

AMENDED IN ASSEMBLY MAY 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 375

Introduced by Assembly Member Campos

February 18, 2015

An act to amend Section 44977 of the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 375, as amended, Campos. School employees: sick leave: *paternity and* maternity leave.

Under existing law, when a certificated school employee exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of 5 school months, the employee during those 5 months receives the difference between his or her salary and the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed.

This bill would instead provide the differential pay benefit described above if the certificated school employee is absent on account of illness, accident, *paternity leave*, or maternity leave, as specified. *The bill would prohibit a certificated school employee on maternity or paternity leave pursuant to the Moore-Brown-Roberti Family Rights Act from being denied access to differential pay while on that leave. The bill would provide that, to the extent these changes conflict with any provision of a collective bargaining agreement entered into before January 1, 2016, by a public school employer and an exclusive bargaining representative,*

the changes shall not apply until the expiration or renewal of that collective bargaining agreement.

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 44977 of the Education Code is amended
 2 to read:
 3 44977. (a) During each school year, when a person employed
 4 in a position requiring certification qualifications has exhausted
 5 all available sick leave, including all accumulated sick leave, and
 6 continues to be absent from his or her duties on account of illness,
 7 accident, *paternity leave*, or maternity leave for an additional period
 8 of five school months, whether or not the absence arises out of or
 9 in the course of the employment of the employee, the amount
 10 deducted from the salary due him or her for any of the additional
 11 five months in which the absence occurs shall not exceed the sum
 12 that is actually paid a substitute employee employed to fill his or
 13 her position during his or her absence or, if no substitute employee
 14 was employed, the amount that would have been paid to the
 15 substitute had he or she been employed. The school district shall
 16 make every reasonable effort to secure the services of a substitute
 17 employee.
 18 (b) For purposes of subdivision (a):
 19 (1) The sick leave, including accumulated sick leave, and the
 20 five-month period shall run consecutively.
 21 (2) An employee shall not be provided more than one five-month
 22 period per illness, accident, *paternity leave*, or maternity leave.
 23 However, if a school year terminates before the five-month period
 24 is exhausted, the employee may take the balance of the five-month
 25 period in a subsequent school year.
 26 (3) *An employee on maternity or paternity leave pursuant to*
 27 *Section 12945.2 of the Government Code shall not be denied access*
 28 *to differential pay while on that leave.*
 29 (c) The governing board of every school district shall adopt a
 30 salary schedule for substitute employees. The salary schedule shall
 31 indicate a salary for a substitute for all categories or classes of
 32 certificated employees of the school district.

1 (d) Excepting in a school district the governing board of which
2 has adopted a salary schedule for substitute employees of the school
3 district, the amount paid the substitute employee during any month
4 shall be less than the salary due the employee absent from his or
5 her duties.

6 (e) When a person employed in a position requiring certification
7 qualifications is absent from his or her duties on account of illness
8 for a period of more than five school months, or when a person is
9 absent from his or her duties for a cause other than illness, the
10 amount deducted from the salary due him or her for the month in
11 which the absence occurs shall be determined according to the
12 rules and regulations established by the governing board of the
13 school district. The rules and regulations shall not conflict with
14 rules and regulations of the state ~~board~~. *board*.

15 (f) This section shall not be construed as to deprive a school
16 district, city, or city and county of the right to make any reasonable
17 rule for the regulation of accident or sick leave or cumulative
18 accident or sick leave without loss of salary for persons acquiring
19 certification qualifications.

20 (g) This section shall be applicable whether or not the absence
21 from duty is by reason of a leave of absence granted by the
22 governing board of the employing school district.

23 (h) *To the extent that the changes made to this section by*
24 *Assembly Bill 375 of the 2015–16 Regular Session conflicts with*
25 *a provision of a collective bargaining agreement entered into by*
26 *a public school employer and an exclusive bargaining*
27 *representative before January 1, 2016, pursuant to Chapter 10.7*
28 *(commencing with Section 3540) of Division 4 of Title 1 of the*
29 *Government Code, the changes made to this section by Assembly*
30 *Bill 375 of the 2015–16 Regular Session shall not apply until*
31 *expiration or renewal of that collective bargaining agreement.*