

Assembly Bill No. 2271

Passed the Assembly August 30, 2012

Chief Clerk of the Assembly

Passed the Senate August 27, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2271, 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.

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

SECTION 1. Section 19846.5 is added to the Government Code, to read:

19846.5. (a) Notwithstanding any other law, including Section 201 of the Labor Code, if the Franchise Tax Board determines that there is a lack of work for a seasonal clerk employed by the board, the board may, without permanent separation of the clerk, do any of the following:

(1) Pay the clerk in 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.

(4) Effect a combination of any or all of the actions described in paragraphs (1) to (4), inclusive.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling.

Approved _____, 2012

Governor