

SCHOOL AND COLLEGE LEGAL SERVICES

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THE LEGAL UPDATE

October 13, 1992

To: Superintendents, Member School Districts (K-12)

From: Robert J. Henry, General Counsel *RJH*

Re: Employment Contracts (Urgency Legislation: Chapter 962)
Legal Update No. 20-92

Effective September 26, 1992, Sections 53260-53264 have been added to the Government Code and apply to all "contracts of employment between an employee and a local agency employer" that are "originally approved" or "extended" after September 26, 1992. The term "local agency" is defined in Section 53263 as including school and community college districts. We have enclosed a copy of these new sections for your review.

Of immediate concern is the requirement in Section 53260 that all employment contracts "shall include a provision [establishing that] the maximum cash settlement that an employee may receive ... shall be an amount equal to the monthly salary of the employee multiplied by 18." (emphasis added) This provision was intended to address a legislative concern that the "buy-out" of public employment contracts, especially for administrative and executive employees, has been too generous.

In addition, Section 53262 requires that all contracts of employment for "superintendent, deputy superintendent, assistant superintendent, associate superintendent, community college president, community college vice president, community college deputy vice president ... shall be ratified in open session of the governing board which shall be reflected in the governing body's minutes."

After you have had an opportunity to review these new provisions, please let me know if you have any questions.

RJH:lrt
Enclosures

12:20-92

GOVERNMENT CODE SECTIONS

53260-53264

§ 53260. Contractual provision regarding maximum cash settlement; formula

(a) All contracts of employment between an employee and a local agency employer shall include a provision which provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract. However, if the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18.

(b) The cash settlement formula described in subdivision (a) is a cap or maximum ceiling on the amounts that may be paid by a local agency employer to an employee and shall not be construed as a target or example of the amount of the cash settlement to be paid by a local agency employer to an employee in all contract termination cases.

§ 53261. Inclusion of health benefits in cash settlement

The cash settlement specified in Section 53260 shall not include any other noncash items except health benefits, which may be continued for the same duration of time as covered in the settlement, pursuant to the same time limitations as provided in Section 53260, or until the employee finds other employment, whichever occurs first.

§ 53262. Ratification of contracts with certain administrative officers of local agencies; availability to public

(a) All contracts of employment with a superintendent, deputy superintendent, assistant superintendent, associate superintendent, community college president, community college vice president, community college deputy vice president, general manager, city manager, county administrator, or other similar chief administrative officer or chief executive officer of a local agency shall be ratified in an open session of the governing body which shall be reflected in the governing body's minutes.

(b) Copies of any contracts of employment, as well as copies of the settlement agreements, shall be available to the public upon request.

§ 53263. Local agency; definition

For purposes of this article, "local agency" means any general law county, general law city, and any district, school district, community college district, municipal or public corporation,

political subdivision, or public agency of the state, or any instrumentality of any one or more of these agencies.

§ 53264. Prospective application of article

This article shall apply prospectively and shall affect any contract originally approved by the governing body, or any existing contract that is extended by the governing body, after the effective date of this article.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 8. This action is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to limit as soon as possible the potential liability of local agencies with regard to employment contracts, it is necessary that this act take effect immediately.