

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 915**

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**Introduced by Assembly Member Holden**

February 26, 2015

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An act to amend ~~Section 45192~~ *Sections 44984, 45192, 87787, and 88192* of the Education Code, relating to ~~classified school~~ *public education* employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 915, as amended, Holden. ~~School~~ *Public education* employees: ~~classified service~~; industrial accident or illness leaves of absence: travel ~~restriction~~; *restriction*.

Existing law requires the governing board of a school district to provide by rules and regulations for industrial accident or illness leaves of absence for employees who are a part of the ~~classified service~~; *service and for all certificated employees*. Existing law requires the governing board of a community college district to provide by rules and regulations for industrial accident or illness leaves of absence for employees who are part of the ~~classified service~~ and for all academic employees. Existing law requires an employee receiving benefits pursuant to these provisions to remain within California during periods of injury or illness, unless the governing board authorizes travel outside the state.

This bill would remove the travel restriction on an employee receiving these benefits.

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 44984 of the Education Code is amended  
2 to read:

3 44984. ~~Governing boards of school districts~~(a) The governing  
4 board of a school district shall provide by rules and regulations  
5 for industrial accident and illness leaves of absence for all  
6 certificated employees. The governing board of ~~any a district which~~  
7 that is created or whose boundaries or status is changed by an  
8 action to organize or reorganize districts completed after the  
9 effective date of this section shall provide by rules and regulations  
10 for ~~such these~~ leaves of absence on or before the date on which  
11 the organization or reorganization of the district becomes effective  
12 for all ~~purposes as provided in Section 4064.~~ purposes.

13 ~~Such rules~~

14 (b) The rules or regulations shall include the following  
15 provisions:

16 a.

17 (1) Allowable leave shall be for not less than 60 days during  
18 which the schools of the district are required to be in session or  
19 when the employee would otherwise have been performing work  
20 for the district in any one fiscal year for the same ~~accident;~~  
21 accident.

22 b.

23 (2) Allowable leave shall not be accumulated from year to ~~year;~~  
24 year.

25 c.

26 (3) Industrial accident or illness leave shall commence on the  
27 first day of ~~absence;~~ absence.

28 d.

29 (4) (A) When a certificated employee is absent from his or her  
30 duties on account of an industrial accident or illness, he or she  
31 shall be paid ~~such the~~ portion of the salary due him or her for any  
32 month in which the absence occurs as, when added to his or her  
33 temporary disability indemnity under Division 4 or Division 4.5  
34 of the Labor Code, will result in a payment to him or her of not  
35 more than his or her full ~~salary;~~ salary.

36 The

37 (B) The phrase “full salary” as utilized in this subdivision shall  
38 be computed so that it shall not be less than the employee’s

1 “average weekly earnings” as that phrase is utilized in Section  
2 4453 of the Labor Code. For purposes of this section, however,  
3 the maximum and minimum average weekly earnings set forth in  
4 Section 4453 of the Labor Code shall otherwise not be deemed  
5 applicable.

6 e.

7 (5) Industrial accident or illness leave shall be reduced by one  
8 day for each day of authorized absence regardless of a temporary  
9 disability indemnity ~~award~~; *award*.

10 f.

11 (6) When an industrial accident or illness leave overlaps into  
12 the next fiscal year, the employee shall be entitled to only the  
13 amount of unused leave due him *or her* for the same illness or  
14 injury.

15 ~~Upon~~

16 (c) ~~Upon~~ termination of the industrial accident or illness leave,  
17 the employee shall be entitled to the benefits provided in Sections  
18 44977, 44978 and 44983, and for the purposes of each of these  
19 sections, ~~his~~ *the employee's* absence shall be deemed to have  
20 commenced on the date of termination of the industrial accident  
21 or illness leave, provided that if the employee continues to receive  
22 temporary disability indemnity, ~~he~~ *the employee* may elect to take  
23 as much of his *or her* accumulated sick leave which, when added  
24 to his *or her* temporary disability indemnity, will result in a  
25 payment to him *or her* of not more than his *or her* full salary.

26 ~~The~~

27 (d) ~~The~~ governing board of a district may, by rule or regulation,  
28 provide for ~~such an~~ additional leave of absence for industrial  
29 accident or illness as it deems appropriate.

30 ~~During any~~

31 (e) ~~During any~~ paid leave of absence, the employee may endorse  
32 to the district the temporary disability indemnity checks received  
33 on account of ~~his~~ *the employee's* industrial accident or illness. The  
34 district, in turn, shall issue the employee appropriate salary  
35 warrants for payment of the employee's salary and shall deduct  
36 normal retirement, other authorized contributions, and the  
37 temporary disability indemnity, if any, actually paid to and retained  
38 by the employee for periods covered by ~~such~~ *the* salary warrants.

39 ~~Any employee receiving benefits as a result of this section shall,~~  
40 ~~during periods of injury or illness, remain within the State of~~

1 ~~California unless the governing board authorizes travel outside the~~  
2 ~~state.~~

3 ~~In~~

4 (f) *In* the absence of rules and regulations adopted by the  
5 governing board *of a district* pursuant to this section, an employee  
6 shall be entitled to industrial accident or illness leave as provided  
7 in this section but without limitation as to the number of days of  
8 ~~such~~ *this* leave.

9 SECTION 4.

10 SEC. 2. Section 45192 of the Education Code is amended to  
11 read:

12 45192. (a) The governing board of a school district shall  
13 provide by rules and regulations for industrial accident or illness  
14 leaves of absence for employees who are a part of the classified  
15 service. The governing board of a district that is created or whose  
16 boundaries or status is changed by an action to organize or  
17 reorganize districts completed after the effective date of this section  
18 shall provide by rules and regulations for these leaves of absence  
19 on or before the date on which the organization or reorganization  
20 of the district becomes effective for all purposes.

21 (b) The rules and regulations shall include the following  
22 provisions:

23 (1) Allowable leave shall not be for less than 60 working days  
24 in any one fiscal year for the same accident.

25 (2) Allowable leave shall not be accumulative from year to year.

26 (3) Industrial accident or illness leave will commence on the  
27 first day of absence.

28 (4) Payment for wages lost on any day shall not, when added  
29 to an award granted the employee under the workers' compensation  
30 laws of this state, exceed the normal wage for the day.

31 (5) Industrial accident leave will be reduced by one day for each  
32 day of authorized absence regardless of a compensation award  
33 made under workers' compensation.

34 (6) When an industrial accident or illness occurs at a time when  
35 the full 60 days will overlap into the next fiscal year, the employee  
36 shall be entitled to only that amount remaining at the end of the  
37 fiscal year in which the injury or illness occurred, for the same  
38 illness or injury.

39 (c) The industrial accident or illness leave of absence is to be  
40 used in lieu of entitlement acquired under Section 45191. When

1 entitlement to industrial accident or illness leave has been  
2 exhausted, entitlement or other sick leave will then be used; but  
3 if an employee is receiving workers' compensation the ~~person~~  
4 *employee* shall be entitled to use only so much of the ~~person's~~ *his*  
5 *or her* accumulated or available sick leave, accumulated  
6 compensating time, vacation or other available leave that, when  
7 added to the workers' compensation award, provide for a full day's  
8 wage or salary.

9 (d) The governing board of a district may, by rule or regulation,  
10 provide for as much additional leave of absence, paid or unpaid,  
11 as it deems appropriate and during this leave the employee may  
12 return to the ~~person's~~ *his or her* position without suffering any  
13 loss of status or benefits. The employee shall be notified, in writing,  
14 that available paid leave has been exhausted, and shall be offered  
15 an opportunity to request additional leave.

16 (e) A period of leave of absence, paid or unpaid, shall not be  
17 considered to be a break in service of the employee.

18 (f) During a paid leave of absence, whether industrial accident  
19 leave as provided in this section, sick leave, vacation, compensated  
20 time off, or other available leave provided by law or the action of  
21 a governing board *of a district*, the employee shall endorse to the  
22 district wage loss benefit checks received under the workers'  
23 compensation laws of this state. The district, in turn, shall issue  
24 the employee appropriate warrants for payment of wages or salary  
25 and shall deduct normal retirement and other authorized  
26 contributions. Reduction of entitlement to leave shall be made only  
27 in accordance with this section.

28 (g) When all available leaves of absence, paid or unpaid, have  
29 been exhausted and if the employee is not medically able to assume  
30 the duties of the ~~person's~~ *his or her* position, the ~~person~~ *employee*  
31 shall, if not placed in another position, be placed on a  
32 reemployment list for a period of 39 months. When available,  
33 during the 39-month period, the ~~person~~ *employee* shall be employed  
34 in a vacant position in the class of the ~~person's~~ *employee's* previous  
35 assignment over all other available candidates except for a  
36 reemployment list established because of lack of work or lack of  
37 funds, in which case the ~~person~~ *employee* shall be listed in  
38 accordance with appropriate seniority regulations.

39 (h) The governing board of a district may require that an  
40 employee serve or have served continuously a specified period of

1 time with the district before the benefits provided by this section  
2 are made available to the ~~person~~ *employee* provided that this period  
3 shall not exceed three years and that all service of ~~an~~ *the* employee  
4 prior to the effective date of this section shall be credited in  
5 determining compliance with the requirement.

6 (i) In the absence of rules and regulations adopted by the  
7 governing board of a district, pursuant to this section, an employee  
8 shall be entitled to industrial and accident or illness leave as  
9 provided in this section but without limitation as to the number of  
10 days of this leave and without any requirement of a specified period  
11 of service.

12 (j) An employee who has been placed on a reemployment list,  
13 as provided in this section, who has been medically released for  
14 return to duty and who fails to accept an appropriate assignment  
15 shall be dismissed.

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

19 *SEC. 3. Section 87787 of the Education Code is amended to*  
20 *read:*

21 ~~87787. Governing boards of community college districts~~

22 (a) *The governing board of a community college district shall*  
23 *provide by rules and regulations for industrial accident and illness*  
24 *leaves of absence for all academic employees. The governing board*  
25 *of ~~any~~ a district ~~which~~ that is created or whose boundaries or status*  
26 *is changed by an action to organize or reorganize districts*  
27 *completed after January 1, 1976, shall provide by rules and*  
28 *regulations for those leaves of absence on or before the date on*  
29 *which the organization or reorganization of the district becomes*  
30 *effective.*

31 ~~The~~

32 (b) *The rules or regulations shall include all of the following*  
33 *provisions:*

34 (a)

35 (1) *Allowable leave shall be for not less than 60 days during*  
36 *which the schools of the district are required to be in session or*  
37 *when the employee would otherwise have been performing work*  
38 *for the district in any one fiscal year for the same accident.*

39 (b)

40 (2) *Allowable leave shall not be accumulated from year to year.*

1     (e)  
2     (3) Industrial accident or illness leave shall commence on the  
3 first day of absence.

4     ~~(d)~~  
5     (4) (A) When an academic employee is absent from his or her  
6 duties on account of an industrial accident or illness, the employee  
7 shall be paid the portion of the salary due him or her for any month  
8 in which the absence occurs as, when added to his or her temporary  
9 disability indemnity under Division 4 (commencing with Section  
10 ~~3204~~ 3200) or Division 4.5 (commencing with Section 6100) of  
11 the Labor Code, will result in a payment to the employee of not  
12 more than his or her full salary.

13     ~~The~~  
14     (B) *The* phrase “full salary,” as utilized in this subdivision, shall  
15 be computed so that it shall not be less than the employee’s  
16 “average weekly earnings” as that phrase is utilized in Section  
17 4453 of the Labor Code. For purposes of this section, however,  
18 the maximum and minimum average weekly earnings set forth in  
19 Section 4453 of the Labor Code shall otherwise not be deemed  
20 applicable.

21     (e)  
22     (5) Industrial accident or illness leave shall be reduced by one  
23 day for each day of authorized absence regardless of a temporary  
24 disability indemnity award.

25     ~~(f)~~  
26     (6) When an industrial accident or illness leave overlaps into  
27 the next fiscal year, the employee shall be entitled to only the  
28 amount of unused leave due him or her for the same illness or  
29 injury.

30     ~~Upon~~  
31     (c) *Upon* termination of the industrial accident or illness leave,  
32 the employee shall be entitled to the benefits provided in Sections  
33 87780, 87781 and 87786, and, for the purposes of each of these  
34 sections, his or her absence shall be deemed to have commenced  
35 on the date of termination of the industrial accident or illness leave.  
36 However, if the employee continues to receive temporary disability  
37 indemnity, he or she may elect to take as much of his or her  
38 accumulated sick leave which, when added to his or her temporary  
39 disability indemnity, will result in a payment to the employee of  
40 not more than his or her full salary.

1     The  
 2     (d) *The governing board of a district*, by rule or regulation, may  
 3 provide for additional leave of absence for industrial accident or  
 4 illness as it deems appropriate.

5     During any  
 6     (e) *During a paid leave of absence*, the employee may endorse  
 7 to the district the temporary disability indemnity checks received  
 8 on account of his or her industrial accident or illness. The district,  
 9 in turn, shall issue the employee appropriate salary warrants for  
 10 payment of the employee’s salary and shall deduct normal  
 11 retirement, other authorized contributions, and the temporary  
 12 disability indemnity, if any, actually paid to and retained by the  
 13 employee for periods covered by the salary warrants.

14     ~~Any employee receiving benefits as a result of this section,~~  
 15 ~~during periods of injury or illness, shall remain within the State~~  
 16 ~~of California unless the governing board authorizes travel outside~~  
 17 ~~the state.~~

18     In  
 19     (f) *In the absence of rules and regulations adopted by the*  
 20 *governing board of a district* pursuant to this section, an employee  
 21 shall be entitled to industrial accident or illness leave as provided  
 22 in this section but without limitation as to the number of days of  
 23 leave.

24     SEC. 4. *Section 88192 of the Education Code is amended to*  
 25 *read:*

26     88192. ~~Governing boards of community college districts~~  
 27 (a) *The governing board of a community college district* shall  
 28 provide, by rules and regulations, for industrial accident or illness  
 29 leaves of absence for employees who are a part of the classified  
 30 service. The governing board of ~~any~~ a district that is created or  
 31 whose boundaries or status is changed by an action to organize or  
 32 reorganize districts completed after January 1, 1975, shall provide,  
 33 by rules and regulations, for ~~such~~ these leaves of absence on or  
 34 before the date on which the organization or reorganization of the  
 35 district becomes effective for all purposes.

36     The  
 37     (b) *The rules and regulations shall include all of the following*  
 38 provisions:

39     (a)



1 (1) Allowable leave shall not be for less than 60 working days  
2 in any one fiscal year for the same accident.

3 ~~(b)~~

4 (2) Allowable leave shall not be accumulative from year to year.

5 ~~(e)~~

6 (3) Industrial accident or illness leave of absence will commence  
7 on the first day of absence.

8 ~~(d)~~

9 (4) Payment for wages lost on any day shall not, when added  
10 to an award granted the employee under the workers' compensation  
11 laws of this state, exceed the normal wage for the day.

12 ~~(e)~~

13 (5) Industrial accident leave will be reduced by one day for each  
14 day of authorized absence regardless of a compensation award  
15 made under workers' compensation.

16 ~~(f)~~

17 (6) When an industrial accident or illness occurs at a time when  
18 the full 60 days will overlap into the next fiscal year, the employee  
19 shall be entitled to only that amount remaining at the end of the  
20 fiscal year in which the injury or illness occurred, for the same  
21 illness or injury.

22 ~~The~~

23 (c) *The* industrial accident or illness leave of absence is to be  
24 used in lieu of entitlement acquired under Section 88191. When  
25 entitlement to industrial accident or illness leave has been  
26 exhausted, entitlement to other sick leave will then be used; but if  
27 an employee is receiving workers' compensation, ~~the person~~  
28 *employee* shall be entitled to use only so much of ~~the person's~~ *his*  
29 *or her* accumulated or available sick leave, accumulated  
30 compensating time, vacation or other available leave which, when  
31 added to the workers' compensation award, provide for a full day's  
32 wage or salary.

33 ~~The~~

34 (d) *The* governing board of a district, by rule or regulation, may  
35 provide for additional leave of absence, paid or unpaid, as it deems  
36 appropriate and during that leave the employee may return to the  
37 ~~person's~~ *his or her* position without suffering any loss of status or  
38 benefits.

39 ~~Periods~~

1 (e) A period of leave of absence, paid or unpaid, shall not be  
 2 considered to be a break in service of the employee.

3 ~~During all paid leaves~~

4 (f) During a paid leave of absence, whether industrial accident  
 5 leave as provided in this section, sick leave, vacation, compensated  
 6 time off or other available leave provided by law or the action of  
 7 a governing board of a district, the employee shall endorse to the  
 8 district wage loss benefit checks received under the workers'  
 9 compensation laws of this state. The district, in turn, shall issue  
 10 the employee appropriate warrants for payment of wages or salary  
 11 and shall deduct normal retirement and other authorized  
 12 contributions. Reduction of entitlement to leave shall be made only  
 13 in accordance with this section.

14 ~~When~~

15 (g) When all available leaves of absence, paid or unpaid, have  
 16 been exhausted and if the employee is not medically able to assume  
 17 the duties of the person's his or her position, the person, employee,  
 18 if not placed in another position, shall be placed on a reemployment  
 19 list for a period of 39 months. When available, during the 39-month  
 20 period, the person employee shall be employed in a vacant position  
 21 in the class of the person's his or her previous assignment over all  
 22 other available candidates except for a reemployment list  
 23 established because of lack of work or lack of funds, in which case  
 24 the person employee shall be listed in accordance with appropriate  
 25 seniority regulations.

26 ~~The~~

27 (h) The governing board of a district may require that an  
 28 employee serve, or have served continuously, a specified period  
 29 of time with the district before the benefits provided by this section  
 30 are made available to the person. employee. However, that period  
 31 shall not exceed three years. All service of an employee prior to  
 32 the effective date of this section shall be credited in determining  
 33 compliance with the requirement.

34 ~~Any employee receiving benefits as a result of this section shall,  
 35 during periods of injury or illness, remain within the State of  
 36 California unless the governing board authorizes travel outside the  
 37 state.~~

38 ~~In~~

39 (i) In the absence of rules and regulations adopted by the  
 40 governing board of a district pursuant to this section, an employee

1 shall be entitled to industrial and accident or illness leave as  
2 provided in this section but without limitation as to the number of  
3 days of that leave and without any requirement of a specified period  
4 of service.

5 ~~An~~

6 (j) An employee who has been placed on a reemployment list,  
7 as provided ~~herein~~, *in this section*, who has been medically released  
8 for return to duty and who fails to accept an appropriate assignment  
9 shall be dismissed.

10 This section shall apply to districts that have adopted the merit  
11 system in the same manner and effect as if it were a part of Article  
12 3 (commencing with Section 88060).

O