

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE MAY 24, 2013

SENATE BILL

No. 761

Introduced by Senator DeSaulnier

February 22, 2013

An act to amend Section 3301 of the Unemployment Insurance Code, relating to disability insurance 18897 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 761, as amended, DeSaulnier. ~~Family temporary disability insurance.~~ *Personal income taxes: voluntary contributions: School Supplies for Homeless Children Fund.*

The Personal Income Tax Law authorizes an individual to contribute amounts in excess of his or her tax liability for the support of specified funds, including the School Supplies for Homeless Children Fund. Existing law requires the moneys deposited in the School Supplies for Homeless Children Fund to be allocated, upon appropriation by the Legislature, to the State Department of Education for the sole purpose of assisting pupils in California pursuant to the federal McKinney-Vento Homeless Assistance Act by providing school supplies and health-related products to homeless children through competitive grant programs, as provided.

This bill would instead require the same moneys, upon appropriation by the Legislature, to be allocated to the State Department of Education for distribution to a single nonprofit organization, exempt from taxation, for the sole purpose of assisting pupils in California pursuant to the federal McKinney-Vento Homeless Assistance Act by providing grants

of school supplies and health-related products to partnering learning education agencies, as provided.

~~Existing law provides that there is a family temporary disability insurance program to provide up to 6 weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, or domestic partner, or to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption.~~

~~This bill would provide that it is unlawful for an employer or agent of an employer to discharge or in any other manner to discriminate against an individual because he or she has applied for, used, or indicated an intent to apply for or use, family temporary disability insurance benefits. The bill would provide that an employer who regularly employs 10 or more individuals, or an agent of that employer, that violates these provisions by discriminating against an employee who has been employed by him or her for 90 working days or more shall be liable to the employee affected by the violation for actual damages and appropriate equitable relief, including reinstatement. The bill would also provide that if an employee brings a civil action seeking these remedies and he or she prevails, the court may award the employee reasonable attorney's fees and costs.~~

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

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

1 *SECTION 1. Section 18897 of the Revenue and Taxation Code*
2 *is amended to read:*

3 18897. (a) ~~All money moneys~~ transferred to the School
4 Supplies for Homeless Children Fund, upon appropriation by the
5 Legislature, shall be allocated as follows:

6 (1)

7 (a) ~~To the Franchise Tax Board, the Controller, and the State~~
8 ~~Department of Education Board and the Controller~~ for
9 reimbursement of all costs incurred by the Franchise Tax Board,
10 ~~the Controller, and the State Department of Education Board and~~
11 ~~the Controller~~ in connection with their duties under this article.

12 (2) ~~To the State Department of Education for the sole purpose~~
13 ~~of assisting pupils in California pursuant to the federal~~
14 ~~McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301~~

1 et seq.) by providing school supplies and health-related products
2 to homeless children through a competitive grant program
3 developed and awarded by the Superintendent of Public Instruction.

4 (b) ~~The Superintendent of Public Instruction shall develop the~~
5 ~~competitive grant program applicable to this section, including,~~
6 ~~but not limited to, application forms and deadlines, while~~
7 ~~considering the most effective, efficient, and widest distribution~~
8 ~~of school supplies and health-related products to homeless children.~~

9 (b) *To the State Department of Education as follows:*

10 (1) (A) *For distribution to a single nonprofit organization*
11 *exempt from federal income tax as an organization described in*
12 *Section 501(c)(3) of the Internal Revenue Code for the sole purpose*
13 *of assisting pupils in California pursuant to the federal*
14 *McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301*
15 *et seq.) by providing school supplies and health-related products*
16 *to partnering learning education agencies for distribution to*
17 *homeless children, as defined by the federal McKinney-Vento*
18 *Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The*
19 *nonprofit organization shall provide a minimum 100 percent match*
20 *for all funds received from the School Supplies for Homeless*
21 *Children Fund.*

22 (B) *The State Department of Education's first designation of a*
23 *nonprofit organization shall be valid until January 1, 2017. On*
24 *that date, and every three calendar years thereafter, while this*
25 *section is operative and in effect, the State Department of*
26 *Education shall designate the same or a different nonprofit*
27 *organization pursuant to this section. The State Department of*
28 *Education may revoke the designation should the nonprofit*
29 *organization fail to comply with the provisions of this article. If a*
30 *designation is revoked, the State Department of Education shall*
31 *designate a new nonprofit organization within three calendar*
32 *months.*

33 (C) *Funds shall be distributed by the State Department of*
34 *Education only after evidence is presented to the State Department*
35 *of Education that demonstrates that the learning education*
36 *agencies or domestic violence shelters have received the materials.*

37 (2) *For reimbursement of all costs incurred by the State*
38 *Department of Education in connection with verifying that the*
39 *designated nonprofit organization procured school supplies and*
40 *health-related products and provided matching funds.*

1 (c) (1) Funds distributed to the nonprofit organization pursuant
 2 to this section shall be used only for costs incurred to procure,
 3 assemble, and ship school supplies and health-related products.
 4 Funds made available pursuant to this section shall not be used
 5 for administrative purposes, to reimburse costs associated with
 6 administering grants of school supplies and health-related products
 7 to learning education agencies or domestic violence shelters, or
 8 for any purpose relating to the operation of the nonprofit
 9 organization.

10 (2) The nonprofit organization may provide school supplies and
 11 health-related products to children living in domestic violence
 12 shelters.

13 SECTION 1. Section 3301 of the Unemployment Insurance
 14 Code is amended to read:

15 3301. (a) (1) The purpose of this chapter is to establish, within
 16 the state disability insurance program, a family temporary disability
 17 insurance program. Family temporary disability insurance shall
 18 provide up to six weeks of wage replacement benefits to workers
 19 who take time off work to care for a seriously ill child, spouse,
 20 parent, or domestic partner, or to bond with a minor child within
 21 one year of the birth or placement of the child in connection with
 22 foster care or adoption.

23 (2) Nothing in this chapter shall be construed to abridge the
 24 rights and responsibilities conveyed under the CFRA or pregnancy
 25 disability leave.

26 (b) An individual's "weekly benefit amount" shall be the amount
 27 provided in Section 2655. An individual is eligible to receive
 28 family temporary disability insurance benefits equal to one-seventh
 29 of his or her weekly benefit amount for each full day during which
 30 he or she is unable to work due to caring for a seriously ill or
 31 injured family member or bonding with a minor child within one
 32 year of the birth or placement of the child in connection with foster
 33 care or adoption.

34 (c) The maximum amount payable to an individual during any
 35 disability benefit period for family temporary disability insurance
 36 shall be six times his or her "weekly benefit amount," but in no
 37 case shall the total amount of benefits payable be more than the
 38 total wages paid to the individual during his or her disability base
 39 period. If the benefit is not a multiple of one dollar (\$1), it shall
 40 be computed to the next higher multiple of one dollar (\$1).

1 ~~(d) No more than six weeks of family temporary disability~~
2 ~~insurance benefits shall be paid within any 12-month period.~~
3 ~~(e) An individual shall file a claim for family temporary~~
4 ~~disability insurance benefits not later than the 41st consecutive~~
5 ~~day following the first compensable day with respect to which the~~
6 ~~claim is made for benefits, which time shall be extended by the~~
7 ~~department upon a showing of good cause. If a first claim is not~~
8 ~~complete, the claim form shall be returned to the claimant for~~
9 ~~completion and it shall be completed and returned not later than~~
10 ~~the 10th consecutive day after the date it was mailed by the~~
11 ~~department to the claimant, except that such time shall be extended~~
12 ~~by the department upon a showing of good cause.~~
13 ~~(f) An employer who regularly employs 10 or more individuals,~~
14 ~~or an agent of that employer, that discharges or in any other manner~~
15 ~~discriminates against an employee who has been employed by him~~
16 ~~or her for 90 working days or more because the employee has~~
17 ~~applied for, used, or indicated an intent to apply for or use, family~~
18 ~~temporary disability insurance benefits under this section shall be~~
19 ~~liable to an employee affected by the unlawful violation for actual~~
20 ~~damages and appropriate equitable relief, including reinstatement.~~
21 ~~An employee may bring a civil action seeking these remedies in~~
22 ~~a court of competent jurisdiction. If the employee prevails in the~~
23 ~~action, the court may award the employee reasonable attorney's~~
24 ~~fees and costs.~~