

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2383**

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**Introduced by Assembly Member Achadjian**

February 21, 2014

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An act to amend ~~Section 1771 of the Labor Code, relating to public works.~~ *Sections 4800.5 and 4850 of the Labor Code, relating to workers' compensation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2383, as amended, Achadjian. ~~Public works: prevailing wages. Workers' compensation: payments: public safety employees.~~

*Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.*

*Existing law requires that whenever an eligible sworn member of the Department of the California Highway Patrol is disabled by a single injury, excluding disabilities that are the result of cumulative trauma or cumulative injuries, arising out of and in the course of his or her duties, he or she is entitled, regardless of his or her period of service with the department, to a leave of absence while disabled without loss of salary, in lieu of disability payments, for a period not exceeding one year. Benefits payable for eligible sworn members of the department whose disability is solely the result of cumulative trauma or injury are limited to the actual period of temporary disability or entitlement to a vocational rehabilitation maintenance allowance, or for one year, whichever is less.*

*This bill would delete all references to the entitlement to a vocational rehabilitation maintenance allowance as an alternative to temporary disability.*

*Existing law provides that, whenever a person in one of specified categories of local public safety employees, who is employed on a regular, full-time basis, is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, that person is entitled, regardless of his or her period of service, to a leave of absence while so disabled without a loss of salary in lieu of disability payments, or to a vocational rehabilitation maintenance allowance payments, if any, for the period of the disability, not exceeding one year.*

*This bill would specify that the above provisions apply with respect to a single injury only, and would delete the above reference to the entitlement to a vocational rehabilitation maintenance allowance as an alternative to temporary disability.*

~~Existing law generally defines “public works” for the purposes of requirements regarding the payment of prevailing wages, to include construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. Existing law generally requires that not less than the general prevailing rate of per diem wages be paid to workers employed on public works projects, and imposes misdemeanor penalties for a violation of this requirement. Existing law exempts certain projects from the prevailing wage requirements, including public works projects of less than \$1,000.~~

~~This bill would make a technical, nonsubstantive change to these provisions:~~

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 4800.5 of the Labor Code is amended to*
- 2     *read:*
- 3     4800.5. (a) ~~Whenever any~~ *a* sworn member of the Department
- 4     of the California Highway Patrol is disabled by a single injury,
- 5     excluding disabilities that are the result of cumulative trauma or
- 6     cumulative injuries, arising out of and in the course of his or her
- 7     duties, he or she ~~shall become~~ *is* entitled, regardless of his or her
- 8     period of service with the patrol, to a leave of absence while so

1 disabled without loss of salary, in lieu of disability payments under  
2 this chapter, for a period of not exceeding one year. This section  
3 shall apply only to members of the Department of the California  
4 Highway Patrol whose principal duties consist of active law  
5 enforcement and shall not apply to persons employed in the  
6 Department of the California Highway Patrol whose principal  
7 duties are those of telephone operator, clerk, stenographer,  
8 machinist, mechanic, or otherwise clearly not falling within the  
9 scope of active law enforcement service, even though this person  
10 is subject to occasional call or is occasionally called upon to  
11 perform the duties of active law enforcement service.

12 (b) Benefits payable for eligible sworn members of the  
13 Department of the California Highway Patrol whose disability is  
14 solely the result of cumulative trauma or injury ~~shall be~~ *is* limited  
15 to the actual period of temporary disability ~~or entitlement to~~  
16 ~~maintenance allowance~~, or for one year, whichever is less.

17 (c) This section shall not apply to periods of disability that occur  
18 subsequent to termination of employment by resignation,  
19 retirement, or dismissal. When this section does not apply, the  
20 employee shall be eligible for those benefits that would apply had  
21 this section not been enacted.

22 (d) The appeals board may determine, upon request of any party,  
23 whether or not the disability referred to in this section arose out  
24 of and in the course of duty. In any action in which a dispute exists  
25 regarding the nature of the injury or the period of temporary  
26 disability ~~or entitlement to maintenance allowance, or both~~, and  
27 upon the request of any party thereto, the appeals board shall  
28 determine when the disability commenced and ceased, and the  
29 amount of benefits provided by this division to which the employee  
30 is entitled during the period of this disability. The appeals board  
31 shall have the jurisdiction to award and enforce payment of these  
32 benefits, subject to subdivision (a) or (b), pursuant to Part 4  
33 (commencing with Section 5300). A decision issued by the appeals  
34 board under this section is final and binding upon the parties  
35 subject to the rights of appeal contained in Chapter 7 (commencing  
36 with Section 5900) of Part 4.

37 (e) Except as provided in subdivision (g), this section shall apply  
38 for periods of disability commencing on or after January 1, 1995.

39 (f) This section does not apply to peace officers designated  
40 under subdivision (a) of Section 2250.1 of the Vehicle Code.

1 (g) Peace officers of the California State Police Division who  
2 become sworn members of the Department of the California  
3 Highway Patrol as a result of the Governor's Reorganization Plan  
4 No. 1 of 1995, other than those officers described in subdivision  
5 (f), shall be eligible for injury benefits accruing to sworn members  
6 of the Department of the California Highway Patrol under this  
7 division only for injuries occurring on or after July 12, 1995.

8 *SEC. 2. Section 4850 of the Labor Code is amended to read:*

9 4850. (a) Whenever any person listed in subdivision (b), who  
10 is employed on a regular, full-time basis, and is disabled, whether  
11 temporarily or permanently, ~~by injury or illness~~ arising out of and  
12 in the course of his or her duties *from a single injury*, he or she  
13 ~~shall become~~ *is* entitled, regardless of his or her period of service  
14 with the city, county, or district, to a leave of absence while so  
15 disabled without loss of salary in lieu of temporary disability  
16 payments ~~or maintenance allowance payments, if any,~~ that would  
17 be payable under this chapter, for the period of the disability, but  
18 not exceeding one year, or until that earlier date as he or she is  
19 retired on permanent disability pension, and is actually receiving  
20 disability pension payments, or advanced disability pension  
21 payments pursuant to Section 4850.3.

22 (b) The persons eligible under subdivision (a) include all of the  
23 following:

- 24 (1) City police officers.
- 25 (2) City, county, or district firefighters.
- 26 (3) Sheriffs.
- 27 (4) Officers or employees of any sheriff's offices.
- 28 (5) Inspectors, investigators, detectives, or personnel with  
29 comparable titles in any district attorney's office.
- 30 (6) County probation officers, group counselors, or juvenile  
31 services officers.
- 32 (7) Officers or employees of a probation office.
- 33 (8) Peace officers under Section 830.31 of the Penal Code  
34 employed on a regular, full-time basis by a county of the first class.
- 35 (9) Lifeguards employed year round on a regular, full-time basis  
36 by a county of the first class or by the City of San Diego.
- 37 (10) Airport law enforcement officers under subdivision (d) of  
38 Section 830.33 of the Penal Code.
- 39 (11) Harbor or port police officers, wardens, or special officers  
40 of a harbor or port district or city or county harbor department

1 under subdivision (a) of Section 830.1 or subdivision (b) of Section  
2 830.33 of the Penal Code.

3 (12) Police officers of the Los Angeles Unified School District.

4 (c) This section shall apply only to persons listed in subdivision  
5 (b) who meet the requirements of subdivision (a), and shall not  
6 include any of the following:

7 (1) Employees of a police department whose principal duties  
8 are those of a telephone operator, clerk, stenographer, machinist,  
9 mechanic, or otherwise, and whose functions do not clearly fall  
10 within the scope of active law enforcement service.

11 (2) Employees of a county sheriff's office whose principal duties  
12 are those of a telephone operator, clerk, stenographer, machinist,  
13 mechanic, or otherwise, and whose functions do not clearly come  
14 within the scope of active law enforcement service.

15 (3) Employees of a county probation office whose principal  
16 duties are those of a telephone operator, clerk, stenographer,  
17 machinist, mechanic, or otherwise, and whose functions do not  
18 clearly come within the scope of active law enforcement service.

19 (4) Employees of a city fire department, county fire department,  
20 or fire district whose principal duties are those of a telephone  
21 operator, clerk, stenographer, machinist, mechanic, or otherwise,  
22 and whose functions do not clearly fall within the scope of active  
23 firefighting and prevention service.

24 (d) If the employer is insured, the payments that, except for this  
25 section, the insurer would be obligated to make as disability  
26 indemnity to the injured, the insurer may pay to the insured.

27 (e) ~~No~~A leave of absence taken pursuant to this section by a  
28 peace officer, as defined by Chapter 4.5 (commencing with Section  
29 830) of Title 3 of Part 2 of the Penal Code, or by a city, county,  
30 or district firefighter, ~~shall be deemed to~~ *does not* constitute family  
31 care and medical leave, as defined in Section 12945.2 of the  
32 Government Code, or ~~to~~ reduce the time authorized for family care  
33 and medical leave by Section 12945.2 of the Government Code.

34 (f) This section shall not apply to any persons described in  
35 paragraph (1) or (2) of subdivision (b) who are employees of the  
36 City and County of San Francisco.

37 (g) Amendments to subdivision (f) made by ~~the act adding this~~  
38 ~~subdivision~~ *Chapter 74 of the Statutes of 2010* shall be applied  
39 retroactively to January 1, 2010.

1 SECTION 1. ~~Section 1771 of the Labor Code is amended to read:~~  
2 ~~1771. (a) Except for public works projects of one thousand~~  
3 ~~dollars (\$1,000) or less, not less than the general prevailing rate~~  
4 ~~of per diem wages for work of a similar character in the locality~~  
5 ~~in which the public work is performed, and not less than the general~~  
6 ~~prevailing rate of per diem wages for holiday and overtime work~~  
7 ~~fixed as provided in this chapter, shall be paid to all workers~~  
8 ~~employed on public works.~~  
9 ~~(b) This section is applicable only to work performed under~~  
10 ~~contract, and is not applicable to work carried out by a public~~  
11 ~~agency with its own forces.~~  
12 ~~(c) This section is applicable to contracts let for maintenance~~  
13 ~~work.~~