

Introduced by Senator PavleyFebruary 3, 2009

An act to amend Sections 44977, 44983, and 45196 of the Education Code, relating to public school employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 122, as introduced, Pavley. School employees: collective bargaining: sick leave.

Existing law gives public school employees the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations and requires public school employers to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations. Existing law provides that the law governing meeting and negotiating in public educational employment does not supersede other provisions of the Education Code and the rules and regulations of public school employers that provide for other methods of administering employer-employee relations, so long as the rules and regulations or other methods of the public school employer do not conflict with lawful collective bargaining agreements.

The Education Code contains provisions governing sick leave for employees serving in positions requiring certification qualifications who have exhausted all available sick leave and continue to be absent on account of illness or accident for an additional 5 school months and for employees in the classified service who are absent on account of illness or accident for 5 months or less.

This bill, notwithstanding any other provisions of law, would authorize a school district to meet and negotiate with the exclusive representative

of its certificated employees regarding the sick leave compensation for the employees in the situation described above and would authorize a school district to reach an agreement on an alternative benefit program in place of the program described in code.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

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

1 SECTION 1. Section 44977 of the Education Code is amended
 2 to read:

3 44977. (a) During each school year, when a person employed
 4 in a position requiring certification qualifications has exhausted
 5 all available sick leave, including all accumulated sick leave, and
 6 continues to be absent from his or her duties on account of illness
 7 or accident for an additional period of five school months, whether
 8 or not the absence arises out of or in the course of the employment
 9 of the employee, the amount deducted from the salary due him or
 10 her for any of the additional five months in which the absence
 11 occurs shall not exceed the sum that is actually paid a substitute
 12 employee employed to fill his or her position during his or her
 13 absence or, if no substitute employee was employed, the amount
 14 that would have been paid to the substitute had he or she been
 15 employed. The school district shall make every reasonable effort
 16 to secure the services of a substitute employee.

17 (b) For purposes of subdivision (a):

18 (1) The sick leave, including accumulated sick leave, and the
 19 five-month period shall run consecutively.

20 (2) An employee shall not be provided more than one five-month
 21 period per illness or accident. However, if a school year terminates
 22 before the five-month period is exhausted, the employee may take
 23 the balance of the five-month period in a subsequent school year.

24 (c) The governing board of every school district shall adopt a
 25 salary schedule for substitute employees. The salary schedule shall
 26 indicate a salary for a substitute for all categories or classes of
 27 certificated employees of the district.

28 (d) Excepting in a *school* district the governing board of which
 29 has adopted a salary schedule for substitute employees of the
 30 district, the amount paid the substitute employee during any month

1 shall be less than the salary due the employee absent from his or
2 her duties.

3 (e) When a person employed in a position requiring certification
4 qualifications is absent from his or her duties on account of illness
5 for a period of more than five school months, or when a person is
6 absent from his or her duties for a cause other than illness, the
7 amount deducted from the salary due him or her for the month in
8 which the absence occurs shall be determined according to the
9 rules and regulations established by the governing board of the
10 school district. The rules and regulations shall not conflict with
11 rules and regulations of the ~~State Board of Education~~ *state board*.

12 (f) ~~Nothing in this section shall be construed so as to deprive~~
13 ~~any~~ (1) *This section does not deprive a school* district, city, or city
14 and county of the right to make any reasonable rule for the
15 regulation of accident or sick leave or cumulative accident or sick
16 leave without loss of salary for persons acquiring certification
17 qualifications.

18 (2) *Notwithstanding this section or any other provision of law,*
19 *a school district may meet and negotiate with the exclusive*
20 *representative of its certificated employees regarding the matters*
21 *covered by this section and may reach an agreement on an*
22 *alternative benefit program in place of the program described in*
23 *this section.*

24 (g) This section shall be applicable whether or not the absence
25 from duty is by reason of a leave of absence granted by the
26 governing board of the employing district.

27 SEC. 2. Section 44983 of the Education Code is amended to
28 read:

29 44983. (a) Section 44977 shall not apply to ~~any~~ a school
30 district ~~which~~ *that* adopts and maintains in effect a rule ~~which~~ *that*
31 provides that when a person employed in a position requiring
32 certification qualifications is absent from his duties on account of
33 illness or accident for a period of five school months or less
34 whether or not the absence arises out of or in the course of the
35 employment of the employee, he shall receive 50 percent or more
36 of his regular salary during the period of ~~such~~ *the* absence and
37 ~~nothing in~~ Section 44977 shall *not* be construed as preventing the
38 governing board of ~~any~~ a school district from adopting ~~any~~ *such*
39 *the* rule.

40 **Notwithstanding**

1 **(b) Notwithstanding** the foregoing, when a person employed in
 2 a position requiring certification qualifications is absent from his
 3 duties on account of illness for a period of more than five school
 4 months, or when a person is absent from his duties for a cause
 5 other than illness, the amount deducted from the salary due him
 6 for the month in which the absence occurs shall be determined
 7 according to the rules and regulations established by the governing
 8 board of the district. ~~Such~~ *The* rules and regulations shall not
 9 conflict with rules and regulations of the ~~State Board of Education~~
 10 *state board*.

11 ~~Nothing in this section shall be construed so as to deprive any~~
 12 **(c) (1) This section does not deprive** a school district, city, or
 13 city and county of the right to make any reasonable rule for the
 14 regulation of accident or sick leave or cumulative accident or sick
 15 leave without loss of salary for persons requiring certification
 16 qualifications.

17 **This**

18 **(2) Notwithstanding this section and any other provision of law,**
 19 a school district may meet and negotiate with the exclusive
 20 representative of its certificated employees regarding the matters
 21 covered by this section and may reach an agreement on an
 22 alternative benefit program in place of the program described in
 23 this section.

24 **(3) This section shall be applicable** whether or not the absence
 25 from duty is by reason of a leave of absence granted by the
 26 governing board of the employing *school* district.

27 SEC. 3. Section 45196 of the Education Code is amended to
 28 read:

29 45196. **(a)** When a person employed in the classified service
 30 is absent from his duties on account of illness or accident for a
 31 period of five months or less, whether or not the absence arises
 32 out of or in the course of employment of the employee, the amount
 33 deducted from the salary due him for any month in which the
 34 absence occurs shall not exceed the sum ~~which~~ *that* is actually
 35 paid a substitute employee employed to fill his position during his
 36 absence.

37 ~~Excepting in a~~

38 **(b) Except in a school** district the governing board of which has
 39 adopted a salary schedule for substitute employees of the district,

1 the amount paid the substitute employee during ~~any~~ a month shall
2 be less than the salary due the employee absent from his duties.

3 **Entitlement**

4 (c) *Entitlement* to sick leave provisions under this section, if
5 any, shall be considered “entitlement to other sick leave” for the
6 purposes of computing benefits under the provisions of Section
7 45192 if the absence is for industrial accident or illness and shall
8 be used after entitlement to all regular sick leave, accumulated
9 compensating time, vacation, or other available paid leave has
10 been exhausted.

11 ~~The foregoing provisions~~

12 (d) *Subdivisions (a), (b), and (c)* shall not apply to ~~any~~ a school
13 district ~~which~~ that adopts and maintains in effect a rule ~~which~~ that
14 provides that a regular classified employee shall once a year be
15 credited with a total of not less than 100 working days of paid sick
16 leave, including days to which he is entitled under Section 45191.
17 ~~Such~~ *These* days of paid sick leave in addition to those required
18 by Section 45191 shall be compensated at not less than 50 percent
19 of the employee’s regular salary. The paid sick leave authorized
20 under ~~such a~~ *the* rule shall be exclusive of any other paid leave,
21 holidays, vacation, or compensating time to which the employee
22 may be entitled. ~~Nothing in this section shall~~ *This section does not*
23 preclude the governing board from adopting ~~such a~~ *that* rule.

24 (e) *Notwithstanding this section and any other provision of law,*
25 *a school district may meet and negotiate with the exclusive*
26 *representative of its certificated employees regarding the matters*
27 *covered by this section and may reach an agreement on an*
28 *alternative benefit program in place of the program described in*
29 *this section or a rule adopted by the governing board of the school*
30 *district.*