

Assembly Bill No. 915

Passed the Assembly May 14, 2015

Chief Clerk of the Assembly

Passed the Senate June 22, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 915, Holden. Public education employees: industrial accident or illness leaves of absence: travel 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 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.

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

SECTION 1. Section 44984 of the Education Code is amended to read:

44984. (a) The governing board of a school district shall provide by rules and regulations for industrial accident and illness leaves of absence for all certificated employees. The governing board of a district that is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after the effective date of this section shall provide by rules and regulations for these leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 45191. When entitlement to industrial accident or illness leave has been exhausted, entitlement to other sick leave will then be used; but if an employee is receiving workers' compensation the employee shall be entitled to use only so much of his or her accumulated or available sick leave, accumulated compensating time, vacation or other available leave that, when added to the workers' compensation award, provide for a full day's wage or salary.

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

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

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

(g) When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of his or her position, the employee shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the employee shall be employed in a vacant position in the class of the employee's previous assignment over all other available

candidates except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations.

(h) The governing board of a district may require that an employee serve or have served continuously a specified period of time with the district before the benefits provided by this section are made available to the employee provided that this period shall not exceed three years and that all service of the employee prior to the effective date of this section shall be credited in determining compliance with the requirement.

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

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

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

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

87787. (a) The governing board of a community college district shall provide by rules and regulations for industrial accident and illness leaves of absence for all academic employees. The governing board of a district that is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after January 1, 1976, shall provide by rules and regulations for those leaves of absence on or before the date on which the organization or reorganization of the district becomes effective.

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

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

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

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

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

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

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

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

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

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

(e) During a paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received

on account of his or her industrial accident or illness. The district, in turn, shall issue the employee appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by the salary warrants.

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

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

88192. (a) The governing board of a community college district shall provide, by rules and regulations, for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of a district that is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after January 1, 1975, shall provide, by rules and regulations, for these leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes.

(b) The rules and regulations shall include all of the following provisions:

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

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

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

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

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

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

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

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

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

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

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

(h) The governing board of a district may require that an employee serve, or have served continuously, a specified period of time with the district before the benefits provided by this section are made available to the employee. However, that period shall not exceed three years. All service of an employee prior to the

effective date of this section shall be credited in determining compliance with the requirement.

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

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

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

Approved _____, 2015

Governor