the fund accordance with all applicable IRS and other regulatory statutes and rules.

9. Interest earned from the fund(s), shall be used to offset administrative costs.

10. Notwithstanding the above, if the IRS shall determine that the above benefit violates its statutes or rules (e.g., the payments by the State employer are taxable), then the above provisions shall be of no further force and effect. The parties will negotiate under the Dills Act for a replacement benefit, which shall be "cost neutral" to the employer.

#### **11.4 Group Legal Services Plan**

The State of California agrees to contract for an employee-paid group legal services plan, effective on or after March 1, 1992. The plan shall be offered on a voluntary, after-tax, payroll deduction basis, and any costs associated with administering the plan shall be paid by the participating employees through a service charge.

#### **11.5 Flexible Benefit Program**

A. The State agrees to provide a Flexible Benefits Program under Section 125 and related Sections 129, 213(d), and 105(b) of the Internal Revenue Code. All participants in the FlexElect Program shall be subject to all applicable Federal statute and related administrative provisions adopted by the Department of Personnel Administration (DPA). All eligible employees must work one-half time or more and have permanent status or if a limited-term or TAU appointment, must have mandatory return rights to a permanent position.

B. Permanent Intermittent (PI) employees may only participate in the Pre-Tax Premium and/or the Cash Option for medical and/or dental insurance. PI's choosing the Pre-Tax Premium must qualify for State medical and/or dental benefits. PI's choosing the Cash Option will qualify if they work at least one-half time, have an appointment for more than six months, and receive credit for a minimum of 480 paid hours within the six month control period of January 1 through June 30 of the plan year in which they are enrolled.

C. Subsection 11.5(B) is not grievable or arbitrable.

## 11.6 Non-Industrial Disability Insurance

A. Non-Industrial Disability Insurance (NDI) is a program for State employees who become disabled due to nonwork-related disabilities as defined by Section 2626 of the Unemployment Insurance Code.

B. For periods of disability commencing on or after October 1, 1984, eligible employees shall receive NDI payments at 60% of their full pay, not to exceed \$135 per week, payable monthly for a period not exceeding 26 weeks for any one disability benefit period. An employee is not eligible for a second disability benefit due to the same or related cause or condition unless they have returned to their regular time base, and work for at least ten (10) consecutive work days. Paid leave shall not be used to cover the ten (10) work days.

C. The employee shall serve a ten (10) consecutive calendar day waiting period before NDI payments commence for each disability. Accrued vacation or sick leave balances may be used to cover this waiting period. The waiting period may be waived commencing with the first full day of confinement in a hospital or nursing home for at least one full day. A full day is defined as a 24-hour period starting at midnight.

D. If the employee elects to use vacation, annual leave, personal leave or sick leave credits prior to receiving NDI payments, he or she is not required to exhaust the accrued leave balance.

E. Following the start of NDI payments, an employee may, at any time, switch from NDI to sick leave, vacation leave, annual leave, personal leave, or catastrophic leave but may not return to NDI until that leave is exhausted.

F. In accordance with the State's "return to work" policy, an employee who is eligible to receive NDI benefits and who is medically certified as unable to return to full-time work during the period of his or her disability, may upon the discretion of his or her appointing power work those hours (in hour increments) which, when combined with the NDI benefit, will not exceed 100% of their regular "full pay". This does not qualify the employee for a new disability period under subsection (B) of this section. The appointing power may require an employee to submit to a medical examination by a physician or physicians designated by the Director of the Employment Development Department for the purpose of evaluating the capacity of the employee to perform the work of his or her position.

G. If an employee refuses to return to work in a position offered by the employer under the State's Injured State Worker Assistance Program, NDI benefits will be terminated effective the date of the offer.

H. Where employment is intermittent or irregular, the payments shall be determined on the basis of the proportionate part of a monthly rate established by the total hours actually employed in the 18 monthly pay periods immediately preceding the pay period in which the disability begins as compared to the regular rate for a full-time employee in the same group or class. An employee will be eligible for NDI payments on the first day of the monthly pay period following completion of 960 hours of compensated work.

I. All other applicable Department of Personnel Administration laws and regulations not superseded by these provisions will remain in effect.

J. Upon approval of NDI benefits, the State may issue an employee a salary advance if the employee so requests.

K. All appeals of a denial of an employee's NDI benefits shall only follow the procedures in the Unemployment Insurance Code and Title 22. All disputes relating to an employee's denial of benefits are not grievable or arbitrable. This does not change either party's contractual rights which are not related to the denial of an individual's benefits.

### **11.7 Long-Term Care Insurance Plans**

Employees in classes assigned to Bargaining Unit 2 are eligible to enroll in any long-term care insurance plan sponsored by the Public Employees Retirement System. The employee's spouse, parents, and the spouse's parents are also eligible to enroll in the plans, subject to the underwriting criteria specified in the plan.

The long-term care insurance premiums and the administrative cost to the State shall be fully paid by the employee and are subject to payroll deductions.

### **11.8 Pre-Tax of Health/Dental Premiums Costs**

Employees who are enrolled in any health and/or dental plan which requires a portion of the premium to be paid by the employee, will automatically have their out-of-pocket premium costs taken out of their paycheck before Federal, State and social security taxes are deducted. Employees who choose not to have their out-of-pocket costs pre-taxed, must make an election not to participate in this benefit.

### **11.9 Enhanced Non-Industrial Disability Insurance – Annual Leave**

A. This ENDI provision is only applicable to employees participating in the annual leave program referenced in section 9.11.

B. Enhanced Non-Industrial Disability Insurance (ENDI) is a program for State employees who become disabled due to nonwork-related disabilities as defined by Section 2626 of the Unemployment Insurance Code.

C. For periods of disability commencing on or after January 1, 1989, eligible employees shall receive ENDI payments at 50% of their gross salary, payable monthly for a period not exceeding 26 weeks for any one disability benefit period. An employee is not eligible for a second disability benefit due to the same or related cause or condition unless they have returned to their regular time base, and work for at least ten (10) consecutive work days. Paid leave shall not be used to cover the ten (10) work days. Disability payments may be supplemented with annual leave, sick leave or partial payment to provide for up to 100% income replacement. At the time of an ENDI claim, an employee may elect either the 50% ENDI benefit rate or a supplementation level of 75% or 100% at gross pay. Once a claim for ENDI has been filed and the employee has determined the rate of supplementation, the supplemental rate shall be maintained throughout the disability period.

D. The employee shall serve a seven (7) consecutive calendar day waiting period before ENDI payments commence for each disability. Accrued paid leave or CTO leave balances may be used to cover this waiting period. The waiting period may be waived commencing with the first full day of confinement in a hospital, nursing home, or emergency clinic for at least one full day. A full day is defined as a 24-hour period starting at midnight.

E. If the employee elects to use annual leave or sick leave credits prior to receiving ENDI payments, he or she is not required to exhaust the accrued leave balance.

F. Following the start of ENDI payments an employee may at any time switch from ENDI to sick leave or annual leave, but may not return to ENDI until that leave is exhausted.

G. In accordance with the State's "return to work" policy, an employee who is eligible to receive ENDI benefits and who is medically certified as unable to return to their full-time work during the period of his or her disability, may upon the discretion of his or her appointing power, work those hours (in hour increments) which when combined with the ENDI benefit will not exceed 100% of their regular "full pay". This does not qualify the employee for a new disability period under c. of this article. The appointing power may require an employee to submit to a medical examination by a physician or physicians designated by the Director of the Employment Development Department for the purpose of evaluating the capacity of the employee to perform the work of his or her position.

H. If an employee refuses to return to work in a position offered by the employer under the State's Injured State Worker Assistance Program, ENDI benefits will be terminated effective the date of the offer.

I. Where employment is intermittent or irregular, the payments shall be determined on the basis of the proportionate part of a monthly rate established by the total hours actually employed in the 18 monthly pay periods immediately preceding the pay period in which the disability begins as compared to the regular rate for a full-time employee in the same group or class. An employee will be eligible for ENDI payments on the first day of the monthly pay period following completion of 960 hours of compensated work.

J. All other applicable Department of Personnel Administration laws and regulations not superseded by these provisions will remain in effect.

K. Upon approval of ENDI benefits, the State may issue an employee a salary advance if the employee so requests.

L. All appeals of an employee's denial of ENDI benefits shall only follow the procedures in the Unemployment Insurance Code and Title 22. All disputes relating to an employee's denial of benefits are not grievable or arbitrable. This does not change either party's contractual rights which are not related to an individual's denial of benefits.

M. Employees who become covered in the annual leave program while on an NDI claim shall continue to receive NDI pay at the old rate for the duration of the claim.

N. Employees who do not elect the annual leave program will receive NDI benefits in accordance with the current program in section 11.6 and such benefits are limited to \$135.00 per week.

#### **11.10 Industrial Disability Leave**

A. For periods of disability commencing on or after January 1, 1993, subject to Government Code Section 19875, eligible employees shall receive IDL payments equivalent to full net pay for the first 22 work days after the date of the reported injury.

B. In the event that the disability exceeds 22 work days, the employee will receive 66 and 2/3% of gross pay from the 23rd work day of disability until the end of the 52nd week of disability. No IDL or payments shall be allowed after two years from the first day (i.e., date) of disability.

C. The employee may elect to supplement payment from the 23rd work day with accrued leave credits including annual leave, vacation, sick leave, or compensating time off (CTO) in the amount necessary to approximate the employee's full net pay. Partial supplementation will be allowed, but fractions of less than one hour will not be permitted. Once the level of supplementation is selected, it may be decreased to accommodate a declining leave balance but it may not be increased. Reductions to supplementation amounts will be made on a prospective basis only.

D. Temporary Disability (TD) with supplementation, as provided for in Government Code Section 19863, will no longer be available to any State employee who is a member of either the PERS or STRS retirement system during the first 52 weeks, after the first date of disability, within a two-year period. Any employee who is already receiving disability payments on the effective date of this provision will be notified and given 30 days to make a voluntary, but irrevocable, change to the new benefit for the remainder of his/her eligibility for IDL.

E. If the employee remains disabled after the IDL benefit is exhausted, then the employee will be eligible to receive Temporary Disability benefits as provided for in Government Code Section 19863.

F. In the event that an employee is determined to be "permanent and stationary" by his/her physician before the IDL benefit is exhausted, but is unable to return to work, he/she must agree to participate in a vocational rehabilitation program. Refusing to participate will result in immediate suspension of the IDL benefit.

G. An employee may elect to supplement Vocational Rehabilitation Maintenance Allowance, which is provided pursuant to Section 10125.1, Title 8, California Code of Regulations, with leave credits.

H. The State and Union agree to support legislation to amend Government Code Section 19863.1, to allow an employee to supplement Vocational Rehabilitation Maintenance Allowance with leave credits.

I. All appeals of an employee's denial of IDL benefits shall only follow the procedures in the Government Code and Title 2. All disputes relating to an employee's denial of benefits are not grievable or arbitrable. This does not change either party's contractual rights which are not related to an individual's denial of benefits.

#### **11.11 1959 Survivors' Benefits - Fifth Level**

A. Employees in this unit who are members of the Public Employees' Retirement System (PERS) will be covered under the Fifth Level of the 1959 Survivors' Benefit, which provides a death benefit in the form of a monthly allowance to the eligible survivor in the event of death before retirement. This benefit will be payable to eligible survivors of current employees who are not covered by Social Security and whose death occurs on or after the effective date of the memorandum of understanding for this section.

B. The contribution for employees covered under this new level of benefits will be \$2 per month. The rate of contribution for the State will be determined by the PERS board.

C. The survivors' benefits are detailed in the following schedule:

1. A spouse who has care of two or more eligible children, or three or more eligible children not in the care of spouse.....\$1,800



- 2. A spouse with one eligible child, or two eligible children not in the care of the spouse.....\$1,500
- 3. One eligible child not in the care of the spouse; or the spouse, who had no eligible children at the time of the employee's death, upon reaching age 62.....\$750

## ARTICLE 12 - ALLOWANCES AND REIMBURSEMENTS

### 12.1 Business and Travel Expense - Effective September 1, 1999

The State agrees to reimburse employees for actual, necessary and appropriate business expenses and travel expenses incurred 50 miles or more from home and headquarters, in accordance with existing DPA rules and as set forth below. Lodging and/or means provided by the State or included in hotel expenses or conference fees or in transportation costs such as airline tickets or otherwise provided shall not be claimed for reimbursement. Snacks and continental breakfasts such as rolls, juice and coffee are not considered to be meals. Each item of expenses of \$25 or more requires a receipt; receipts may be required for items of expense that are less than \$25. When receipts are not required to be submitted with the claim, it is the employee's responsibility to maintain receipts and records of their actual expenses for tax purposes. Each State agency shall determine the necessity for travel and the mode of travel to be reimbursed.

**A. Meals/Incidentals.** Meal expenses for breakfast, lunch and dinner will be reimbursed in the amount of actual expenses up to the maximums. The term "incidentals" includes but is not limited to, expenses for laundry, cleaning and pressing of clothing, and fees and tips for services, such as for porters and baggage carriers. It does not include taxicab fares, lodging taxes or the costs of telegrams or telephone calls.

1. **Rates.** Actual meal/incidental expenses incurred will be reimbursed in accordance with the maximum rates and time frame requirements outlined below.

Breakfast	up to	\$ 6.00
Lunch	up to	\$10.00
Dinner	up to	\$18.00
Incidentals	up to	\$ 6.00
Total	up to	\$40.00 (every full 24 hours of travel)

2. **Timeframes.** For continuous short-term travel of more than 24 hours but less than 31 days, the employee will be reimbursed for actual costs up to the maximum for each meal, incidental, and lodging expense for each complete 24 hours of travel, beginning with the traveler's time of departure and return as follows:

a. On the first day of travel on a trip of more than 24 hours:

Trip begins at or before 6 a.m.	breakfast may be claimed
Trip begins at or before 11 a.m.	Lunch may be claimed
Trip begins at or before 5 p.m.	dinner may be claimed

b. On the fractional day of travel at the end of a trip of more than 24 hours:

Trips ends at or after 8 a.m.	breakfast may be claimed
Trip ends at or after 2 p.m.	lunch may be claimed
Trip ends at or after 7 p.m.	dinner may be claimed

If the fractional day includes an overnight stay, receipted lodging may be claimed. No meal or lodging expenses may be claimed or reimbursed more than once on any given date or during any 24-hour period.

c. For continuous travel of less than 24 hours, the employee will be reimbursed for actual expenses up to the maximum as follows:

Travel begins at or before 6 am and ends at or after 9 am -  
Breakfast may be claimed

Travel begins at or before 4 p.m. and ends at or after 7pm -  
Dinner may be claimed

If the trip extends overnight, receipted lodging may be claimed.

No lunch or incidentals may be claimed on a trip of less than 24 hours.

**B. Lodging:** All lodging reimbursement requires a receipt from a commercial lodging establishment such as a hotel, motel, bed and breakfast inn, or public campground that caters to the general public. No lodging will be reimbursed without a valid receipt.

**1. Regular State Business Travel:**

a. Statewide, in all locations not listed in C below, for receipted lodging while on travel status to conduct State business:

With a lodging receipt: Actual lodging up to \$79.00 plus applicable taxes.

b. Effective November 2, 1999, Statewide, in all locations not listed in C below, for receipted lodging while on travel status to conduct State business.

With a lodging receipt: Actual lodging up to \$84.00 plus applicable taxes.

c. Effective November 2, 1999 through June 30, 2000, when employees are required to do business and obtain lodging in the counties of Alameda, San Francisco, San Mateo and Santa Clara, and Central and Western Los Angeles reimbursement will be for actual receipted lodging to a maximum of \$110 plus applicable taxes. Central and Western Los Angeles is the territory bordered by Sunset Boulevard on the north, the Pacific Ocean on the West, Imperial Blvd/Freeway 105 on the South and Freeways 110, 10 and 101 on the east. This area includes downtown L.A., Inglewood, L.A. International Airport, Playa del Rey, Venice, Santa Monica, Brentwood, West L.A., Westwood Village, Culver City, Beverly Hills, Century City, West Hollywood and Hollywood.

2. **State Sponsored Conferences or Conventions:** for receipted lodging while attending State Sponsored conferences and conventions, when the lodging is contracted by the State sponsor for the event, and the appointing authority has granted prior approval for attendance and lodging at the contracted rate and establishment.

Statewide, with a lodging receipt: Actual lodging up to \$110 plus applicable taxes

3. **Non-State Sponsored Conferences or Conventions:** for receipted lodging while attending Non-State sponsored conferences and conventions, when the lodging is contracted by the sponsor for the event, and the appointing authority has granted prior approval for attendance and lodging at the contracted rate and establishment.

Statewide, with a lodging receipt: Actual lodging when approved in advance by the appointing authority.

Reimbursement of lodging expenses in excess of specified amounts, excluding taxes requires advance written approval from DPA. DPA may delegate approval authority to departmental appointing powers or increase the lodging maximum rate for the geographical area and period of time deemed necessary to meet the needs of the State. An employee may not claim lodging, meal or incidental expenses within 50 miles of his/her home or headquarters.

C. **Long-term Travel:** Actual expenses for long term meals and receipted lodging will be reimbursed when the employee incurs expenses in one location comparable to those arising from the use of establishments catering to the long-term visitor.

1. **Full Long-term Travel:** In order to qualify for full long-term travel reimbursement, the employee on long-term field assignment must meet the following criteria:

- a. The employee continues to maintain a permanent residence at the primary headquarters, and
- b. The permanent residence is occupied by the employee's dependents, or

c. The permanent residence is maintained at a net expense to the employee exceeding \$200 per month. The employee on full long-term travel who is living at the long-term location may claim either:

(1) Reimbursement for actual individual expense, substantiated by receipts, for lodging, water, sewer, gas and electricity, up to a maximum of \$1130 per calendar month while on the long-term assignment, and actual expenses up to \$10.00 for meals and incidentals, for each period of 12 to 24 hours and up to \$5.00 for actual meals and incidentals for each period of less than 12 hours at the long-term location, or

(2) Long-term subsistence rates of \$24.00 for actual meals and incidentals and \$24.00 for receipted lodging for travel of 12 hours up to 24 hours; either \$24.00 for actual meals or \$24.00 for receipted lodging for travel less than 12 hours when the employee incurs expenses in one location comparable to those arising from the use of establishments catering to the long-term visitor.

2. An employee on long-term field assignment who does not maintain a separate residence in the headquarters area may claim long-term subsistence rates of up to \$12.00 for actual meals and incidentals and \$12.00 for receipted lodging for travel of 12 hours up to 24 hours at the long-term location; either \$12.00 for actual meals or \$12.00 for receipted lodging for travel less than 12 hours at the long-term location.

III. Employees, with supervisor's approval, after completing the workshift remain at the job or LTA location past the Friday 12-hour clock will receive full per diem for Friday. Those staying overnight shall not receive any additional per diem regardless of the Saturday departure time. An employee returning to the temporary residence on Sunday will receive full per diem. This does not change DPA policy regarding the per diem clock which starts at the beginning of the work shift on Monday. If the normal workweek is other than as stated above, the same principle applies.

The following clarifies DPA policy regarding an employee leaving the LTA location on personal business:

The reference to leaving the LTA location for personal business and not claiming per diem or transportation expenses assumes that the employee stays overnight at a location other than the long-term accommodations.

**D. Out-of-state Travel:** For short-term out-of-state travel, State employees will be reimbursed actual lodging, supported by a receipt, and will be reimbursed for actual meal and incidental expenses in accordance with above. Failure to furnish lodging receipts will limit reimbursement to the meal/incidental rate above. Long-term out-of-state travel will be reimbursed in accordance with the provisions of Long-term Travel above.

**E. Out of Country Travel:** For short-term out of country travel, State employees will be reimbursed actual lodging, substantiated by a receipt, and will be reimbursed actual meals and incidentals up to the maximums published in column B of the Maximum Travel per Diem Allowances for Foreign Areas, Section 925, U.S. Department of State Standardized Regulations and the meal/incidental breakdown in Federal Travel Regulation Chapter 301, Travel Allowances, Appendix B. Long-term Out of Country travel will be reimbursed in accordance with the provisions of Long-term travel above, or as determined by DPA.

Subsistence shall be paid in accordance with procedures prescribed by the Department of Personnel Administration. It is the responsibility of the individual employee to maintain receipts for their actual meal expenses.

**F. Transportation.** Transportation expenses include, but are not limited to airplane, train, bus, and taxi fares, rental cars, parking, mileage reimbursement and tolls that are reasonably and necessarily incurred as a result of conducting State business. Each State agency shall determine the necessity for travel and the mode of travel to be reimbursed.

**1. Mileage Reimbursement**

a. When an employee is authorized by his/her appointing authority or designee to operate a privately owned vehicle on State business the employee will be allowed to claim and be reimbursed 31 cents per mile.

b. When an employee is required to report to an alternative work location, the employee may be reimbursed for the number of miles driven in excess of his/her normal commute.

**2. Specialized Vehicles** – Employees who must operate a motor vehicle on official State business and who, because of a physical disability, may operate only specially equipped or modified vehicles may claim from 31 up to 37 cents per mile, with certification. Supervisors who approve claims pursuant to this Subsection have the responsibility of determining the need for the use of such vehicles.

**3. Private Aircraft Mileage** – When an employee is authorized by his/her department, reimbursement for the use of the employee's privately owned aircraft on State business shall be made at the rate of 50 cents per statute mile. Pilot qualifications and insurance requirements will be maintained in accordance with DPA rule 599.628.1 and the State Office of Risk and Insurance Management.

**4 Mileage to/from a common carrier** – When the employee's use of a privately owned vehicle is authorized for travel to or from a common carrier terminal, and the employee's vehicle is not parked at the terminal during the period of absence, the employee may claim double the number of miles between the terminal and the employee's headquarters or residence, whichever is less, while the employee occupies the vehicle. Exception to "whichever is less": If the employee begins travel one hour or more before he normally leaves his home, or on a regularly scheduled day off, mileage may be computed from his/her residence.

**G. Receipts.** Receipts or vouchers shall be submitted for every item of expense of \$25 or more. In addition, receipts are required for every item of transportation and business expense incurred as a result of conducting State business except for actual expenses as follows:

1. Railroad and bus fares of less than \$25 when travel is wholly within the State of California
2. Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi, shuttle or hotel bus fares, and parking fees of \$10.00 or less for each continuous period of parking or each separate transportation expense noted in this item.
4. Telephone, telegraph, tax or other business charges related to State business of \$5.00 or less.
5. In the absence of a receipt, reimbursement will be limited to the non-receipted amount above.
6. Reimbursement will be claimed only for the actual and necessary expenses noted above. Regardless of the above exceptions, the approving officer may require additional certification and/or explanation in order to determine that an expense was actually and reasonably incurred. In the absence of a satisfactory explanation, the expense shall not be allowed.

## **12.2 Lodging – Orange, Marin and San Diego Counties**

Effective September 1, 1999, DPA and ACSA agree that lodging in Orange, Marin, and San Diego Counties shall be reimbursed up to \$110.00 plus tax with receipts if the employee calls three moderately priced hotels in a geographic area, chooses the lowest cost of the three, and obtains advance supervisory approval, which shall not be unreasonably denied. This section shall remain in full force and effect through June 30, 2001.

## **12.3 Transportation Incentives and Parking Rates**

A. The State and ACSA agree that the State shall encourage employees to use alternate means of transportation to commute to and from work in order to reduce traffic congestion and improve air quality.

B. Employees working in areas served by mass transit, including rail, bus, or other commercial transportation licensed for public conveyance shall be eligible for a 75 percent discount on public transit passes sold by State agencies up to a maximum of \$65 per month. This shall not be considered compensation for purpose of retirement contributions. The State may establish and implement procedures and eligibility criteria for the administration of this benefit.

C. The State shall provide \$100 per month to each State employee who meets the eligibility criteria and complies with program procedures as developed by the State for principal van pool drivers. This shall not be considered compensation for purposes of retirement contributions. The State may establish and implement procedures and eligibility criteria for the administration of this benefit.

D. The parties agree that the State may increase parking rates in existing lots, in urban congested areas, no more than twenty dollars per month above the current rate charged to employees in specific locations where they park, not to exceed fair market value. Congested urban areas are areas such as Sacramento, San Francisco Bay, Fresno, Los Angeles, San Bernardino, Riverside, and San Diego areas. Every effort shall be made to provide employees 60 days but no less than 30 days notice of a parking rate increase. The State shall not increase rates for existing parking lots where employees do not currently pay parking fees. Rates at new lots administered by the State will be set at a level comparable to rates charged for similar lots in the area of the new lot, e.g. rates for open lots shall be compared to rates for open lots, rates for covered parking shall be compared for rates for covered parking.

E. By April 1, 2000, the State shall develop a system to employees where parking fees may be paid with pre-tax dollars.

F. Notwithstanding any other provision of this Contract, the Union agrees that the State may implement new policies or change existing ones regarding parking and parking fees if circumstances change. The State agrees to notice and meet and confer regarding the impact of such new or changed policies.

## **ARTICLE 13 - MISCELLANEOUS**

### **13.1 Inter-Jurisdictional Employee Exchange**

State agencies may with concurrence of the affected employee assign or loan the employee to another State agency or another jurisdiction which is governmental in character as otherwise provided in Government Code section 19050.8 and 2 Cal. Code Regulations § 427.



### **13.2 Outside Employment**

A. An employee may request that the department grant an exception to the prohibitions on outside employment contained in the applicable Incompatible Activity statement. If the exception is denied, upon request by the employee, it shall be reviewed by a committee composed of two (2) representatives of the department and two (2) representatives of ACSA. The committee will issue a recommendation to the department head or designee for decision.

B. DPA or its designee agrees to meet and confer with ACSA subsequent to such time as ACSA presents the department or agency with a list of proposed changes to its Incompatible Activity statement.

C. In the event of a mandatory reduced worktime program, department heads or their designees shall, upon request, meet and confer with ACSA regarding potential changes in the Incompatible Activity Statements necessary to mitigate the effect of the reduced worktime.

### **13.3 Office Space**

A. The State agrees to make a reasonable effort to provide private enclosed office space to each permanent full-time attorney who has confidentiality needs.

B. Upon request, the State employer agrees to discuss with ACSA those situations where attorneys do not currently have private office space.

C. Where a major move to other than enclosed private offices for attorneys is planned, ACSA shall be notified at the earliest feasible time.

### **13.4 Work and Family Programs**

A. The parties agree that work and family programs have a positive impact on employee productivity and morale, as well as the productivity of the State and its business. Program topics may include, but are not limited to childcare, children's health, elder care, family leave and a variety of other programs.

B. The State agrees to establish a Labor-Management Work and Family Advisory Committee (hereinafter "WFAC") to address such topics as childcare, children's health, elder care, and family leave.

C. ACSA may designate one (1) State employee member who may attend WFAC meetings without loss of compensation. ACSA recognizes that membership on the WFAC may also include any or all other unions representing bargaining State employees, and an equal number of management representatives. The WFAC shall have co-chairpersons, one representing labor and one representing management.

D. The WFAC shall meet regularly and issue a report by June 1, 2000 with recommendations to the Department of Personnel Administration regarding work and family programs.

E. Contingent upon passage of enabling legislation referenced in subsection (f) below, the State employer agrees to establish a Work and Family Fund. On July 1, 2000, the State employer will appropriate \$5 million funds for the Work and Family Fund which shall be administered by the Department of Personnel Administration. The amounts expended annually from the Work and Family Fund shall be determined by the Department and the Labor-Management Work and Family Committee.

F. The union agrees to support legislation that would establish and maintain the Work and Family Fund.

### **13.5 Personnel Files**

A. Upon reasonable notice to the Personnel Office, bargaining unit employees shall have access to all of the material in their official personnel file during normal Personnel Office business hours. In addition, with written authority from the employee or in the company of the employee, a designated ACSA representative may review the employee's personnel file. Said written authorization shall be valid for the period of time specified by the employee. Access to the file shall be during regular personnel office hours. The file shall not be removed from the personnel office. The employee and the ACSA representative shall each be allowed a copy of the material in the personnel file.

B. Materials included in the personnel file shall be retained for a period of time specified by each department, except that material in the file of a negative nature that is older than three (3) years shall be removed by personnel office employees who discover it upon accessing the file for any purpose. The act of removing dated negative material shall be accomplished in a manner which is not apparent to anyone but other employees of the personnel office.

C. Material of a negative nature that is older than three (3) years shall not be the basis of an adverse action against any employee.

D. Each employee shall have the right to prepare a written rebuttal to any negative material in his/her personnel file. Such rebuttal shall be included in his/her personnel file until such time as that which it serves to rebut is removed from the file.

E. Only those individuals who are in the employee's direct supervisory chain of command and others specified by statute or authorized by the employee shall have access to the employee's personnel file.

### **13.6 Education and Training**

A. The State agrees to reimburse Unit 2 employees for expenses incurred and provide time off during normal work hours without loss of compensation as a result of completed training or education courses required by the State employer or the Legislature.

B. Such reimbursement shall be limited to tuition and/or registration fees, cost of course-required books, transportation or mileage expenses, toll and parking fees, and lodging and subsistence expenses.

C. State reimbursement for additional training mandated by the State Bar must be mutually agreed to by the parties.

D. The State agrees to reimburse employees in Administrative Law Judge and Hearing Officer classifications, including Fair Hearing Specialists, OAH, Hearing Advisers, CEC, and Workers' Compensation Conference Referees and Judges, for necessary and reasonable expenses incurred (e.g., tuition and travel expenses), and to provide time off during normal work hours without loss of compensation, upon request consistent with operational needs, to attend a course presented by the National Judicial College which offers a certificate in administrative law, administrative proceedings, or the equivalent.

E. Reimbursement for the above expenses shall be in accordance with the Business and Travel Expense provision of this MOU.

### **13.7 Bar Dues/Professional leave**

#### **A. Bar Membership Required As Condition Of Appointment**

The State shall reimburse or pay directly to the State Bar, the cost of bar dues for each employee for whom bar membership is required as a condition of employment. In the event a department elects to pay directly, each affected employee must provide the original remittance portion of their bar dues statement to the person designated by the department at least four weeks before the last day upon which the dues become delinquent. If an employee's bar statement is not received four weeks in advance, then the department may (1) make an exception and still directly pay the employee's dues; or at its option, (2) reimburse the employee for paying the dues him/herself. Under no circumstances, however, shall the State be liable for penalties/fines added to, or accumulated because of late payment of dues, except where the State employer is responsible for the late payment.

#### **B. Bar Membership Not Required As Condition Of Appointment**

For all other employees in the unit, the State shall either provide reimbursement for bar dues or two days per calendar year of professional leave without loss of compensation, at the option of the Department, which must be requested and approved in the same manner as vacation leave.

#### **C. Proration Of Bar Dues And Professional Leave**

Bar dues reimbursement/payment and professional leave may be prorated for employees who work less than full-time and for employees who work less than a full-year. Professional leave credit shall not carry over from year to year.

#### D. Local and Specialty Bar Dues

Each department shall reimburse employees (or pay directly subject to the conditions contained in section (a) above) for membership in one local job-related bar association, or for one job-related specialty section of the State or a local bar, if State bar membership is required as a condition of employment. The total amount for which employees shall be reimbursed shall not exceed \$100 annually. Local or specialty bar dues for employees who work less than full-time and for employees who work less than a full-year preceding when bar dues must be paid may be prorated. Departments that do not directly pay local or specialty bar dues may require proof of payment by employees requesting reimbursement.

#### 13.8 Smoking Cessation

Departments with "no smoking" policies shall provide for voluntary smoking cessation counseling for employees within their work locale where budgets allow such expenditures. Employees may use either vacation or sick leave credits, upon approval of their supervisor, to attend cessation counseling.

#### 13.9 Employee Assistance Program

A. The State recognizes that alcohol, drug abuse, and stress may adversely affect job performance and are treatable conditions. As a means of correcting job performance problems, the State may offer referral to treatment for alcohol, drug and stress related problems such as marital, family, emotional, financial, medical, legal or other personal problems. The intent of this Section is to assist an employee's voluntary efforts to treat alcoholism or a drug-related or stress-related problem so as to retain or recover his/her value as an employee.

B. Each department head or designee shall designate an Employee Assistance Program Coordinator who shall arrange for programs to implement this section. Employees who are to be referred to an Employee Assistance Program Coordinator will be referred by the appropriate management personnel. An employee undergoing alcohol, drug, or mental health treatment, upon approval, may use accrued sick leave, compensating time off credits and vacation leave credits for such a purpose. Leaves of absence without pay may be granted by the department head or designee upon the recommendation of the Employee Assistance Program Coordinator if all sick leave, vacation and compensating time off have been exhausted and the employee is not eligible to use Industrial Disability Leave or Non-Industrial Disability Insurance.

C. Medical records concerning an employee's treatment for alcoholism, drug or stress-related problems shall remain confidential and shall remain separate from other personnel materials.

#### 13.10 Judicial Attire

A. The Administrative Law Judge classification within the Office of Administrative Hearings shall be required to wear a judicial robe as follows:

Judicial Functions - Administrative Law Judges are required to wear judicial robes when conducting pre-hearing conferences or formal hearings in formal hearing rooms in the Office of Administrative Hearings' facilities. When conducting pre-hearing conferences or formal hearings at other than Office of Administrative Hearings' facilities, Administrative Law Judges may use discretion as to whether it is necessary to wear a judicial robe. In addition, individual discretion shall be used regarding wearing judicial robes when conducting informal settlement conferences and other judicial functions (e.g., chamber meetings, site visits, etc.) not mentioned above. In either case, the appropriate attire to be worn underneath the judicial robes is referenced below:

<b>MEN</b>	<b>WOMEN</b>
dress shirt	dress
tie	blouse and dress slacks/skirt
slacks	dress shoes
dress shoes	

**B. Cost and Care of Judicial Robes**

The parties agree that the entire cost and care of such judicial robes shall be borne by each Administrative Law Judge. In addition, it is the responsibility of the Administrative Law Judges to keep their judicial robes well maintained (e.g., clean, washed, ironed, etc.) and to replace the robes as necessary. The parties recognize that in order to maintain consistency and uniformity, the robes must be black in color and be of the judicial style.

**13.11 Case and Hearing Workload – Board of Prison Terms**

The date, time and number of hearings and cases assigned to Unit 2 Deputy Commissioners working for the Board of Prison Terms shall be determined, and may be changed from time-to-time, by the State.

**13.12 State-Owned Housing Rental and Utility Rates**

**A. Rent**

Current rental rates for all types of State-owned employee housing, including trailers and/or trailer pads, may be increased annually by the State with 60-day notice as follows:

1. Where employees are currently occupying State-owned housing, the State may raise such rates paid by employees up to 25 percent each year, not to exceed fair market value.

2. During the term of this contract, where no rent is being charged, the State may raise rents up to \$75 per month or when an employee vacates State-owned housing, including trailers and/or trailer pads, the State may raise rents for such housing up to the Fair Market value.
3. Employee rental of State housing shall not ordinarily be a condition of employment. In any instance where the rental of State housing is made a condition of employment, the State may charge the employee 10 percent less than the regular rate of rent.
4. Employees renting State-owned housing occupy them at the discretion of the State employer. If the State decides to vacate a State-owned housing unit currently occupied by a State employee, it shall give the employee a minimum of 30 days' advance notice.

#### B. Utilities

Current utility charges for all types of State-owned employee housing, including trailers and/or trailer pads, may be increased annually by the State as follows:

1. Where employees are currently paying utility rates to the State, the State may raise such rates up to 8 percent each year.
2. Where no utilities are being charged, the State may impose such charges consistent with its costs.
3. Where utilities are individually metered to State-owned housing units, the employee shall assume all responsibility for payment of such utility rates, and any increases imposed by the utility company.

### **13.13 Labor-Management Committee on State Payroll System**

A. The parties agree to establish a labor-management committee to advise the State Controller on planned and anticipated changes to the State's payroll system. Topics to be explored include, but are not limited to, accuracy and timeliness of the issuance of overtime warrants, changes in earnings statements, direct deposit of employee pay, and design of and transition to a bi-weekly pay system.

B. The committee shall be comprised of an equal number of management representatives and labor representatives. In addition, the Department of Personnel Administration shall designate a chairperson of the committee. The Association of California State Attorneys and Administrative Law Judges may send one representative who shall serve without loss of compensation.

### **13.14 Appeal of Involuntary Transfer**

A. An involuntary transfer which reasonably requires an employee to change his/her residence may be grieved under Article 7 only if the employee believes it was made for the purpose of harassing or disciplining the employee. If the appointing authority or the Department of Personnel Administration disapproves the transfer, the employee shall be returned to his or her former position; shall be paid the regular travel allowance for the period of time he/she was away from his/her original headquarters; and his/her moving costs both from and back to the original headquarters shall be paid in accordance with the Department of Personnel Administration law and rules.

B. An appeal of an involuntary transfer which does not reasonably require an employee to change his/her residence shall not be subject to the grievance and arbitration procedure. It shall be subject to the complaint procedure if the employee believes it was made for the purpose of harassing or disciplining the employee.

### **13.15 No Reprisals**

The state shall not impose or threaten to impose reprisals; discriminate or threaten to discriminate against an employee; or take any other action against an employee because of his/her exercise of any rights provided under the Dills Act or this MOU.

### **13.16 Case and Hearing Workload – Unemployment Insurance Appeals Board**

The date, time and number of hearings and cases assigned to employees in Unit 2 working for the Unemployment Insurance Appeals Board shall be determined, and may be changed from time-to-time, by the State.

## **ARTICLE 14 - RETIREMENT**

### **14.1 401(K) Deferred Compensation Program**

Employees in Unit 2 may participate in the State of California, Department of Personnel Administration, existing 401(K) Deferred Compensation Program.

### **14.2 457 Deferred Compensation Program**

Employees in Bargaining Unit 2 may participate in the current State of California, Department of Personnel Administration, 457 Deferred Compensation Program.

### **14.3 First Tier Retirement Formula (2% @ 55)**

A. The Union and the State (parties) agree that the legislation implementing this agreement shall contain language to enhance the current age benefit factors on which service retirement benefits are based for Miscellaneous and Industrial members of the First Tier plan under the Public Employees' Retirement System (CalPERS). The parties further agree that the provisions of this article will be effective only upon the CalPERS board adopting a Resolution that will employ, for the June 30, 1998 valuation and thereafter, 95% of the market value of CalPERS' assets as the actuarial value of the assets, and to amortize the June 30, 1998 excess assets over a 20 year period, beginning July 1, 1999. The parties agree to jointly request the CalPERS board to extend the 20 year amortization period in the event the cost of these benefits or unfavorable returns on investments results in an increased employer contribution by the State.

B. The legislative language would provide the enhanced benefit factors to State employees who retire directly from State employment on and after January 1, 2000.

C. The table below compares the current First Tier age benefit factors to the improved factors that the proposed legislation would place in the part of the Government Code administered by CalPERS.



AGE AT RETIREMENT	CURRENT FACTORS	PROPOSED FACTORS
50	1.092	1.100
51	1.156	1.280
52	1.224	1.460
53	1.296	1.640
54	1.376	1.820
55	1.460	2.000
56	1.552	2.063
57	1.650	2.125
58	1.758	2.188
59	1.874	2.250
60	2.000	2.313
61	2.134	2.375
62	2.272	2.438
63 and over	2.418	2.500

There would be factors for attained quarter ages, such as 52 <sup>3</sup>/<sub>4</sub>, that will be included in the proposed legislation. These improved age benefit factors will apply for service rendered on and after the effective date of the memorandum of understanding between the State and the Union. The improved factors will also apply to past service that is credited under the First Tier and the Modified First Tier.

The amount of member contributions required of employees who will be covered under these new factors will continue to be 5 percent of monthly compensation in excess of \$513.

#### 14.4 First Tier Eligibility For Employees In Second Tier

A. The Union and the State (parties) agree that the legislation implementing this agreement shall contain language to allow employees who are currently in the Second Tier retirement plan to elect to be covered under the First Tier, as described in this article. The parties further agree that the provisions of this article will be effective only upon the CalPERS board adopting a Resolution that will employ, for the June 30, 1998 valuation and thereafter, 95% of the market value of CalPERS' assets as the actuarial value of the assets, and to amortize the June 30, 1998 excess assets over a 20 year period beginning July 1, 1999. The parties agree to jointly request the CalPERS board to extend the 20 year amortization period in the event the cost of these benefits or unfavorable returns on investments results in an increased employer contribution by the State.

B. The legislative language would allow an employee in Second Tier to exercise the Tier 1 right of election at any time after the effective date of this legislation. An employee who makes this election would then be eligible to purchase past Second Tier service. The parties will work with CalPERS to establish more flexible purchase provisions for employees. These include, but are not limited to, increasing the installment period from 96 months (8 years) to 144 months (12 years) or up to 180 months (15 years) and allowing employees to purchase partial amounts of service.

C. New employees who meet the criteria for CalPERS membership would be enrolled in the First Tier plan and have the right to be covered under the Second Tier plan within 180 days of the date of their appointment. If a new employee does not make an election for Second Tier coverage during this period, he or she would remain in the First Tier plan.

D. Employees who purchase their past service would be required to pay the amount of contributions they would have paid had they been First Tier members during the period of service that they are purchasing. As required by CalPERS law, the amount will then include interest at 6 percent, annually compounded.

#### **14.5 Determination of Safety Retirement Eligibility**

The parties agree that the provisions of Government Code sections 19816.20 and 20405.1 shall apply to Unit 2.

#### **14.6 Safety Retirement – New Deputy Commissioner, Board of Prison Terms Classification**

The Department of Personnel Administration shall notify the Public Employees Retirement System that employees in the new Deputy Commissioner, Board of Prison Terms, classification satisfy the criteria for safety membership, provided that: (a) Government Code sections 19816.20 and 20405.1 are amended to include Unit 2 as provided in Section 14.5 of this agreement; and, (b) the State Personnel Board adopts the new Deputy Commissioner, Board of Prison Terms, classification as provided for in Section 15.5 of this agreement.

### **ARTICLE 15 - CLASSIFICATION**

#### **15.1 Classification Level**

##### **A. Departments with Attorney IV Level Classifications**

Departments that have obtained approval from the State employer to use Attorney IV level classifications may allocate up to 55% of its attorneys to the IV salary level classification. The base figure for calculating this ceiling shall include all attorney positions in the unit allocated to attorney classes at or below the maximum salary level of the IV classification.

B. Departments with Senior or Attorney III Level Classifications

Any department in this category may allocate up to 55% of its attorneys to the Senior or III salary level classification. The base figure for calculating this ceiling shall include all attorney positions in the unit allocated to attorney classes at the Senior or III level and below.

C. Government Code section 19818.16 shall not apply to out-of-class claims for bargaining unit work performed by employees in class series covered by this Section.

D. Upon request by appointing authorities, DPA may allow appointments in excess of the above percentages or to higher levels.

**15.2 Classification Changes**

A. When the Department of Personnel Administration (DPA) or another department seeks (1) to establish a new classification and assigns it to Bargaining Unit 2, or (2) modifies an existing Bargaining Unit 2 classification, DPA shall inform ACSA of the proposal during DPA's preparatory stages of the proposals. ACSA may request to meet with DPA regarding these classification proposals. Such meetings shall be for the purpose of informally discussing the classification proposal and for ACSA to provide input. Upon request, DPA shall furnish ACSA with drafts of the proposed classification specifications.

B. The DPA shall notify and submit to ACSA the final classification proposal at least 20 work days prior to the date the SPB is scheduled to adopt it.

C. If ACSA requests in writing within 10 workdays of receipt of the notice, DPA shall meet with ACSA to discuss the final proposal. If ACSA does not respond to the notice, or if ACSA does not meet with DPA within five (5) workdays from their date of request, the classification proposal shall be deemed agreeable to ACSA and be placed on SPB's consent calendar.

D. The DPA shall meet and confer, if requested in writing by ACSA, within ten (10) working days from the date the SPB approved the classification change, regarding compensation of the classification. To the extent that a classification change necessitates other change which fall within the scope of negotiations, the State shall notify ACSA and the parties shall bargain the impact upon request by ACSA.

### **15.3 Out-of-Classification Assignments**

A. If a department head or designee requires an employee in writing to work in a higher classification for more than 15 consecutive calendar days, the employee shall receive a pay differential of 5% over his/her normal daily rate of the class to which he/she is appointed for that period in excess of 15 calendar days. If a department head or designee requires an employee in writing to work in a higher classification for 30 consecutive calendar days or more, the employee shall receive a pay differential of 5% over his/her normal daily rate of the class to which he/she is appointed from the first day of the assignment. If the assignment to a higher classification is not terminated before it exceeds 120 consecutive calendar days, the employee shall be entitled to receive the difference between his/her salary and the salary of the higher class at the same step the employee would receive if the employee were to be promoted to that class, for that period in excess of 120 consecutive calendar days. The 5% differential shall not be considered as part of the base pay in computing the promotional step in the higher class. In accordance with the provisions of this subsection, no employee may be compensated for more than one (1) year of out-of-class work for any one assignment.

B. The State shall not rotate employees in and out of out-of-class assignments for the sole purpose of avoiding payment of an out-of-class differential.

C. It is not the State's intent to select employees for out-of-class assignments based on favoritism.

D. This section does not apply to any employee in a class where ratios or percentages control the allocation of positions.

E. If any dispute arises regarding out-of-class assignments and compensation, an employee may file a grievance and the decision reached at Step 4 (DPA) of the grievance procedure shall be final. Approved out-of-class grievances may be compensated retroactively for a period no greater than one (1) year preceding the filing of the grievance.

### **15.4 Attorney IV**

For each department which employs attorneys, the State shall determine which, if any, of its attorneys perform work which is substantially similar to the work of existing Attorney IVs as determined by criteria to be developed jointly by ACSA and the State. If a department has attorneys who meet the criteria, the department shall utilize an Attorney IV classification for those positions.

## **15.5 New Deputy Commissioner, Board of Prison Terms Classification**

A. The Board of Prison Terms and Department of Personnel Administration agree to develop a new Deputy Commissioner classification to be submitted to the State Personnel Board for its consideration and approval. Said classification shall be in addition to the existing Deputy Commissioner classification. It shall have the same rate of pay as the existing Deputy Commissioner classification when established. Persons appointed to positions in the new classification shall in addition to other duties and qualifications determined by the State:

1. Be required to maintain order and supervise the conduct of inmates and parolees; protect and maintain the safety of persons and property; assume responsibility for custody, intervene in instances disruptive or assaultive behavior, inspection of premises, and perform other related duties.
2. Be expected to have and maintain sufficient strength, agility, and endurance to perform essential functions of the job during stressful (physical, mental and emotional) situations without compromising their health and well-being or that of their fellow employees or that of inmates or parolees. Assignments may include sole responsibility for the supervision of inmates or parolees and/or the protection of personal and real property.
3. Successfully complete training required by the State as a condition precedent appointment or completion of probation.
4. Satisfy background clearance requirements established by the State as a condition precedent to appointment.

B. A draft proposal for the new classification shall be prepared by the Board of Prison Terms and submitted to the Department of Personnel Administration (DPA) by December 15, 1999. Said proposal shall be consistent with this agreement. DPA will review the proposal, notice ACSA for purposes of soliciting their recommendations pursuant to Article 15, section 15.2 "Classification Changes". Any changes in the proposal made by DPA shall be after consulting with ACSA and the Board of Prison Terms, and shall not be inconsistent with the above. DPA shall expeditiously submit the final proposal to the State Personnel Board, and the parties agree that it shall be placed on SPB's consent calendar.

C. Creation of the new classification shall not result in a work week group change nor will it result in an increased salary, as compared to the existing Deputy Commissioner, Board of Prison Terms classification.

D. Nothing in this section shall be subject to the grievance or arbitration provision of this agreement.

E. Nothing in this section shall be construed to mean the establishment or modification of classifications or the assignment of work fall within either permissive or mandatory scope of bargaining.

## ARTICLE 16 - TERM

### 16.1 Term

A. Unless a specific provision provides for a different effective date, the terms of this agreement shall go into effect on July 1, 1999 and remain in full force and effect through June 30, 2001.

B. ACSA reserves the right to reopen negotiations after March 1, 2001, by giving the State written notice.

ATTACHMENTS AND ADDENDUMS

Signature page

ASSOCIATION OF CALIFORNIA  
STATE ATTORNEYS AND  
ADMINISTRATIVE LAW JUDGES

STATE OF CALIFORNIA

Michael DiCesario

Jana Buzzini

Allen Grossman

David Purdy

Robertta M. Ward

Bill Roney

Dorian D. Moore

Julie Chappie

Robert F. Kelly

Imri Meda

Phil M. Thelmer

George F. Cronin

K. Cartwright-Ladendorff

Pam Boston

Kate Foley

Jim Dumas

# ATTACHMENT A - Salary Schedule

11/16/99	PDC0089C	02 - ATTORNEY AND HEARING OFFICER			7/1/99 INCREASE MINIMUM	7/1/99 INCREASE MAXIMUM	9/1/00 INCREASE MINIMUM	9/1/00 INCREASE MAXIMUM
		SCHEMATIC	CLASS	A/R				
		ADMINISTRATIVE LAW JUDGE I, AIR RESOURCES BOARD						
		OX31	7363		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE I, ALCOHOLIC BEVERAGE CONTROL						
		OX72	9711		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE I, DEPARTMENT OF INSURANCE						
		OX32	6134		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE I, DEPARTMENT OF SOCIAL SERVICES						
		OU35	6177		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE I, OFFICE OF ADMINISTRATIVE HEARINGS						
		OX90	6071		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE I, PUBLIC UTILITIES COMMISSION						
		OX70	6103		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE I, STATE PERSONNEL BOARD						
		OY18	6118		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE I, UNEMPLOYMENT INSURANCE APPEALS BOARD						
		OX30	6091		6475.00	7831.00	6734.00	8144.00
		ADMINISTRATIVE LAW JUDGE II (SPECIALIST), ALCOHOLIC BEVERAGE CONTROL						
		OX74	9710		6790.00	8216.00	7062.00	8545.00
		ADMINISTRATIVE LAW JUDGE II (SPECIALIST), DEPARTMENT OF SOCIAL SERVICES						
		OU45	6178		6790.00	8216.00	7062.00	8545.00
		ADMINISTRATIVE LAW JUDGE II (SPECIALIST), OFFICE OF ADMINISTRATIVE HEARINGS						
		OX80	6068		6790.00	8216.00	7062.00	8545.00
		ADMINISTRATIVE LAW JUDGE II (SPECIALIST), STATE PERSONNEL BOARD						
		OY22	6124		6790.00	8216.00	7062.00	8545.00



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02 - ATTORNEY AND HEARING OFFICER

SCHEMATIC	CLASS	A/R	7/1/99 MINIMUM	INCREASE MAXIMUM	9/1/00 MINIMUM	INCREASE MAXIMUM	HWG
ADMINISTRATIVE LAW JUDGE II, PUBLIC UTILITIES COMMISSION							
OX60	6102		6790.00	8216.00	7062.00	8545.00	4C
ADMINISTRATIVE LAW JUDGE II, UNEMPLOYMENT INSURANCE APPEALS BOARD							
OX25	6067		6790.00	8216.00	7062.00	8545.00	4C
ADMINISTRATIVE LAW JUDGE, DEPARTMENT OF HEALTH SERVICES							
OY46	6130		6475.00	7831.00	6734.00	8144.00	4C
ALCOHOLIC BEVERAGE CONTROL COUNSEL I							
OA73	5823		4872.00	5891.00	5067.00	6127.00	4C
ALCOHOLIC BEVERAGE CONTROL COUNSEL II							
OA83	5831		5484.00	6763.00	5703.00	7034.00	4C
ASSISTANT GENERAL COUNSEL I, AGRICULTURAL LABOR RELATIONS BOARD							
OE20	4051		4872.00	5891.00	5067.00	6127.00	4C
ASSISTANT GENERAL COUNSEL II, AGRICULTURAL LABOR RELATIONS BOARD							
OE25	4052		5484.00	6763.00	5703.00	7034.00	4C
BOARD COUNSEL I, ALRB							
OA94	6272	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C
BOARD COUNSEL II, ALRB							
OA95	6273	A	4872.00	5891.00	5067.00	6127.00	4C
		B	5484.00	6763.00	5703.00	7034.00	4C
CORPORATIONS COUNSEL							
OK70	6187	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C
		C	4872.00	5891.00	5067.00	6127.00	4C
		D	5484.00	6763.00	5703.00	7034.00	4C
DEPUTY ATTORNEY GENERAL							
OC65	5730	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C

02 - ATTORNEY AND HEARING OFFICER

	SCHMATIC	CLASS	A/R	7/1/99 MINIMUM	INCREASE MAXIMUM	9/1/00 MINIMUM	INCREASE MAXIMUM	MMG
DEPUTY ATTORNEY GENERAL	0C65	5730	C	4872.00	5891.00	5067.00	6127.00	4C
		D		5484.00	6763.00	5703.00	7034.00	4C
DEPUTY ATTORNEY GENERAL III	0C60	5706		6320.00	7799.00	6573.00	8111.00	4C
DEPUTY ATTORNEY GENERAL IV	0C50	5705		6983.00	8622.00	7262.00	8967.00	4C
DEPUTY ATTORNEY III, CALTRANS	0040	5789		6320.00	7799.00	6573.00	8111.00	4C
DEPUTY ATTORNEY IV, CALTRANS	0035	5788		6983.00	8622.00	7262.00	8967.00	4C
DEPUTY ATTORNEY, CALTRANS	0047	5779	A	3511.00	3854.00	3651.00	4008.00	4C
		B		4042.00	4438.00	4204.00	4616.00	4C
		C		4872.00	5891.00	5067.00	6127.00	4C
		D		5484.00	6763.00	5703.00	7034.00	4C
DEPUTY COMMISSIONER, BOARD OF PRISON TERMS	XE10	9743		6068.00	7333.00	6311.00	7626.00	4C
DEPUTY LABOR COMMISSIONER I	WQ20	9502		3764.00	4633.00	3915.00	4818.00	4B
DEPUTY LABOR COMMISSIONER II	HQ22	9536		4343.00	5345.00	4517.00	5559.00	4C
DEPUTY STATE PUBLIC DEFENDER	0D50	5763	A	4872.00	5891.00	5067.00	6127.00	4C
		B		5484.00	6763.00	5703.00	7034.00	4C
		C		6320.00	7799.00	6573.00	8111.00	4C
FAIR EMPLOYMENT AND HOUSING COUNSEL	0165	6110	A	3511.00	3854.00	3651.00	4008.00	4C

11/16/99 PDC0089C

02 - ATTORNEY AND HEARING OFFICER

SCHEMATIC	CLASS	A/R	7/1/99 INCREASE		9/1/00 INCREASE		HWC
			MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	
FAIR EMPLOYMENT AND HOUSING COUNSEL							
0165	6110	B	4042.00	4438.00	4204.00	4616.00	4C
		C	4872.00	5891.00	5067.00	6127.00	4C
		D	5484.00	6763.00	5703.00	7034.00	4C
FAIR HEARINGS SPECIALIST, OFFICE OF ADMINISTRATIVE HEARINGS							
0185	5980		6475.00	7831.00	6734.00	8144.00	4C
FAIR POLITICAL PRACTICES COMMISSION COUNSEL							
0N60	6185	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C
		C	4872.00	5891.00	5067.00	6127.00	4C
		D	5484.00	6763.00	5703.00	7034.00	4C
		E	5891.00	7261.00	6127.00	7551.00	4C
FAIR POLITICAL PRACTICES COMMISSION COUNSEL-ENFORCEMENT							
0N65	6186	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C
		C	4872.00	5891.00	5067.00	6127.00	4C
		D	5484.00	6763.00	5703.00	7034.00	4C
		E	5891.00	7261.00	6127.00	7551.00	4C
GRADUATE LEGAL ASSISTANT							
0A60	5797		3199.00	3511.00	3327.00	3651.00	4A
GRADUATE LEGAL ASSISTANT, FAIR POLITICAL PRACTICES COMMISSION							
0N55	6035		3199.00	3511.00	3327.00	3651.00	1
HEARING ADVISER I, CALIFORNIA ENERGY COMMISSION							
0Y33	6048		5615.00	6790.00	5840.00	7062.00	4C
HEARING ADVISER II, CALIFORNIA ENERGY COMMISSION							
0Y31	6051		6313.00	7647.00	6566.00	7953.00	4C
HEARING OFFICER I, AGRICULTURAL LABOR RELATIONS BOARD							
0Y30	6120		6475.00	7831.00	6734.00	8144.00	4C
HEARING OFFICER I, FAIR EMPLOYMENT AND HOUSING COMMISSION							
0Y60	6332		6475.00	7831.00	6734.00	8144.00	4C

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02 - ATTORNEY AND HEARING OFFICER

	SCHEMATIC	CLASS	A/R	7/1/99 MINIMUM	INCREASE MAXIMUM	9/1/00 MINIMUM	INCREASE MAXIMUM	HWG
HEARING OFFICER I, NEW MOTOR VEHICLE BOARD	0Y50	6125		6475.00	7831.00	6734.00	8144.00	4C
HEARING OFFICER I, OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD	0X91	6072		6475.00	7831.00	6734.00	8144.00	4C
HEARING OFFICER II, DEPARTMENT OF SOCIAL SERVICES	0U20	6017		5480.00	6629.00	5699.00	6894.00	4C
HEARING OFFICER II, NEW MOTOR VEHICLE BOARD	0Y52	6126		6790.00	8216.00	7062.00	8545.00	4C
INDUSTRIAL RELATIONS COUNSEL I	0I30	5978		4872.00	5891.00	5067.00	6127.00	4C
INDUSTRIAL RELATIONS COUNSEL II	0I20	5977		5484.00	6763.00	5703.00	7034.00	4C
INDUSTRIAL RELATIONS COUNSEL III (SPECIALIST)	0I15	6180		6320.00	7799.00	6573.00	8111.00	4C
LEGAL COUNSEL	0A70	5798	A B	3511.00 4042.00	3854.00 4438.00	3651.00 4204.00	4008.00 4616.00	4C 4C
PUBLIC UTILITIES COUNSEL I, PUBLIC UTILITIES COMMISSION	0J40	5816		4872.00	5891.00	5067.00	6127.00	4C
PUBLIC UTILITIES COUNSEL II, PUBLIC UTILITIES COMMISSION	0J30	5813		5484.00	6763.00	5703.00	7034.00	4C
PUBLIC UTILITIES COUNSEL III, PUBLIC UTILITIES COMMISSION	0J20	5812		6320.00	7799.00	6573.00	8111.00	4C
PUBLIC UTILITIES COUNSEL IV, PUBLIC UTILITIES COMMISSION	0J50	5699		6983.00	8622.00	7262.00	8967.00	4C

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02 - ATTORNEY AND HEARING OFFICER

SCHEMATIC	CLASS	A/R	7/1/99 INCREASE		9/1/00 INCREASE		WAG
			MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	
REAL ESTATE COUNSEL I							
0A93	5539	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C
		C	4872.00	5891.00	5067.00	6127.00	4C
REAL ESTATE COUNSEL II							
0A92	5538		5484.00	6763.00	5703.00	7034.00	4C
REAL ESTATE COUNSEL III (SPECIALIST)							
0A91	5537		6320.00	7799.00	6573.00	8111.00	4C
SENIOR BOARD COUNSEL, ALRB							
0A96	6274		6320.00	7799.00	6573.00	8111.00	4C
SENIOR COMMISSION COUNSEL (SPECIALIST), FAIR POLITICAL PRACTICES COMMISSION							
0A97	6204		6320.00	7646.00	6573.00	7952.00	4C
SENIOR CORPORATIONS COUNSEL (SPECIALIST)							
0K80	6188		6320.00	7799.00	6573.00	8111.00	4C
SENIOR DEPUTY STATE PUBLIC DEFENDER							
0D10	5772	A	6983.00	8622.00	7262.00	8967.00	4C
		S	6988.00	8627.00	7268.00	8972.00	4C
SENIOR FAIR EMPLOYMENT AND HOUSING COUNSEL (SPECIALIST)							
0155	6115		6320.00	7799.00	6573.00	8111.00	4C
STAFF COUNSEL							
0A72	5778	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C
		C	4872.00	5891.00	5067.00	6127.00	4C
		D	5484.00	6763.00	5703.00	7034.00	4C
STAFF COUNSEL III (SPECIALIST)							
0A82	5795		6320.00	7799.00	6573.00	8111.00	4C
STAFF COUNSEL IV							
0A80	5780		6983.00	8622.00	7262.00	8967.00	4C

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02 - ATTORNEY AND HEARING OFFICER

SCHEMATIC	CLASS	A/R	7/1/99 INCREASE		9/1/00 INCREASE		WWG
			MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	
TAX COUNSEL							
0A75	6728	A	3511.00	3854.00	3651.00	4008.00	4C
		B	4042.00	4438.00	4204.00	4616.00	4C
		C	4872.00	5891.00	5067.00	6127.00	4C
		D	5484.00	6763.00	5703.00	7034.00	4C
TAX COUNSEL III (SPECIALIST)							
0A76	6733		6320.00	7799.00	6573.00	9111.00	4C
TAX COUNSEL IV, FRANCHISE TAX BOARD							
0A78	6722		6983.00	8622.00	7262.00	8967.00	4C
WORKERS* COMPENSATION JUDGE							
0Y10	6116		6475.00	7831.00	6734.00	8144.00	4C
WORKERS*COMPENSATION CONFERENCE REFEREE							
W014	7557		6320.00	7646.00	6573.00	7952.00	4C

## **ATTACHMENT B - IRS Agreement Employer-Paid Employee Retirement Contributions**

A. The purpose of this attachment is to implement the provisions contained in Section 414(h)(2) of the Internal Revenue Code concerning the tax treatment of employee retirement contributions paid by the State of California on behalf of employees in the bargaining unit. Pursuant to Section 414(h)(2) contributions to a pension plan, although designated under the plan as employee contributions, when paid by the employer in lieu of contributions by the employee, under circumstances in which the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer, may be excluded from the gross income of the employee until these amounts are distributed or made available to the employee.

Implementation of Section 414(h)(2) is accomplished through a reduction in wages pursuant to the provisions of this Article.

1. DEFINITIONS. Unless the context otherwise requires, the definitions in this Article govern the construction of this Article.

- a. "Employees." The term "employees" shall mean those employees of the State of California in Bargaining Unit 2 who make employee contributions to the PERS retirement system.
- b. "Employee Contributions." The term "employee contributions" shall mean those contributions to the PERS retirement system which are deducted from the salary of employees and credited to individual employee's accounts.
- c. "Employer." The term "employer" shall mean the State of California.
- d. "Gross Income." The term "gross income" shall mean the total compensation paid to employees in Bargaining Unit 2 by the State of California as defined in the Internal Revenue Code and rules and regulations established by the Internal Revenue Service.
- e. "Retirement System." The term "retirement system" shall mean the PERS retirement system as made applicable to the State of California under the provisions of the Public Employees' Retirement Law (California Government Code Section 20000, et seq.).
- f. "Wages." The term "wages" shall mean the compensation prescribed in this Agreement.

2. PICK UP OF EMPLOYEE CONTRIBUTIONS.

- a. Pursuant to the provisions of this Agreement, the employer shall make employee contributions on behalf of employees, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States. Such contributions are being made by the employer in lieu of employee contributions.

b. Employee contributions made under Paragraph A. of this Article shall be paid from the same source of funds as used in paying the wages to affected employees.

c. Employee contributions made by the employer under Paragraph A. of this Article shall be treated for all purposes other than taxation in the same manner and to the same extent as employee contributions made prior to the effective date of this Agreement.

d. The employee does not have the option to receive the employer contributed amounts paid pursuant to this Agreement directly instead of having them paid to the retirement system.

3. WAGE ADJUSTMENT.

Notwithstanding any provision in this Agreement on the contrary, the wages of employees shall be reduced by the amount of employee contributions made by the employer pursuant to the provisions hereof.

4. LIMITATIONS TO OPERABILITY.

This Article shall be operative only as long as the State of California pick-up of employee retirement contributions continues to be excludable from gross income of the employee under the provisions of the Internal Revenue Code.

5. NON-ARBITRABILITY.

The parties agree that no provisions of this Article shall be deemed to be arbitrable under the grievance and arbitration procedure contained in this Agreement.



**ATTACHMENT C - Domestic Partners**

Should legislation pass during the term of this agreement regarding changes in eligibility of domestic partners for health benefits, ACSA and the State agree that those legislative provisions shall apply to Unit 2 employees.

## **ATTACHMENT D - Miscellaneous Changes To Regulations And Statutes**

The parties agreed to changes in regulations and statutes pertaining to the following, subject to the terms specified for each.

1. Administrative Procedures Act
2. Alternative Pre-Retirement Death Benefit
3. Eligibility for Safety Retirement
4. Dental vesting
5. Health benefit vesting
6. Public Contract Code exemption
7. Annual leave
8. Pay plan
9. Correction of underpayments
10. Entrance rate
11. Rate on movement between classes with substantially the same salary range
12. Rate on movement to class with lower salary range
13. Rate on movement to class with a higher salary range
14. Rate on reappointment or reinstatement
15. Rate on reappointment or reinstatement after temporary separation
16. Retention of salary above the maximum upon movement between classes
17. Movement between alternate ranges
18. Qualifying service for merit and special in-grade salary adjustment
19. Merit salary adjustment
20. Appeal from merit and special in-grade salary adjustment action
21. Special in-grade salary adjustment
22. Effects of breaks in state service on merit and special in-grade salary adjustments
23. Effect of Reallocation of positions
24. Effect of salary range changes
25. Performance appraisal of probationers

**ADDENDUM #1 - Improved Age Benefit Factors For Safety Members**

A. The parties agree that legislation implementing this agreement shall contain language adding new age benefit factors on which service retirement benefits are based for employees of this unit who are safety members of the Public Employees' Retirement System (CalPERS). The parties further agree that the provisions of this section will be effective only upon the CalPERS board adopting a resolution that will employ, for the June 30, 1998 valuation and thereafter, 95% of the market value of the CalPERS' assets as the actuarial value of the assets, and to amortize the June 30 excess assets over a 20 year period, beginning July 1, 1999. The parties agree to jointly request the CalPERS board to extend the 20 year amortization period in the event the cost of these benefits or unfavorable returns on investments result in an increased employer contribution by the State.

B. The parties agree to support legislation that will improve the age benefit factors from age 50 to 55 for safety members. The age benefit factor at age 55 for Unit 2 employees will be 2.5% of compensation for each year of service. These improved benefit factors will apply to employees who retire directly from State service on and after January 1, 2000, and for service rendered as a safety member prior to and after that date.

C. ACSA agrees that the rate of contribution for safety members who are subject to the new 2.5% at age 55 formula shall be no greater than 8% of monthly compensation in excess of \$238, effective on and after July 1, 2001.

D. The parties agree that notwithstanding the June 30, 2001 expiration date for the Unit 2 collective bargaining agreement, this addendum shall remain in full force and effect through and including July 2, 2001.