

AMENDED IN SENATE AUGUST 26, 2013
AMENDED IN SENATE AUGUST 14, 2013
AMENDED IN ASSEMBLY APRIL 1, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 855

Introduced by Assembly Member Brown

February 21, 2013

An act to amend Section 19996.2 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 855, as amended, Brown. State employees: absence without leave: reinstatement.

The State Civil Service Act provides that absence without leave for 5 consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked. The act provides a procedure for a permanent or probationary state employee to seek reinstatement and for the Department of Human Resources to grant reinstatement. Reinstatement may be granted if (1) the employee makes a satisfactory explanation to the department as to the cause of his or her absence and his or her failure to obtain leave, and (2) the department finds that the employee is ready, able, and willing to resume the discharge of the duties of his or her position or has obtained consent for a leave of absence.

This bill would permit an employee to demonstrate that he or she is ready, able, and willing to resume the discharge of the duties of his or

her position by submitting written verification from ~~a~~ *his or her* licensed health care provider that shows the employee is released to return to work.

This bill would require the department to grant reinstatement if the hiring authority separates an employee from state service pursuant to those provisions before the expiration of the 5th working 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. Section 19996.2 of the Government Code is
2 amended to read:

3 19996.2. (a) Absence without leave, whether voluntary or
4 involuntary, for five consecutive working days is an automatic
5 resignation from state service, as of the last date on which the
6 employee worked.

7 (b) The department shall grant reinstatement if the hiring
8 authority, in violation of paragraph (a), separates an employee for
9 absence without leave pursuant to this section prior to the
10 expiration of the fifth working day. However, nothing in this
11 paragraph limits the hiring authority’s right to otherwise dismiss
12 or discipline an employee.

13 (c) (1) A permanent or probationary employee may, within 90
14 days of the effective date of a separation described in subdivision
15 (a), file a written request with the department for reinstatement.
16 However, if the appointing power has notified the employee of his
17 or her automatic resignation, any request for reinstatement shall
18 be made in writing and filed within 15 days of the service of notice
19 of separation. Service of notice shall be made as provided in
20 Section 18575 and is complete on mailing. Reinstatement may be
21 granted if both of the following apply:

22 (A) The employee makes a satisfactory explanation to the
23 department as to the cause of his or her absence and his or her
24 failure to obtain leave.

25 (B) The department finds that the employee is ready, able, and
26 willing to resume the discharge of the duties of his or her position
27 or, if not, that he or she has obtained the consent of his or her
28 appointing power to a leave of absence to commence upon
29 reinstatement.

1 (2) An employee may demonstrate to the department that he or
2 she is ready, able, and willing to resume the discharge of the duties
3 of his or her position by submitting written verification from ~~a his~~
4 ~~or her~~ licensed health care provider that shows the employee is
5 released to return to work. However, nothing in this section waives
6 the right of the hiring authority to challenge the validity or accuracy
7 of the medical ~~verification during any proceedings before the~~
8 ~~department.~~ *verification.*

9 (3) Except as provided in subdivision (d), an employee reinstated
10 pursuant to this section shall not be paid salary for the period of
11 his or her absence or separation, or for any portion thereof.

12 (d) If this section is in conflict with a memorandum of
13 understanding reached pursuant to Section 3517.5, the
14 memorandum of understanding shall be controlling without further
15 legislative action. However, if the memorandum of understanding
16 requires the expenditure of funds, the memorandum of
17 understanding shall not become effective unless approved by the
18 Legislature in the annual Budget Act.