

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN SENATE JUNE 12, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2271**

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**Introduced by Assembly Member Perea**

February 24, 2012

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An act to add Section 19846.5 to the Government Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2271, as amended, Perea. Franchise Tax Board: seasonal clerks.

Under existing law, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, as specified. Existing law also provides that, unless otherwise provided for by a collective bargaining agreement, if an employment contract or policy provides for paid vacations, and an employee is terminated, the employer must pay the employee for the employee's unused vested vacation time, as specified.

This bill would provide that, notwithstanding any other law, if the Franchise Tax Board determines there is a lack of work for a seasonal clerk employed by the board, the board may (1) pay the clerk a lump-sum payment for accumulated vacation or annual leave credit, (2) by mutual agreement between the board and the clerk, schedule the clerk for vacation or annual leave, (3) allow the clerk to retain his or her vacation or annual leave credit, or (4) effect any combination of the above. *The bill would also specify that if its provisions are in conflict*

*with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling.*

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

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

- 1 SECTION 1. Section 19846.5 is added to the Government
- 2 Code, to read:
- 3 19846.5. (a) Notwithstanding any other law, including Section
- 4 201 of the Labor Code, if the Franchise Tax Board determines that
- 5 there is a lack of work for a seasonal clerk employed by the board,
- 6 the board may, without permanent separation of the clerk, do any
- 7 of the following:
- 8 (a)
- 9 (1) Pay the clerk in a lump-sum payment for accumulated
- 10 vacation or annual leave credit.
- 11 (b)
- 12 (2) By mutual agreement between the board and the clerk,
- 13 schedule the clerk for vacation or annual leave.
- 14 (c)
- 15 (3) Allow the clerk to retain his or her vacation or annual leave
- 16 credit.
- 17 (d)
- 18 (4) Effect a combination of any or all of the actions described
- 19 in subdivisions (a) paragraphs (1) to (d) (4), inclusive.
- 20 (b) *If the provisions of this section are in conflict with the*
- 21 *provisions of a memorandum of understanding, the memorandum*
- 22 *of understanding shall be controlling.*