

**Senate Bill No. 1718**

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Passed the Senate August 30, 2008

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*Secretary of the Senate*

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Passed the Assembly August 13, 2008

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 19827.4 to the Government Code, relating to public employment.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1718, Perata. Public employment: State Bargaining Unit 2: compensation.

The Ralph C. Dills Act permits state employees to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, as specified. Existing law permits an employee organization to become the exclusive representative of an appropriate unit for purposes of meeting and negotiating, as specified. Existing law requires the Governor, or his or her representative, as properly designated by law, to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations, and to consider fully any presentation that is made by an employee organization on behalf of its members prior to arriving at a determination of policy or course of action.

Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. Existing law requires the salary range to be based on the principle that like salaries shall be paid for comparable duties and responsibilities. In establishing or changing these ranges, existing law requires consideration to be given to the prevailing rates for comparable service in other public employment and in private business. Existing law also requires the department, at least 6 months before the end of the term of an existing memorandum of understanding or immediately upon the reopening of negotiations under an existing memorandum of understanding, to submit to the parties meeting and conferring and to the Legislature, a report containing the department's findings relating to the salaries of employees in comparable occupations in private industry and other governmental agencies.

This bill would require the Department of Personnel Administration to annually conduct a survey that would obtain specified information regarding the compensation of certain legal professionals, including attorneys employed by specified public entities and judges. The bill would require the department to issue an annual report that would include the data obtained from the surveys as well as specified analyses. The bill would also require the report to be provided to the Legislature, the Governor, and the exclusive representative of State Bargaining Unit 2, no later than March 15 of each year. The bill would specify that this report would satisfy the department's reporting requirement to the parties meeting and conferring and to the Legislature. The bill would specify that the department would absorb the cost of preparing the surveys required by these provisions from existing appropriations. The bill would make related legislative findings and declarations regarding State Bargaining Unit 2.

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

SECTION 1. Section 19827.4 is added to the Government Code, to read:

19827.4. (a) The Legislature finds and declares the following:

(1) The state's attorneys, administrative law judges, hearing officers, and commissioners litigate in, and preside over, a vast array of criminal and civil cases and issues with substantial public safety, economic, social, and cultural impact on the people of California. The state's ability to ensure public safety, protect its fiscal resources, and defend its laws requires that it attract and retain highly skilled and competent legal professionals.

(2) State law, the Ralph C. Dills Act, mandates collective bargaining for state public employees in order to secure fair and reasonable compensation and benefits. The state has divided its employees into 21 bargaining units, combining all of its legal professionals (attorneys, administrative law judges, hearing officers, and commissioners) into Bargaining Unit 2.

(3) The California Supreme Court has found that for collective bargaining to achieve fair and reasonable compensation and benefits, state employees must be able to use all of the traditional tools available to labor, including the ability to present a credible threat of a strike or job action.

(4) The state's legal professionals are officers of the court and have a unique legal and ethical duty to ensure the fair administration of justice and to put the state's interests ahead of their own.

(5) Existing law and the California Rules of Professional Conduct prohibit an attorney from delaying a client's case or cause or intentionally harming a client's case or cause in a dispute over compensation.

(6) Unlike other state employees subject to collective bargaining under the Ralph C. Dills Act, these legal and ethical obligations prevent legal professionals employed by the state from striking for better pay or otherwise engaging in any meaningful collective bargaining.

(7) Ensuring that the state's legal professionals are compensated at competitive rates compared to other relevant public sector entities enables the state to effectively protect public safety, defend public resources, and ensure the fair administration of justice.

(8) For these reasons, it is critically important to conduct a methodologically sound survey of the compensation of other comparable public sector legal professionals, in order to provide the state with an accurate assessment of the relevant labor market.

(b) To effectuate the intent of subdivision (a), with respect to the state's attorneys, the Department of Personnel Administration shall annually conduct a survey of the following public entities:

- (1) The Sacramento County District Attorney's Office.
- (2) The Sacramento City Attorney's Office.
- (3) The San Francisco District Attorney's Office.
- (4) The Alameda County District Attorney's Office.
- (5) The Oakland City Attorney's Office.
- (6) The Los Angeles County District Attorney's Office.
- (7) The Los Angeles City Attorney's Office.
- (8) The San Diego County District Attorney's Office.
- (9) The San Diego City Attorney's Office.
- (10) The Fresno District Attorney's Office.
- (11) The Fresno City Attorney's Office.
- (12) The Habeas Corpus Resource Center.

(c) To effectuate the intent of subdivision (a), with respect to the state's administrative law judges, hearing officers, and commissioners, the Department of Personnel Administration shall annually conduct a survey of the compensation of federal

administrative law judges in California and judges on the California State Bar Court.

(d) The surveys conducted pursuant to subdivisions (b) and (c) shall be considered to fulfill the reporting requirements of Section 19826 and shall gather, at a minimum, the following data:

(1) The entire pay scale, including all steps and ranges, for the attorneys employed by the entities in subdivision (b) and the judges described in subdivision (c), from entry level to the highest nonmanagerial judge or attorney position.

(2) All duty statements, minimum qualifications, time-in-grade requirements, and promotional standards for all positions described in paragraph (1).

(3) All compensation in addition to the base salary paid by the employer to the positions listed in paragraph (1), including, but not limited to, contributions to pensions, 401k, 457, or other retirement plans, health care insurance contributions, and any other allowances, premiums, or differentials available to the positions described in paragraph (1).

(4) Complete and accurate descriptions of all benefits available to the positions described in paragraph (1), including, but not limited to, retirement plans, health care plans, and vacation, leave, and holiday plans.

(5) The average salary actually paid to all attorneys or judges employed in each surveyed entity.

(6) The salaries actually paid to incoming, entry-level attorneys or judges employed by each surveyed entity, regardless of the entity's published entry-level salary.

(7) The number of attorneys or judges at each salary level within each entity.

(8) The average years of postbar legal experience of attorneys or judges at each salary level within each entity.

(e) The Department of Personnel Administration shall issue an annual report, including all of the data described in subdivision (d), as well as the following analyses:

(1) The average of the salaries actually paid to the highest paid nonmanagerial attorneys or judges employed by all of the surveyed entities.

(2) The average of the salaries actually paid to entry-level attorneys or judges employed by all of the surveyed entities.

(f) The report described in subdivision (e) shall be provided to the Legislature, the Governor, and the exclusive representative of State Bargaining Unit 2, no later than March 15 of each year. The report shall be accompanied by a declaration from the Director of the Department of Personnel Administration certifying that the report is true and accurate to the best of his or her knowledge.

(g) The Department of Personnel Administration shall absorb the cost of preparing the surveys required by this section from existing appropriations.



Approved \_\_\_\_\_, 2008

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*Governor*