

ASSEMBLY BILL

No. 55

Introduced by Assembly Member Roger Hernández

January 7, 2013

An act to amend Sections 7.1, 1689.5, 1689.24, 1695.1, and 1812.303 of the Civil Code, to amend Sections 37220.7, 45203, 79020, and 88203 of the Education Code, and to amend Sections 6700, 6712, 19853, and 19853.1 of the Government Code, relating to holidays.

LEGISLATIVE COUNSEL'S DIGEST

AB 55, as introduced, Roger Hernández. State holidays: Native American Day.

Existing law establishes specified state holidays, including Columbus Day, which is celebrated on the 2nd Monday in October. Existing law provides that state employees are entitled to specified holidays unless these provisions are in conflict with the provisions of a memorandum of understanding, in which case that memorandum controls, as specified. Existing law defines specified days as business days for the purposes of certain contracts, including home solicitation contracts, and excepts Columbus Day from this definition. Existing law requires the Governor to proclaim annually the 4th Friday in September to be Native American Day. Existing law authorizes public schools and junior colleges, pursuant to memoranda of understanding, to be closed on Native American Day, and authorizes public school and community colleges to provide, pursuant to memoranda of understanding, a paid holiday on Native American Day to specified classified employees. Existing law permits a state employee, as defined, to elect to receive 8 hours of holiday credit for Native American Day in lieu of receiving 8 hours of personal holiday credit, as specified.

This bill would require that the Governor proclaim the 2nd Monday in October as Native American Day. The bill would eliminate references to Columbus Day in the provisions described above and, instead, apply Native American Day to those provisions. The bill would provide that the 2nd Monday in October is a holiday for state employees, would delete provisions permitting a state employee to elect to receive holiday credit for Native American Day in lieu of personal holiday credit, as described above, and would set forth specified legislative findings and declarations relative to recognizing and honoring Native American Day.

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. The Legislature finds and declares all of the
2 following:

3 (a) In order to recognize the genocide inflicted upon Native
4 Americans and their removal from their ancestral lands, and to
5 acknowledge the numerous contributions made by Native
6 Americans to California and the nation, the second Monday in
7 October, previously known as Columbus Day, shall be known as
8 Native American Day.

9 (b) In order to honor and recognize Native American Day with
10 the dignity and distinction that it deserves, this act grants state
11 employees a holiday on the second Monday in October. Local
12 agencies, including counties, cities, special districts, and school
13 districts, acting appropriately through the collective bargaining
14 process, may provide their employees with a paid holiday on the
15 second Monday in October so that Native American Day may be
16 appropriately honored throughout the state.

17 SEC. 2. Section 7.1 of the Civil Code is amended to read:

18 7.1. Optional bank holidays within the meaning of Section 9
19 are:

20 (a) Any closing of a bank because of an extraordinary situation,
21 as that term is defined in the Bank Extraordinary Situation Closing
22 Act (Chapter 20 (commencing with Section 3600) of Division 1
23 of the Financial Code).

24 (b) Every Saturday.

25 (c) Every Sunday.

26 (d) January 1st.

- 1 (e) The third Monday in January, known as “Dr. Martin Luther
- 2 King, Jr. Day.”
- 3 (f) February 12, known as “Lincoln Day.”
- 4 (g) The third Monday in February.
- 5 (h) The last Monday in May.
- 6 (i) July 4th.
- 7 (j) The first Monday in September.
- 8 (k) September 9th, known as “Admission Day.”
- 9 (l) The second Monday in October, known as “~~Columbus~~
- 10 *Native American Day.*”
- 11 (m) November 11th, known as “Veteran’s Day.”
- 12 (n) December 25th.
- 13 (o) Good Friday from 12 noon until closing.
- 14 (p) The Thursday in November appointed as “Thanksgiving
- 15 Day.”
- 16 (q) Any Monday following any Sunday on which January 1st,
- 17 February 12th, July 4th, September 9th, November 11th, or
- 18 December 25th falls.
- 19 (r) Any Friday preceding any Saturday on which July 4th,
- 20 September 9th, or December 25th falls.
- 21 SEC. 3. Section 1689.5 of the Civil Code is amended to read:
- 22 1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and
- 23 in Section 1689.14:
- 24 (a) “Home solicitation contract or offer” means any contract,
- 25 whether single or multiple, or any offer ~~which~~ *that* is subject to
- 26 approval, for the sale, lease, or rental of goods or services or both,
- 27 made at other than appropriate trade premises in an amount of
- 28 twenty-five dollars (\$25) or more, including any interest or service
- 29 charges. “Home solicitation contract” does not include any contract
- 30 under which the buyer has the right to rescind pursuant to Title 1,
- 31 Chapter 2, Section 125 of the Federal Consumer Credit Protection
- 32 Act (P.L. 90-321) and the regulations promulgated pursuant thereto.
- 33 (b) “Appropriate trade premises,” means premises where either
- 34 the owner or seller normally carries on a business, or where goods
- 35 are normally offered or exposed for sale in the course of a business
- 36 carried on at those premises.
- 37 (c) “Goods” means tangible chattels bought for use primarily
- 38 for personal, family, or household purposes, including certificates
- 39 or coupons exchangeable for these goods, and including goods
- 40 that, at the time of the sale or subsequently, are to be so affixed to

1 real property as to become a part of the real property whether or
2 not severable therefrom, but does not include any vehicle required
3 to be registered under the Vehicle Code, nor any goods sold with
4 this vehicle if sold under a contract governed by Section 2982, and
5 does not include any mobilehome, as defined in Section 18008 of
6 the Health and Safety Code, nor any goods sold with this
7 mobilehome if either are sold under a contract subject to Section
8 18036.5 of the Health and Safety Code.

9 (d) “Services” means work, labor and services, including, but
10 not limited to, services furnished in connection with the repair,
11 restoration, alteration, or improvement of residential premises, or
12 services furnished in connection with the sale or repair of goods
13 as defined in Section 1802.1, and courses of instruction, regardless
14 of the purpose for which they are taken, but does not include the
15 services of attorneys, real estate brokers and salesmen, securities
16 dealers or investment counselors, physicians, optometrists, or
17 dentists, nor financial services offered by banks, savings
18 institutions, credit unions, industrial loan companies, personal
19 property brokers, consumer finance lenders, or commercial finance
20 lenders, organized pursuant to state or federal law, that are not
21 connected with the sale of goods or services, as defined herein,
22 nor the sale of insurance that is not connected with the sale of
23 goods or services as defined herein, nor services in connection
24 with the sale or installation of mobilehomes or of goods sold with
25 a mobilehome if either are sold or installed under a contract subject
26 to Section 18036.5 of the Health and Safety Code, nor services for
27 which the tariffs, rates, charges, costs, or expenses, including in
28 each instance the time sale price, is required by law to be filed
29 with and approved by the federal government or any official,
30 department, division, commission, or agency of the United States
31 or of the state.

32 (e) “Business day” means any calendar day except Sunday, or
33 the following business holidays: New Year’s Day, Washington’s
34 Birthday, Memorial Day, Independence Day, Labor Day, ~~Columbus~~
35 *Native American* Day, Veterans’ Day, Thanksgiving Day, and
36 Christmas Day.

37 (f) This section shall become operative on January 1, 2006.

38 SEC. 4. Section 1689.24 of the Civil Code is amended to read:
39 1689.24. As used in Sections 1689.20 to 1689.23, inclusive:

1 (a) “Seminar sales solicitation contract or offer” means any
2 contract, whether single or multiple, or any offer ~~which~~ *that* is
3 subject to approval, for the sale, lease, or rental of goods or services
4 or both, made using selling techniques in a seminar setting in an
5 amount of twenty-five dollars (\$25) or more, including any interest
6 or service charges. “Seminar sales solicitation contract” does not
7 include any contract under which the buyer has the right to rescind
8 pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer
9 Credit Protection Act (P.L. 90-321) and the regulations
10 promulgated pursuant thereto or any contract which contains a
11 written and dated statement signed by the prospective buyer stating
12 that the negotiation between the parties was initiated by the
13 prospective buyer.

14 (b) “Seminar setting” means premises other than the residence
15 of the buyer.

16 (c) “Goods” means tangible chattels bought for use primarily
17 for personal, family, or household purposes, including certificates
18 or coupons exchangeable for these goods, and including goods
19 which, at the time of the sale or subsequently, are to be so affixed
20 to real property as to become a part of the real property whether
21 or not severable therefrom, but does not include any vehicle
22 required to be registered under the Vehicle Code, nor any goods
23 sold with a vehicle if sold under a contract governed by Section
24 2982, and does not include any mobilehome, as defined in Section
25 18008 of the Health and Safety Code, nor any goods sold with a
26 mobilehome if either are sold under a contract subject to Section
27 18036.5 of the Health and Safety Code.

28 (d) “Services” means work, labor and services, including, but
29 not limited to, services furnished in connection with the repair,
30 alteration, or improvement of residential premises, or services
31 furnished in connection with the sale or repair of goods as defined
32 in Section 1802.1, and courses of instruction, regardless of the
33 purpose for which they are taken, but does not include the services
34 of attorneys, real estate brokers and salesmen, securities dealers
35 or investment counselors, physicians, optometrists, or dentists, nor
36 financial services offered by banks, savings institutions, credit
37 unions, industrial loan companies, personal property brokers,
38 consumer finance lenders, or commercial finance lenders, organized
39 pursuant to state or federal law, which are not connected with the
40 sale of goods or services, as defined herein, nor the sale of

1 insurance which is not connected with the sale of goods or services
2 as defined herein, nor services in connection with the sale or
3 installation of mobilehomes or of goods sold with a mobilehome
4 if either are sold or installed under a contract subject to Section
5 18036.5 of the Health and Safety Code, nor services for which the
6 tariffs, rates, charges, costs, or expenses, including in each instance
7 the time sale price, is required by law to be filed with and approved
8 by the federal government or any official, department, division,
9 commission, or agency of the United States or of the State of
10 California.

11 (e) “Business day” means any calendar day except Sunday, or
12 the following business holidays: New Year’s Day, Washington’s
13 Birthday, Memorial Day, Independence Day, Labor Day, Columbus
14 *Native American* Day, Veterans’ Day, Thanksgiving Day, and
15 Christmas Day.

16 SEC. 5. Section 1695.1 of the Civil Code is amended to read:

17 1695.1. The following definitions apply to this chapter:

18 (a) “Equity purchaser” means any person who acquires title to
19 any residence in foreclosure, except a person who acquires such
20 title as follows:

21 (1) For the purpose of using such property as a personal
22 residence.

23 (2) By a deed in lieu of foreclosure of any voluntary lien or
24 encumbrance of record.

25 (3) By a deed from a trustee acting under the power of sale
26 contained in a deed of trust or mortgage at a foreclosure sale
27 conducted pursuant to Article 1 (commencing with Section 2920)
28 of Chapter 2 of Title 14 of Part 4 of Division 3.

29 (4) At any sale of property authorized by statute.

30 (5) By order or judgment of any court.

31 (6) From a spouse, blood relative, or blood relative of a spouse.

32 (b) “Residence in foreclosure” and “residential real property in
33 foreclosure” means residential real property consisting of one- to
34 four-family dwelling units, one of which the owner occupies as
35 his or her principal place of residence, and against which there is
36 an outstanding notice of default, recorded pursuant to Article 1
37 (commencing with Section 2920) of Chapter 2 of Title 14 of Part
38 4 of Division 3.

39 (c) “Equity seller” means any seller of a residence in foreclosure.

1 (d) “Business day” means any calendar day except Sunday, or
2 the following business holidays: New Year’s Day, Washington’s
3 Birthday, Memorial Day, Independence Day, Labor Day, Columbus
4 *Native American* Day, Veterans’ Day, Thanksgiving Day, and
5 Christmas Day.

6 (e) “Contract” means any offer or any contract, agreement, or
7 arrangement, or any term thereof, between an equity purchaser
8 and equity seller incident to the sale of a residence in foreclosure.

9 (f) “Property owner” means the record title owner of the
10 residential real property in foreclosure at the time the notice of
11 default was recorded.

12 SEC. 6. Section 1812.303 of the Civil Code is amended to
13 read:

14 1812.303. (a) A membership camping contract shall be written
15 in the same language as that principally used in any oral sales
16 presentation (e.g., Spanish). A membership camping contract shall
17 be dated, signed by the purchaser, and contain, in immediate
18 proximity to the space reserved for the signature of the purchaser,
19 a conspicuous statement in a size equal to at least 10-point bold
20 type, as follows: “You, the purchaser, may cancel this contract at
21 any time prior to midnight of the third business day after the date
22 of the transaction. See an explanation of this right as set forth in
23 this contract or on the attached notice of cancellation form.” In
24 the alternative the notice of cancellation as set forth in subdivision
25 (b) may be placed in immediate proximity to the signature line of
26 the contract in lieu of the foregoing statement.

27 (b) The contract shall be accompanied by a completed form in
28 duplicate, captioned “Notice of Cancellation”, which shall be
29 attached to the contract and easily detachable. In the alternative,
30 the seller may include all of the cancellation information on the
31 contract and provide the consumer with a carbon copy which may
32 be retained after cancellation. Both shall contain, in type of at least
33 10-point, the following statement written in the same language as
34 used in the contract:

35
36 “Notice of Cancellation”

37
38 “You may cancel this contract, without any penalty or obligation, within
39 three business days from the date the contract is executed.

1 “To cancel this contract, mail or deliver a signed and dated copy of this
2 cancellation notice or a copy of this contract if it contains the cancellation
3 instructions, or any other written notice, or send a telegram to

4 _____, at
5 (Name of seller)

6 _____
7 (Address of seller’s place of business)

8 not later than midnight of _____ .
9 (Date)

10 I hereby cancel this transaction _____ .
11 (Date)

12 _____
13 (Purchaser’s signature)

14
15 “With the notice of cancellation, or separately if a telegram is
16 sent, you must return the original membership camping contract,
17 membership card and all other evidence of membership to the
18 seller. You should promptly return these documents with the notice
19 of cancellation, or separately if a telegram is sent. Failure to send
20 the documents promptly could delay your refund. You should
21 retain for your records one copy of the cancellation notice, or a
22 carbon of the contract when it provides the cancellation
23 information, or other writing showing intent to cancel. Mailing by
24 ordinary mail is adequate but certified mail return receipt requested
25 is recommended.”

26 (c) On the date of purchase the membership camping operator
27 shall provide the purchaser with a copy of the contract and
28 duplicate of the notice of cancellation. The membership camping
29 operator shall inform the purchaser orally of the right to cancel at
30 the time the contract is executed.

31 (d) Within 20 days after the membership camping operator
32 receives a notice of cancellation, the membership camping contract,
33 the membership card and all other evidence of purchase or
34 membership, the membership camping operator shall refund to
35 the purchaser any sums paid as a deposit, downpayment or other
36 payment therefor. If the purchaser does not promptly return the
37 evidence of membership, the 20-day period shall be extended until
38 such evidence of membership is returned.

1 (e) Until the membership camping operator has complied with
2 this section, the purchaser shall have the right to cancel the
3 contract.

4 (f) “Business day” means any calendar day except Sunday, or
5 the following business holidays: New Year’s Day, Washington’s
6 Birthday, Memorial Day, Independence Day, Labor Day, ~~Columbus~~
7 *Native American* Day, Veteran’s Day, Thanksgiving Day, and
8 Christmas Day.

9 SEC. 7. Section 37220.7 of the Education Code is amended to
10 read:

11 37220.7. (a) In addition to the holidays prescribed in Section
12 37220, public schools may be closed on the ~~fourth Friday in~~
13 ~~September~~ *second Monday in October*, known as “Native American
14 Day,” if the governing board, pursuant to a memorandum of
15 understanding reached pursuant to Chapter 10.7 (commencing
16 with Section 3540) of Division 4 of Title 1 of the Government
17 Code, agrees to close schools for that purpose.

18 (b) On the ~~fourth Friday in September~~ *second Monday in*
19 *October*, or, if schools are closed on that date as specified in
20 subdivision (a), on an alternate day determined by the governing
21 board, public schools and educational institutions throughout this
22 state may include exercises, funded through existing resources,
23 commemorating and directing attention to the many contributions
24 that Native Americans have made to this country. The State Board
25 of Education may adopt a model curriculum guide to be available
26 for use by public schools for exercises related to Native American
27 Day.

28 SEC. 8. Section 45203 of the Education Code is amended to
29 read:

30 45203. All probationary or permanent employees that are a
31 part of the classified service shall be entitled to the following paid
32 holidays provided they are in a paid status during any portion of
33 the working day immediately preceding or succeeding the holiday:
34 January 1, February 12 known as “Lincoln Day,” the third Monday
35 in February known as “Washington Day,” the last Monday in May
36 known as “Memorial Day,” July 4, the first Monday in September
37 known as “Labor Day,” November 11 known as “Veterans Day,”
38 that Thursday in November proclaimed by the President as
39 “Thanksgiving Day,” December 25, every day appointed by the
40 President, or the Governor of this state, as provided for in

1 subdivisions (b) and (c) of Section 37220 for a public fast,
2 thanksgiving or holiday, or any day declared a holiday under
3 Section 1318 or 37222 for classified or certificated employees.
4 School recesses during the Christmas, Easter, and mid-February
5 periods shall not be considered holidays for classified employees
6 who are normally required to work during that period. However,
7 this shall not be construed as affecting vacation rights specified in
8 this section.

9 Regular employees of the district who are not normally assigned
10 to duty during the school holidays of December 25 and January 1
11 shall be paid for those two holidays provided that they were in a
12 paid status during any portion of the working day of their normal
13 assignment immediately preceding or succeeding the holiday
14 period.

15 When a holiday listed in this section falls on a Sunday, the
16 following Monday shall be deemed to be the holiday in lieu of the
17 day observed. When a holiday listed in this section falls on a
18 Saturday, the preceding Friday shall be deemed to be the holiday
19 in lieu of the day observed. When a classified employee is required
20 to work on any of these holidays, he or she shall be paid
21 compensation, or given compensating time off, for such work, in
22 addition to the regular pay received for the holiday, at the rate of
23 time and one-half the employee's regular rate of pay.

24 The provisions of Article 3 (commencing with Section 37220)
25 of Chapter 2 of Part 22 shall not be construed to in any way limit
26 the provisions of this section, nor shall anything in this section be
27 construed to prohibit the governing board from adopting separate
28 work schedules for the certificated and the classified services, or
29 from providing holiday pay for employees who have not been in
30 paid status on the days specified herein. Notwithstanding the
31 adoption of separate work schedules for the certificated and the
32 classified services, on any schoolday during which pupils would
33 otherwise have been in attendance but are not and for which
34 certificated personnel receive regular pay, classified personnel
35 shall also receive regular pay whether or not they are required to
36 report for duty that day.

37 In addition to the other paid holidays specified in this section,
38 the classified service may be entitled to a paid holiday on March
39 31 known as "Cesar Chavez Day," and a paid holiday on the ~~fourth~~
40 ~~Friday in September~~ *second Monday in October* known as "Native

1 American Day,” provided they are in a paid status during any
2 portion of the working day immediately preceding or succeeding
3 the holiday, if the governing board, pursuant to a memorandum
4 of understanding reached pursuant to Chapter 10.7 (commencing
5 with Section 3540) of Division 4 of Title 1 of the Government
6 Code, agrees to the paid holiday.

7 This section shall apply to districts that have adopted the merit
8 system in the same manner and effect as if it were a part of Article
9 6 (commencing with Section 45240).

10 SEC. 9. Section 79020 of the Education Code is amended to
11 read:

12 79020. Except as otherwise provided the community colleges
13 shall continue in session or close on specified holidays as follows:

14 (a) The community colleges shall close on January 1st, the third
15 Monday in January, commencing in the 1989–90 fiscal year, known
16 as “Dr. Martin Luther King, Jr. Day,” February 12th known as
17 “Lincoln Day,” the third Monday in February known as
18 “Washington Day,” the last Monday in May known as “Memorial
19 Day,” July 4th, the first Monday in September known as “Labor
20 Day,” November 11th known as “Veterans Day,” that Thursday
21 in November proclaimed by the President as “Thanksgiving Day,”
22 and December 25th.

23 (b) Any contractual provision between any community college
24 district and its employees in effect on the effective date of the act
25 that adds this subdivision shall prevail over any conflict regarding
26 Dr. Martin Luther King, Jr. Day until the termination date of the
27 contract or upon termination by mutual agreement of the parties,
28 whichever occurs first.

29 (c) The Governor in appointing any other day for a public fast,
30 thanksgiving, or holiday may provide whether the community
31 colleges shall close on the day. If the Governor does not provide
32 whether the community colleges shall close, they shall continue
33 in session on all special or limited holidays appointed by the
34 Governor, but shall close on all other days appointed by the
35 Governor for a public fast, thanksgiving, or holiday.

36 (d) The community colleges shall close on every day appointed
37 by the President as a public fast, thanksgiving, or holiday, unless
38 it is a special or limited holiday.

1 (e) The community colleges shall continue in session on all
2 legal holidays other than those designated by or pursuant to this
3 section, and shall hold proper exercises commemorating the day.

4 (f) When any of the holidays on which the schools would be
5 closed fall on Sunday, the community colleges shall close on the
6 Monday following, except that (1) if Lincoln Day falls on a
7 Sunday, the community colleges may observe this holiday on the
8 preceding or following Friday, the following Monday, or the
9 following Tuesday, and maintain classes on the date specified in
10 subdivision (a) where applicable, or (2) if Lincoln Day falls on a
11 Monday, the community colleges may observe this holiday on the
12 preceding or following Friday, that Monday, or the following
13 Tuesday, and maintain classes on the date specified in subdivision
14 (a) where applicable.

15 (g) When any of the holidays on which the schools would be
16 closed, except Lincoln Day, fall on Saturday, the community
17 colleges shall close on the preceding Friday, and that Friday shall
18 be declared a state holiday.

19 (h) If any holiday on which the community colleges are required
20 to close pursuant to subdivision (a) occurs under federal law on a
21 date different than the date specified in subdivision (a), the
22 governing board of any community college district may close the
23 community colleges of the district on the date recognized by federal
24 law and maintain classes on the date specified in subdivision (a).

25 (i) When Veterans Day would fall on Tuesday, the governing
26 board of a community college district may close the colleges on
27 the preceding Monday, and maintain classes on the date specified
28 in subdivision (a). When Veterans Day would fall on Wednesday,
29 the governing board of a community college district may close the
30 colleges on either the preceding Monday or the following Friday,
31 and maintain classes on the date specified in subdivision (a). When
32 Veterans Day would fall on Thursday, the governing board of a
33 community college district may close the colleges on the following
34 Friday, and maintain classes on the date specified in subdivision
35 (a).

36 (j) When Lincoln Day would fall on Tuesday, the governing
37 board of a community college district may close the colleges on
38 the preceding Monday, the preceding Friday, or the following
39 Friday, and maintain classes on the date specified in subdivision
40 (a) where appropriate. When Lincoln Day would fall on

1 Wednesday, the governing board of a community college district
2 may close the colleges on the preceding Monday, the preceding
3 Friday, or the following Friday, and maintain classes on the date
4 specified in subdivision (a). When Lincoln Day would fall on
5 Thursday, the governing board of a community college district
6 may close the colleges on the preceding Friday or the following
7 Friday, and maintain classes on the date specified in subdivision
8 (a). When Lincoln Day falls on Saturday, the governing board of
9 a community college district may close the colleges on the
10 preceding Friday or the following Friday, and maintain classes on
11 the date specified in subdivision (a) where appropriate.

12 (k) In addition to the holidays specified in subdivision (a), a
13 community college may close on March 31 known as “Cesar
14 Chavez Day” if the governing board, pursuant to a memorandum
15 of understanding reached pursuant to Chapter 10.7 (commencing
16 with Section 3540) of Division 4 of Title 1 of the Government
17 Code, agrees to close the community college for that purpose.

18 (l) In addition to the holidays specified in subdivision (a), a
19 community college may close on the ~~fourth Friday in September~~
20 *second Monday in October* known as “Native American Day” if
21 the governing board, pursuant to a memorandum of understanding
22 reached pursuant to Chapter 10.7 (commencing with Section 3540)
23 of Division 4 of Title 1 of the Government Code, agrees to close
24 the community college for that purpose.

25 (m) ~~Nothing in this~~ *This section is to shall not* be interpreted as
26 authorizing a community college district governing board to
27 maintain community colleges in its district for a lesser number of
28 days during the college year than the minimum established by law.

29 SEC. 10. Section 88203 of the Education Code is amended to
30 read:

31 88203. All probationary or permanent employees who are part
32 of the classified service shall be entitled to the following paid
33 holidays if they are in a paid status during any portion of the
34 working day immediately preceding or succeeding the holiday:
35 January 1, February 12 known as “Lincoln Day,” the third Monday
36 in February known as “Washington Day,” the last Monday in May
37 known as “Memorial Day,” July 4, the first Monday in September
38 known as “Labor Day,” November 11 known as “Veterans Day,”
39 that Thursday in November proclaimed by the President as
40 “Thanksgiving Day,” December 25, every day appointed by the

1 President, or the Governor of this state, as provided for in
2 subdivisions (c) and (d) of Section 79020 for a public fast,
3 thanksgiving or holiday, or any day declared a holiday under
4 Section 1318 for classified or academic employees. College
5 recesses during the Christmas and Easter periods shall not be
6 considered holidays for classified employees who are normally
7 required to work during that period; provided, however, that this
8 shall not be construed as affecting vacation rights specified in this
9 section.

10 Regular employees of the district who are not normally assigned
11 to duty during the college holidays of December 25 and January
12 1 shall be paid for those two holidays if they were in a paid status
13 during any portion of the working day of their normal assignment
14 immediately preceding or succeeding the holiday period.

15 When a holiday herein listed falls on a Sunday, the following
16 Monday shall be deemed to be the holiday in lieu of the day
17 observed. When a holiday herein listed falls on a Saturday, the
18 preceding Friday shall be deemed to be the holiday in lieu of the
19 day observed. When a classified employee is required to work on
20 any of said holidays, he or she shall be paid compensation, or given
21 compensating time off, for such work, in addition to the regular
22 pay received for the holiday, at the rate of time and one-half his
23 or her regular rate of pay.

24 Article 3 (commencing with Section 79020) of Chapter 8 of Part
25 48 of this division shall not be construed to in any way limit this
26 section, nor shall anything in this section be construed to prohibit
27 the governing board from adopting separate work schedules for
28 the academic and the classified services, or from providing holiday
29 pay for employees who have not been in paid status on the days
30 specified herein. Notwithstanding the adoption of separate work
31 schedules for the academic and the classified services, on any
32 schoolday during which students would otherwise have been in
33 attendance, but are not and for which faculty receive regular pay,
34 classified personnel shall also receive regular pay whether or not
35 they are required to report for duty that day.

36 In addition to the other paid holidays specified in this section,
37 the classified service may be entitled to a paid holiday on March
38 31 known as “Cesar Chavez Day” and a paid holiday on the ~~fourth~~
39 ~~Friday in September~~ *second Monday in October* known as “Native
40 American Day,” if they are in a paid status during any portion of

1 the working day immediately preceding or succeeding the holiday,
2 if the governing board, pursuant to a memorandum of
3 understanding reached pursuant to Chapter 10.7 (commencing
4 with Section 3540) of Division 4 of Title 1 of the Government
5 Code, agrees to the paid holiday.

6 This section shall apply to districts that have adopted the merit
7 system in the same manner and effect as if it were a part of Article
8 3 (commencing with Section 88060).

9 SEC. 11. Section 6700 of the Government Code is amended
10 to read:

11 6700. The holidays in this state are:

12 (a) Every Sunday.

13 (b) January 1st.

14 (c) The third Monday in January, known as “Dr. Martin Luther
15 King, Jr. Day.”

16 (d) February 12th, known as “Lincoln Day.”

17 (e) The third Monday in February.

18 (f) March 31st known as “Cesar Chavez Day.”

19 (g) The last Monday in May.

20 (h) July 4th.

21 (i) The first Monday in September.

22 (j) September 9th, known as “Admission Day.”

23 (k) The second Monday in October, known as ~~“Columbus Day.”~~
24 *“Native American Day.”*

25 (l) November 11th, known as “Veterans Day.”

26 (m) December 25th.

27 (n) Good Friday from 12 noon until 3 p.m.

28 (o) Every day appointed by the President or Governor for a
29 public fast, thanksgiving, or holiday.

30 Except for the Thursday in November appointed as Thanksgiving
31 Day, this subdivision and subdivisions (c) and (f) shall not apply
32 to a city, county, or district unless made applicable by charter, or
33 by ordinance or resolution of the governing body thereof.

34 If the provisions of this section are in conflict with the provisions
35 of a memorandum of understanding reached pursuant to Chapter
36 12 (commencing with Section 3560) of Division 4 of Title 1, the
37 memorandum of understanding shall be controlling without further
38 legislative action, except that if those provisions of a memorandum
39 of understanding require the expenditure of funds, the provisions

1 shall not become effective unless approved by the Legislature in
2 the annual Budget Act.

3 SEC. 12. Section 6712 of the Government Code is amended
4 to read:

5 6712. The Governor shall proclaim annually the ~~fourth Friday~~
6 ~~in September~~ *second Monday in October* to be “Native American
7 Day.”

8 SEC. 13. Section 19853 of the Government Code is amended
9 to read:

10 19853. (a) All state employees shall be entitled to the following
11 holidays: January 1, the third Monday in January, the third Monday
12 in February, March 31, the last Monday in May, July 4, the first
13 Monday in September, *the second Monday in October*, November
14 11, Thanksgiving Day, the day after Thanksgiving, December 25,
15 the day chosen by an employee pursuant to Section 19854, and
16 every day appointed by the Governor of this state for a public fast,
17 thanksgiving, or holiday.

18 (b) If a day listed in this subdivision falls on a Sunday, the
19 following Monday shall be deemed to be the holiday in lieu of the
20 day observed. If November 11 falls upon a Saturday, the preceding
21 Friday shall be deemed to be the holiday in lieu of the day
22 observed.

23 (c) Any state employee who may be required to work on any
24 of the holidays included in this section, and who does work on any
25 of these holidays, shall be entitled to receive straight-time pay and
26 eight hours of holiday credit.

27 (d) For the purpose of computing the number of hours worked,
28 time when an employee is excused from work because of holidays,
29 sick leave, vacation, annual leave, compensating time off, or any
30 other leave shall not be considered as time worked by the employee
31 for the purpose of computing cash compensation for overtime or
32 compensating time off for overtime.

33 ~~(e) Any state employee, as defined in subdivision (c) of Section~~
34 ~~3513, may elect to receive eight hours of holiday credit for the~~
35 ~~fourth Friday in September, known as “Native American Day,” in~~
36 ~~lieu of receiving eight hours of personal holiday credit in~~
37 ~~accordance with Section 19854.~~

38 (f)

1 (e) Persons employed on less than a full-time basis shall receive
2 holidays in accordance with the Department of Human Resources
3 rules.

4 ~~(g)~~

5 (f) If subdivision (a), (c), or (d) is in conflict with the provisions
6 of a memorandum of understanding executed or amended pursuant
7 to Section 3517.5 on or after February 1, 2009, or the date that the
8 act adding this section takes effect, whichever is later, the
9 memorandum of understanding shall be controlling without further
10 legislative action, except that if those provisions of the
11 memorandum of understanding require the expenditure of funds,
12 the provisions shall not become effective unless approved by the
13 Legislature in the annual Budget Act.

14 ~~(h)~~

15 (g) This section shall become operative on February 1, 2009,
16 or the date that the act adding this section takes effect, whichever
17 is later.

18 SEC. 14. Section 19853.1 of the Government Code is amended
19 to read:

20 19853.1. (a) Notwithstanding Section 19853, this section shall
21 apply to state employees in State Bargaining Unit 5.

22 (b) Except as provided in subdivision (c), all employees shall
23 be entitled to the following holidays: January 1, the third Monday
24 in January, the third Monday in February, March 31, the last
25 Monday in May, July 4, the first Monday in September, *the second*
26 *Monday in October*, November 11, the day after Thanksgiving,
27 December 25, and every day appointed by the Governor of this
28 state for a public fast, thanksgiving, or holiday.

29 If a day listed in this subdivision falls on a Sunday, the following
30 Monday shall be deemed to be the holiday in lieu of the day
31 observed. If November 11 falls upon a Saturday, the preceding
32 Friday shall be deemed to be the holiday in lieu of the day
33 observed. Any employee who may be required to work on any of
34 the holidays included in this section and who does work on any
35 of these holidays shall be entitled to be paid compensation or given
36 compensating time off for that work in accordance with his or her
37 classification's assigned workweek group.

38 (c) If the provisions of subdivision (b) are in conflict with the
39 provisions of a memorandum of understanding reached pursuant
40 to Section 3517.5, the memorandum of understanding shall be

1 controlling without further legislative action, except that if the
2 provisions of a memorandum of understanding require the
3 expenditure of funds, the provisions shall not become effective
4 unless approved by the Legislature in the annual Budget Act.

5 (d) Any employee who either is excluded from the definition
6 of state employee in subdivision (c) of Section 3513, or is a
7 nonelected officer or employee of the executive branch of
8 government who is not a member of the civil service, is entitled
9 to the following holidays, with pay, in addition to any official state
10 holiday appointed by the Governor:

11 (1) January 1, the third Monday in January, the third Monday
12 in February, March 31, the last Monday in May, July 4, the first
13 Monday in September, November 11, Thanksgiving Day, the day
14 after Thanksgiving, and December 25.

15 (2) When November 11 falls on a Saturday, employees shall be
16 entitled to the preceding Friday as a holiday with pay.

17 (3) When a holiday, other than a personal holiday, falls on a
18 Saturday, an employee shall, regardless of whether he or she works
19 on the holiday, accrue only an additional eight hours of personal
20 holiday credit per fiscal year for the holiday. The holiday credit
21 shall be accrued on the actual date of the holiday and shall be used
22 within the same fiscal year.

23 (4) When a holiday other than a personal holiday falls on
24 Sunday, employees shall be entitled to the following Monday as
25 a holiday with pay.

26 (5) Employees who are required to work on a holiday shall be
27 entitled to pay or compensating time off for this work in accordance
28 with their classification's assigned workweek group.

29 (6) Persons employed on less than a full-time basis shall receive
30 holidays in accordance with the Department of Human Resources
31 rules.

32 ~~(e) Any employee, as defined in subdivision (c) of Section 3513,
33 may elect to use eight hours of vacation, annual leave, or
34 compensating time off consistent with departmental operational
35 needs and collective bargaining agreements for the fourth Friday
36 in September, known as "Native American Day."~~

37 (f)

38 (e) This section shall become effective with regard to the March
39 31 holiday only when the Department of Human Resources notifies
40 the Legislature that the language contained in this section has been

1 agreed to by all exclusive representatives, and the Department of
2 Human Resources authorizes this holiday to be applied to
3 employees designated as excluded from the Ralph C. Dills Act
4 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
5 1), and the necessary statutes are amended to reflect this change.

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