

COURT OF APPEAL, STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

CALIFORNIA ATTORNEYS,
ADMINISTRATIVE LAW JUDGES AND
HEARING OFFICERS IN STATE
EMPLOYMENT, et al.,

Plaintiff/Appellant,

vs.

JOHN CHIANG, as State Controller, etc.,

Defendant/Appellant,

ARNOLD SCHWARZENEGGER, as
Governor, etc., et al.,

Defendants/Respondents.

Court of Appeal Case No. C061009

(Sacramento County Superior Court
Case No. 34-2009-80000134-CU-WM-GDS)

On Appeal from the Judgment dated February 11, 2009
of the Superior Court for Sacramento County
The Honorable Patrick Marlette

RESPONDENTS' MOTION FOR JUDICIAL NOTICE

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GOVERNOR ARNOLD
SCHWARZENEGGER
and DEPARTMENT OF PERSONNEL
ADMINISTRATION

Respondents Governor Arnold Schwarzenegger and Department of Personnel Administration hereby move this Court for an order taking judicial notice of the documents described in the accompanying Declaration of David W. Tyra. This motion and request for judicial notice is made on the ground that the matters for which judicial notice is sought are all part of the legislative history underlying Government Code section 19851, subdivision (a) and are necessary and appropriate for a full consideration of the questions posed by this Court in its January 29, 2010 letter to the parties and addressed in full in Respondents' Supplemental Letter Brief to this Court.

Dated: April 1, 2010

KRONICK, MOSKOVITZ, TIEDEMANN
& GIRARD
A Law Corporation

By: 

David W. Tyra
Attorneys for Defendants/Respondents
GOVERNOR ARNOLD
SCHWARZENEGGER and
DEPARTMENT OF PERSONNEL
ADMINISTRATION

**DECLARATION OF DAVID W. TYRA
IN SUPPORT OF MOTION AND REQUEST FOR
JUDICIAL NOTICE**

I, David W. Tyra, declare:

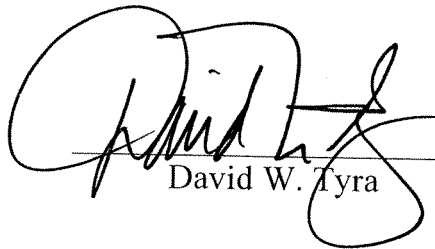
1. I am an attorney licensed in the State of California and am a member of Kronick, Moskowitz, Tiedemann & Girard, attorneys of record for Respondents in this action.
2. I have personal knowledge of the matters stated in this declaration and, if asked to do so, I could competently testify to those matters.
3. To address the questions posed by this Court in its January 29, 2010 letter, I ordered a complete copy of the legislative history of Government Code section 19851 from Legislative Intent Service, Inc. All documents described below were provided to me as part of that request.
4. Attached to this motion and request for judicial notice, and marked as Exhibit 1, is a true and correct copy of Section 73 of the State Civil Service Act of 1943.
5. Attached to this motion and request for judicial notice, and marked as Exhibit 2, is a true and correct copy of Government Code section 18020 as enacted in 1945.
6. Attached to this motion and request for judicial notice, and marked as Exhibit 3, is a true and correct copy of the amended version of Government Code section 18020 as enacted in 1947.

7. Attached to this motion and request for judicial notice, and marked as Exhibit 4, is a true and correct copy of a July 3, 1947 letter from James H. Phillips, counsel to the California State Employees' Association, to Beach Vasey, Governor Earl Warren's Legislative Secretary, regarding the 1947 proposed amendment to Government Code section 18020.

8. Attached to this motion and request for judicial notice, and marked as Exhibit 5, is a true and correct copy of the amended version of Government Code section 18020 as enacted in 1955.

9. Attached to this motion and request for judicial notice, and marked as Exhibit 6, is a true and correct copy of a June 21, 1955 memorandum from Deputy Attorney General Paul M. Joseph to Governor Goodwin Knight regarding the 1955 amendments to Government Code section 18020.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and was executed this 1st day of April, 2010.


David W. Tyra

PROOF OF SERVICE

I, May Marlowe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 400 Capitol Mall, 27th Floor, Sacramento, CA 95814-4416. On April 1, 2010, I served the within documents:

RESPONDENTS' MOTION FOR JUDICIAL NOTICE

- by transmitting via facsimile from (916) 321-4555 the above listed document(s) without error to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the transmittal/confirmation sheet is attached.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.
- by causing personal delivery by Messenger of the document(s) listed above to the person(s) at the address(es) set forth below.
- by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- by causing to be transmitted via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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Hon. Patrick Marlette
Sacramento County Superior Court
720 Ninth Street – Dept. 19
Sacramento, CA 95814

Supreme Court of California (4
copies)
350 McAllister Street
San Francisco, CA 94102-4797

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 1, 2010, at Sacramento, California.



May Marlowe

TAB 1

be allowed actual traveling expenses incurred in the performance of their duties, such traveling expenses to be audited, allowed and paid out of the general fund of the county.

New section

SEC. 2. Section 261b is added to the Code of Civil Procedure, to read:

Traveling expenses of court commissioner:

261b. The court commissioners as provided for in Section 261 shall be allowed actual traveling expenses incurred in the performance of their duties, such expenses to be audited, allowed and paid out of the general fund of the county.

 CHAPTER 1040

Stats 1929, p 307, amended

An act to add Section 12.5 to the Water Conservation Act of 1929, relating to the offices of the directors of water conservation districts.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 12.5 is added to the Water Conservation Act of 1929, to read:

Holding office

Sec. 12.5. All directors shall hold office respectively until their successors are elected and qualified.

 CHAPTER 1041

Stats 1937, p 2085, amended

An act relating to office and working hours and the payment of overtime compensation, to add Sections 73 and 73.5 to the State Civil Service Act in connection therewith and declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 73 is hereby added to the State Civil Service Act, to read as follows:

Overtime compensation

Sec. 73. Every State employee compensated on a monthly basis required and ordered to work in excess of a normal work week as established by the State Personnel Board for the class of his position, shall receive overtime compensation based on his regular rate of pay for all such overtime; provided, that no overtime compensation shall be paid on any portion of an employee's regular rate of pay in excess of two hundred fifty dollars (\$250) per month.

Restriction

Normal work week

Within 90 days of the effective date of this section, the State Personnel Board shall for each class in the State service for which a monthly salary range is fixed determine and establish



the normal work week for the class. For purposes of determining eligibility for overtime compensation, the State Personnel Board shall allocate, and reallocate as the needs of the service require, each State civil service class for which a monthly salary range is fixed into one of the following groups:

Group allocation

- (1) Classes with a normal work week of 40 hours;
- (2) Classes with a normal work week of 44 hours;
- (3) Classes with a normal work week of 48 hours;
- (4) Classes which can not be included in any plan of payment for overtime because:

(a) While requiring at least 40 hours per week, the duties and responsibilities are such that they do not adapt themselves to a maximum number of hours per week;

(b) The performance of duties is required on a part-time or intermittent basis and does not amount to a maximum of 40 hours per week.

Nothing in this act shall be construed as prohibiting the granting of compensating time off in lieu of overtime worked where such compensating time off can be granted within 30 days of the date worked and where it can be granted without impairing the services rendered by the agency. The State Personnel Board shall adopt rules and regulations governing overtime compensation as herein provided.

Compensating time off

Rules and regulations

SEC. 2. Section 73.5 is added to said act, to read:

New section

Sec. 73.5. Within 30 days of the effective date of Section 73 of this act, every department, bureau, board, commission, or office in which there are employees not subject to State civil service shall submit to the State Personnel Board all information necessary for a determination of the normal work week for each such employee. The State Personnel Board shall within the time limits herein designated determine and establish the normal work week for exempt employees in the same manner as that prescribed for civil service employees. All such employees shall be entitled to overtime compensation on the same basis as provided for civil service employees under Section 73 of the State Civil Service Act.

Noncivil service employees Normal work week

Overtime compensation

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting said necessity is as follows:

Urgency

During the present emergency, lack of manpower has demonstrated the necessity of immediately making some provision for the payment of overtime to State employees in order that their services may be utilized over and above the presently established normal work week. Unless their services can be used, it will be necessary to attempt to obtain much less experienced help from other sources, with the result that the cost of services rendered will be greatly increased. It is for the best interests of the State service that this act therefore go into effect immediately.



TAB 2

An act to add Article 3 to Chapter 2, Part 2, Division 4, Title 2 of, and to add Section 500034 to, the Government Code, to consolidate and revise the law relating to the organization, operation, and maintenance of a system of State and local government, and to repeal certain acts and parts of acts specified herein.

Approved by Governor April 27, 1945. Filed with Secretary of State April 27, 1945.]

The people of the State of California do enact as follows:

SECTION 1. Article 3 is added to Chapter 2, Part 2, Division 4, Title 2 of the Government Code, to read:

Article 3. General Cash Revolving Fund

16380. This article does not apply to the Unemployment Fund or the Unemployment Administration Fund created by the Unemployment Insurance Act.

16381. The General Cash Revolving Fund in the treasury is continued in existence. Whenever the Governor, upon request of the Controller, determines in writing that there is insufficient cash in the General Fund to meet payments authorized by law, and until his determination is revoked in writing by the Governor, the Governor may direct the Controller to make transfers of money from any special funds and other State accounts to the General Cash Revolving Fund.

16382. This article does not authorize any transfer which will interfere with the carrying out of the object for which a special fund or other State account was created. Retransfers to special funds and other State accounts shall be made on order of the Governor in season so that the objects for which they were created may be carried out.

16383. Warrants may be drawn by the Controller against the General Cash Revolving Fund, to the extent of the amounts available, in accordance with demands audited pursuant to law and rules and regulations prescribed from time to time by the Board of Control, and also to meet other payments provided by law to be made from the General Fund. The Treasurer may pay from the General Cash Revolving Fund the warrants so drawn.

16384. The General Cash Revolving Fund shall be reimbursed as provided in Chapter 2, Part 4.
Sec. 2. Sections 500034 is added to said code, to read:
500034. Section 443 of the Political Code is repealed.

An act to add Division 5 to Title 2 of, and to add Section 500035 to, the Government Code, to consolidate and revise the law relating to the organization, operation, and maintenance of a system of State and local government, and to repeal acts and parts of acts specified herein.

Approved by Governor April 27, 1945. Filed with Secretary of State April 27, 1945.]

The people of the State of California do enact as follows:

SECTION 1. Division 5 is added to Title 2 of the Government Code, to read:

DIVISION 5. PERSONNEL

PART 1. GENERAL

CHAPTER 1. SALARIES

Article 1. General

18000. The salary fixed by law for each State officer, elective or appointive, is compensation in full for all services rendered in any official capacity or employment whatsoever, during his term of office, and he shall not receive for his own use any fee or perquisite for the performance of any official duty.

18001. Unless otherwise provided by law, the salaries of State officers shall be paid monthly out of the General Fund.

18002. Before the sixteenth day of the following month, all State officers and employees shall be paid the compensation due them for all services rendered during any month.

18003. A State officer shall not certify any pay roll to the Controller unless all services listed thereon for which compensation is claimed have been actually rendered.

18004. Unless the Legislature specifically provides that approval of the Department of Finance is not required, whenever any State agency or court fixes the salary or compensation of an employee or officer, which salary is payable in whole or in part out of State funds, the salary is subject to the approval of the Department of Finance before it becomes effective and payable.

18005. Upon separation from service under Part 2, without fault on his part, a person is entitled to a lump sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which he is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the appointing power or by rules of the State Personnel Board.

Such sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the ~~6666666666~~ which the employee would have been paid had he taken the time off but not separated from the service. Persons

LIS - 10

In effect September 15, 1945

Application of article

General Cash Revolving Fund

Transfers

Warrants

Reimbursement

Repeal



separated from service under Part 2 through fault of their own are entitled to a lump sum payment for such compensating time off for overtime work, similarly computed, and in addition, such portion, if any, of unused vacation as the State Personnel Board may determine.

Article 2. Overtime

Normal work week groups

18020. For the purpose of determining eligibility for overtime compensation, the State Personnel Board shall establish the normal work week for each class in the State civil service for which a monthly salary range is fixed and for each position not subject to State civil service by allocating and reallocating as the needs of the service require, each State civil service class and each exempt position to one of the following groups:

- (1) Classes with a normal work week of 40 hours.
- (2) Classes with a normal work week of 44 hours.
- (3) Classes with a normal work week of 48 hours.
- (4) Classes which can not be included in any plan of payment for overtime because:

(a) While requiring at least 40 hours a week, the duties and responsibilities are such that they are not adapted to a maximum number of hours a week; or

(b) The performance of duties is required on a part-time or intermittent basis and does not amount to a maximum of 40 hours per week.

Overtime compensation See also Stats. 1945, Ch. 336

18021. Every State employee compensated on a monthly basis required and ordered to work in excess of a normal work week as established by the State Personnel Board for his class or for his position, if exempt, shall receive overtime compensation for all such overtime. The rate of overtime pay shall be based on his regular rate of pay or two hundred fifty dollars (\$250) per month, whichever is less.

Employees not subject to civil service

18022. Every State agency in which there are employees not subject to State civil service shall submit to the State Personnel Board all information necessary for a determination of the normal work week for each employee.

Compensating time off See also Stats. 1945, Ch. 1172

18023. The granting of compensating time off in lieu of overtime worked is not prohibited where compensating time off can be granted within 30 days of the date worked and without impairing the services rendered by the employing State agency.

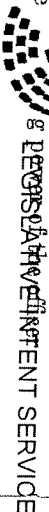
Rules

18024. The State Personnel Board shall adopt rules governing overtime compensation.

CHAPTER 2. VACATIONS

Computation See also Stats. 1945, Ch. 55

18050. During each year of continuous service, each State officer and employee is entitled to 15 days of vacation with pay, excluding time during which he is not regularly assigned to work. For the purpose of computing vacation time, each employee shall be considered to work not more than five and one-half days each week. The time when vacations shall be taken shall be determined by the



STATE PERSONNEL ADMINISTRATION SERVICE

18051. The State Personnel Board shall provide by rule for vacations and for the regulation and accumulation of vacations for civil service employees who have been employed for a period of at least six months and less than one year.

18052. The appointing power of any officer or employee not a member of the civil service may promulgate regulations governing vacations for such officers or employees.

18053. When a State officer or employee is transferred from one State agency to another, his accumulated vacation privileges are a charge against the agency to which he is transferred unless such agency requires him to take his accumulated vacation before the effective date of the transfer.

CHAPTER 3. SICK LEAVE

18100. Each State officer and employee is entitled to 12 days of sick leave with pay, excluding time during which he is not regularly assigned to work, for a calendar year of service, or one day of sick leave with pay for each calendar month of service, on the submission of satisfactory proof of the necessity for sick leave as provided by rule of the State Personnel Board. For the purpose of computing sick leave, each employee shall be considered to work not more than five and one-half days each week.

18101. The board shall provide by rule for the granting of additional sick leave, with or without pay, or with reduced pay, or for accumulation of sick leave.

18102. A State officer or employee who is entitled to compensation under Division 4 of the Labor Code may elect to take as much of his accumulated sick leave as when added to his disability indemnity will result in the payment to him of his full salary or wage.

He is nevertheless entitled to medical, surgical, and hospital treatment as provided in Division 4 of the Labor Code. When his accumulated sick leave is exhausted, he is still eligible to receive disability indemnity.

CHAPTER 4. OATHS FOR STATE EMPLOYEES

18150. The oath required by this chapter is as follows: "I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of ----- (insert classification title), according to the best of my ability." (insert classification)

Form of oath filing

18151. The oath required by this chapter shall be taken and subscribed by: (a) Every person who is appointed to a State position not in the State civil service and not otherwise so required by law, within 30 days of the date of appointment; and (b) Every person who has not previously taken and subscribed the oath and who is employed in a permanent position in

TAB 3

(m) Certified copies of any petition, with the schedules omitted, filed in, and certified copies of any order or decree made or entered in any proceeding under the National Bankruptcy Act.

(n) Certified copies of decrees and judgments of courts of record; and

(o) Such other writings as are required or permitted by law to be recorded.

The books shall be either bound or contain insertable leaves which when placed in the books cannot be removed.

SEC. 3. Section 27376 of said code is amended to read:

27376. The fee for filing a certificate of registry of marriage to be paid by the county clerk is one dollar (\$1).

SEC. 4. Section 68 of the Civil Code is amended to read:

68. Marriage must be licensed, solemnized, authenticated, and the certificate of registry of marriage filed as provided in this article; but noncompliance with its provisions by others than a party to a marriage does not invalidate it.

See also
Stats 1947,
Ch 424
Registry of
marriage Fee
See also
Stats 1947,
Ch 1148
Marriage
Legal re-
quirements

CHAPTER 1304

An act to amend Sections 18020, 18021, 18022, 18023 and 18024 of the Government Code, relating to hours of work and overtime compensation for state employees.

[Approved by Governor July 10, 1947. Filed with Secretary of State July 10, 1947]

In effect
September
19, 1947

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 2, of Chapter 1, Part 1, Division 5, of the Government Code, is amended to read:

Article 2. Days and Hours of Work

SEC. 2. Section 18020 of the Government Code is amended to read:

18020. The State Personnel Board shall establish the work week for each position or class in the state service for which a monthly salary range is fixed, whether or not the position or class is subject to state civil service, by allocating, and reallocating as the needs of the service require, each class or position to one of the following groups:

- (1) Classes and positions with a work week of 40 hours.
- (2) Classes and positions with a work week of 44 hours.
- (3) Classes and positions with a work week of 48 hours
- (4) Classes and positions with unusual conditions or hours of work requiring the establishment by the Personnel Board of special provisions governing hours of work or methods of compensation for overtime.

Work week
groups



SEC. 3. Section 18021 of the Government Code is amended to read:

Overtime
compensation

18021. Salaried state employees whose classes or positions are allocated by the State Personnel Board to Work Week Groups 1, 2, or 3, as defined in Section 18020 shall, if required and ordered to work in excess of the hours prescribed for the group, receive overtime compensation for all such overtime work. The rate of overtime compensation shall be based on the regular rate of pay, except that for employees whose classes or positions are allocated by the Personnel Board to Work Week Group 4 the rate of overtime compensation may be established by the Personnel Board at less than the regular rate of pay and it may vary within classes depending upon the unusual conditions of work.

SEC. 4. Section 18022 of the Government Code is amended to read:

Employees
not subject
to civil
service

18022. Every state agency in which there are employees not subject to state civil service shall submit to the State Personnel Board all information necessary for a determination of the work week for each employee.

SEC. 5. Section 18023 of the Government Code is amended to read:

Compensating
time off

18023. The granting of compensating time off in lieu of overtime worked is not prohibited where compensating time off can be granted within 12 calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing state agency.

SEC. 6. Section 18024 of the Government Code is amended to read:

Rules

18024. The State Personnel Board shall adopt rules governing hours of work and overtime compensation.

CHAPTER 1305

An act to amend Section 12001 of the Government Code, relating to the Governor's Office.

In effect
September
19 1947

[Approved by Governor July 10, 1947. Filed with
Secretary of State July 10, 1947.]

The people of the State of California do enact as follows:

SECTION 1. Section 12001 of the Government Code is amended to read:

Secretaries,
etc

12001. The Governor may appoint and fix the salaries of such secretaries and other personnel as he deems necessary for his office. No salary fixed under this section shall exceed ten thousand dollars (\$10,000) annually.

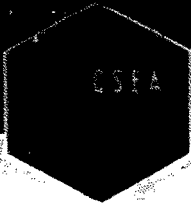


TAB 4

The California

STATE EMPLOYEES

Association



SAMUEL G. HANSON, General Manager JAMES H. PHILLIPS, Attorney
HEADQUARTERS OFFICE 1020 N. STREET SACRAMENTO 14 PHONE 2-4711, EXTENSION 2575

July 3, 1947

Mr. Beach Vasey, Legislative Secretary
Office of the Governor of California
State Capitol
Sacramento, California

In Re: Assembly Bill 292

Dear Mr. Vasey:

This will acknowledge receipt of your communication of July 1, 1947 to Mr. Sam G. Hanson, in which you ask for the recommendation of the California State Employees' Association on Assembly Bill 292.

The California State Employees' Association caused legislation to be introduced in this session of the Legislature by which the forty hour week could be established for all employees where comparable work in other public agencies and private employment is already established on a forty hour week basis. An Interim Committee of the Assembly under the Chairmanship of Assemblyman Dwight H. Stephenson studied this problem of uniform working hours and a forty hour week for State employees and recommended that the State adopt the uniform forty hour week for its employees. This report will be found commencing on page 20 of the Assembly Journal of April 23rd, a copy of which I am enclosing herewith for your convenience. You will observe that this report contains a copy of a communication from the State Personnel Board to Governor Warren as of January 31, 1947, discussing the hours of work of the various State employees. This report of the Personnel Board clearly shows that a large number of State employees are working a number of hours in excess of the prevailing practices for like work.

BOARD OF DIRECTORS

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Whittier

"Serving the People Who Serve the People"

The Legislature passed two bills which, if signed by the Governor, will enable the Personnel Board to properly establish uniform working hours for State employees. These bills are Assembly Bill 292 and Assembly Bill 941. Both bills were sponsored by the California State Employees' Association and were passed by the Legislature as companion bills in connection with the forty hour week program. Both bills were the result of cooperative studies and conferences by the State Personnel Board, Department of Finance, the Legislative Auditor's Office and the California State Employees' Association. Both bills were approved by the aforementioned groups and both bills were unanimously passed by both Houses of the Legislature. ✓

I am attaching hereto the explanation for Assembly Bill 292 that was used in presenting the bill on the floor of the Senate and Assembly. ✓

I am also attaching a copy of an explanation of Assembly Bill 941 which is the appropriation bill by which any reduction in hours can be financed.

The California State Employees' Association respectfully urges that Assembly Bill 292 and Assembly Bill 941 be signed.

If, for any reason, Governor Warren believes that either of these two bills should not be signed, I hereby respectfully request a conference with Governor Warren on the subject prior to any action by the Governor which would result in a veto of either of these bills.

Very truly yours,

CALIFORNIA STATE EMPLOYEES'
ASSOCIATION



James H. Phillips
Attorney

JHP:lt
Enc. 3



EXPLANATION OF ASSEMBLY BILL 292

There is no opposition to this bill. The amendments have been approved by the State Personnel Board, the Legislative Auditor, the Department of Finance and the California State Employees' Association.

The combined effect of the amendments to Section 18020 and 18021 is to give the Personnel Board complete flexibility to make proper and equitable reduction in the working hours of State employees when such reduction is necessary to bring them into line with prevailing practices in private industry and other public agencies. The amendments permit the Board to establish overtime rates of pay at less than straight time if the lesser rate is found to be proper and administratively desirable. The Board cannot however, provide for overtime pay at a rate greater than straight time. }

The amendment to Section 18023 extends the time in which compensating time may be granted in lieu of cash payment of overtime from the present six months to twelve calendar months.

LEGISLATIVE INTENT SERVICE (800) 666-1917



TAB 5

the request of such employee shall defend said suit on behalf of such employee. If there is a settlement or judgment in the suit the State shall pay the same; provided, that no settlement shall be effected without the consent of the officer or employee. The settlement of such claims or judgments shall be limited to those arising from acts of such officers and employees of the State in the performance of their duties on the grounds of state institutions or facilities or by reason of emergency aid given to inmates, state officials, employees, and to members of the public for accidents occurring on such grounds.

CHAPTER 1786

An act to amend Section 6363, Business and Professions Code, relating to retirement of officers and employees of law libraries.

[Approved by Governor July 7, 1955. Filed with Secretary of State July 8, 1955.]

In effect
September
7, 1955

The people of the State of California do enact as follows:

SECTION 1. Section 6363 of the Business and Professions Code is amended to read:

6363. Whenever a law library, and a board of trustees to govern the same, is in existence under the provisions of any law, other than the law superseded by this chapter, in any county, or city and county, in this State, this chapter shall not be considered a repeal of any legislation under which such library was established and is now governed, but shall be deemed to confer upon such library the benefits of Sections 6321, 6322, 6322.1, 6326, 6341, 6345, 6346, 6346.5, and 6347.

CHAPTER 1787

An act to amend Sections 18020 and 18021 of, and to add Section 18021.5 to, the Government Code, relating to overtime in the state service.

[Approved by Governor July 7, 1955. Filed with Secretary of State July 8, 1955.]

In effect
September
7, 1955

The people of the State of California do enact as follows:

SECTION 1. Section 18020 of the Government Code is amended to read:

18020. It is the policy of the State that the workweek of the state employee shall be 40 hours, except that workweeks of a different number of hours may be established in order to



meet the varying needs of the different state agencies. It is the policy of the State to avoid the necessity for overtime work whenever possible. This policy does not restrict the extension of regular working hour schedules on an overtime basis in those activities and agencies where such is necessary to carry on the state business properly during a manpower shortage.

SEC. 2. Section 18021 of the Government Code is amended to read:

18021. For each class or position for which the State Personnel Board establishes a monthly or annual salary, the board shall establish and adjust workweek groups and shall assign each class or position to a workweek group. The State Personnel Board, after considering the needs of the state service and prevailing overtime compensation practices, may establish workweek groups of different lengths or of the same length but requiring different methods of recognizing or providing compensation for overtime.

SEC. 3. Section 18021.5 of the Government Code is added, to read:

18021.5. The State Personnel Board shall provide the extent to which, and establish the method by which, ordered overtime or overtime in times of critical emergency is compensated. The board may provide for cash compensation at a rate equal to or less than the regular rate of pay, and the rate may vary within a class depending upon the conditions of work, or the board may provide for compensating time off. The provisions made under this section shall be based on the practices of private industry and other public employment, the needs of state service, and internal relationships.

CHAPTER 1788

An act to amend Section 50705 of the Water Code, relating to reclamation districts.

In effect
September
7, 1955

[Approved by Governor July 7, 1955. Filed with
Secretary of State July 8, 1955.]

The people of the State of California do enact as follows:

SECTION 1. Section 50705 of the Water Code is amended to read:

50705. The polls shall be kept open from 10 a.m. of the day of election until 4 p.m. Where the real property in the district is assessed to 500 or more different individual, joint, or corporate owners, the board may elect to keep the polls open from 7 a.m. of the day of election until 7 p.m. and in such event shall include such time of polling in the notice as provided in Section 50732.



TAB 6

STATE OF CALIFORNIA

Inter-Departmental Communication

To: Honorable Goodwin J. Knight
Governor of California
State Capitol
Sacramento, California

Date: June 21, 1955

File No.

Subject: Assembly Bill
No. 1464

From: Office of The Attorney General
Department of Justice

Paul M. Joseph
Deputy Attorney General

This bill amends Sections 18020 and 18021 of the Government Code and adds Section 18021.5 to that code, all dealing with days and hours of work of State employees. The amended sections are recast. Section 18020 now provides that the State Personnel Board shall classify civil service and exempt positions with a monthly or annual salary into four designated work week groups. This bill does away with the four classifications and gives broader work week classification authority to the Board with respect to those positions or classes for which the Board establishes a monthly or annual salary (i.e., principally civil service positions) to be exercised by Board rules. At present, Work Week Class 4, in which are placed various positions designated as unlimited as to hours or otherwise not requiring a set number of hours, requires "unusual conditions or hours of work" and some question has been raised as to the authority of the State Personnel Board to place higher paid managerial and journeymen employees in this work week group on the basis of higher salary alone, without any other "unusual" conditions. To obviate this, and probably other objections, these amendments are made by this bill.

The bill also sets forth a statement of State policy 1) that State workers shall be employed forty hours a week, except that to meet the varying needs of the different State agencies workweeks of a different number of hours may be established, 2) to avoid the payment of overtime, 3) except during a manpower shortage.

The new section 18021.5 incorporates parts of the existing section 18021 in changed form and gives the State Personnel Board authority to determine the extent to which, and the method

Honorable Goodwin J. Knight
(Assembly Bill No. 1464)

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by which, 1) ordered overtime and 2) overtime in times of critical emergency are to be compensated; that the Board may provide 1) cash compensation equal to or less (nothing is said about greater) than the regular rate of pay, which rate may vary within the same class or 2) for compensating time off. The provisions made by the Board under this new Section 18021.5 "shall be based on the practices of private industry and other public employment, the needs of State service, and internal relationships".

Title satisfactory.

No legal objections.

Paul M. Joseph

PMJ:DMc