

AMENDED IN ASSEMBLY APRIL 21, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2197**

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**Introduced by Assembly Member Cristina Garcia**

February 18, 2016

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An act to amend Section 1253.3 of, and to *amend and* repeal Sections 1451, 1452, and 1453 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2197, as amended, Cristina Garcia. Unemployment insurance: classified employees.

Existing law provides for the payment of unemployment compensation benefits and extended duration benefits to eligible persons who meet specified requirements. Existing law prohibits the payment of unemployment benefits to educational institution employees of a public entity, as defined, including teachers, researchers, and administrators for the period between 2 academic years when there is a reasonable assurance that the employee will perform his or her regular services in the subsequent academic year, except as specified. Existing law similarly prohibits the payment of unemployment benefits to specified educational institution employees of a public entity other than teachers, researchers, or administrators, between 2 academic years, except as specified, but provides a procedure for this 2nd category of educational employees, under certain conditions, to seek payment of retroactive unemployment benefits for the period between 2 academic years. Existing law requires specified notice regarding reasonable assurance of employment in the

following academic term be sent to employees before the end of the current academic term. Existing law also authorizes payment of unemployment insurance benefits, using funds from the State Department of Education, to the 2nd category of educational employees at specified schools between academic terms in circumstances where benefits would otherwise be denied.

This bill would delete the prohibition on the payment of unemployment benefits to education employees of a public school, other than teachers, researchers, and administrators, as specified, between 2 academic years. The bill would phase in up to 8 weeks of benefits available to those specified employees over a 4-year timeframe and would make conforming changes, including eliminating the provisions for payment of unemployment benefits to these employees at specified schools.

Because this bill would expand the categories of people who could receive benefits from the Unemployment Fund, a continuously appropriated fund, it would make an appropriation.

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

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

1 SECTION 1. Section 1253.3 of the Unemployment Insurance  
2 Code is amended to read:  
3 1253.3. (a) Notwithstanding any other provision of this  
4 division, unemployment compensation benefits, extended duration  
5 benefits, and federal-state extended benefits are payable on the  
6 basis of service to which Section 3309(a)(1) of the Internal  
7 Revenue Code applies, in the same amount, on the same terms,  
8 and subject to the same conditions as benefits payable on the basis  
9 of other service subject to this division, except as provided by this  
10 section.  
11 (b) Benefits specified by subdivision (a) based on service  
12 performed in the employ of a nonprofit organization, or of a public  
13 entity, as defined by Section 605, with respect to service in an  
14 instructional, research, or principal administrative capacity for an  
15 educational institution are not payable to any individual with  
16 respect to any week which begins during the period between two  
17 successive academic years or terms or, when an agreement provides  
18 instead for a similar period between two regular but not successive

1 terms, during that period, or during a period of paid sabbatical  
2 leave provided for in the individual's contract, if the individual  
3 performs services in the first of the academic years or terms and  
4 if there is a contract or a reasonable assurance that the individual  
5 will perform services for any educational institution in the second  
6 of the academic years or terms.

7 (c) (1) Except as provided in paragraph (2), benefits specified  
8 by subdivision (a) based on service performed in the employ of a  
9 nonprofit organization, or of a public entity, as defined by Section  
10 605, with respect to service in any other capacity than specified  
11 in subdivision (b) for an educational institution shall not be payable  
12 to any individual with respect to any week which commences  
13 during a period between two successive academic years or terms  
14 if the individual performs the service in the first of the academic  
15 years or terms and there is a reasonable assurance that the  
16 individual will perform the service in the second of the academic  
17 years or terms. However, if the individual was not offered an  
18 opportunity to perform the services for an educational institution  
19 for the second of the academic years or terms, the individual shall  
20 be entitled to a retroactive payment of benefits for each week for  
21 which the individual filed a timely claim for benefits and for which  
22 benefits were denied solely by reason of this subdivision.  
23 Retroactive benefits shall be claimed in accordance with the  
24 department's procedures which shall specify that except where the  
25 individual was entitled to benefits based on services performed  
26 for other than an educational institution, an individual who has a  
27 reasonable assurance of reemployment may satisfy the search for  
28 work requirement of subdivision (e) of Section 1253, by registering  
29 for work pursuant to subdivision (b) of Section 1253 during the  
30 period between the first and second academic terms or years. A  
31 claim for retroactive benefits may be made no later than 30 days  
32 following the commencement of the second academic year or term.

33 (2) Benefits specified by subdivision (a) are authorized for an  
34 employee of a public school, as defined in Section 22161 of the  
35 Education Code, for the period between two successive academic  
36 years or terms, as described in paragraph (1), as follows:

37 (A) Two weeks of benefits during ~~2016~~ 2017, beginning July

38 1.

39 (B) Four weeks of benefits during ~~2017~~ 2018, beginning July

40 1.

1 (C) Six weeks of benefits during ~~2018~~ 2019, beginning July 1.

2 (D) Eight weeks of benefits during ~~2019~~ 2020, and each year  
3 ~~thereafter~~ thereafter, beginning July 1.

4 (d) Benefits specified by subdivision (a) based on service  
5 performed in the employ of a nonprofit organization, or of any  
6 entity as defined by Section 605, with respect to services specified  
7 by subdivision (b) or (c), are not payable to any individual with  
8 respect to any week that commences during an established and  
9 customary vacation period or holiday recess if the individual  
10 performs the specified services in the period immediately before  
11 the vacation period or holiday recess, and there is a reasonable  
12 assurance that the individual will perform the services in the period  
13 immediately following the vacation period or holiday recess.

14 (e) With respect to any services specified by subdivision (b) or  
15 (c), compensation payable on the basis of services in that capacity  
16 may be denied as specified in subdivision (b), (c), or (d) to any  
17 individual who performed the services in an educational institution  
18 while in the employ of an educational service agency, and for this  
19 purpose the term “educational service agency” is defined as a  
20 governmental agency or governmental entity that is established  
21 and operated exclusively for the purpose of providing the services  
22 to one or more educational institutions.

23 (f) Benefits specified by subdivision (a) based on service  
24 performed in the employ of a nonprofit organization, or of any  
25 entity as defined by Section 605, are not payable during the periods  
26 of time, and subject to the same conditions, contained in  
27 subdivisions (b), (c), (d), and (h), if the services are provided to,  
28 or on behalf of, an educational institution.

29 (g) For purposes of this section, “reasonable assurance” includes,  
30 but is not limited to, an offer of employment or assignment made  
31 by the educational institution, provided that the offer or assignment  
32 is not contingent on enrollment, funding, or program changes. An  
33 individual who has been notified that he or she will be replaced  
34 and does not have an offer of employment or assignment to perform  
35 services for an educational institution is not considered to have  
36 reasonable assurance.

37 (h) For purposes of this section, if the time for service performed  
38 during the period of and pursuant to any contract for any academic  
39 year or term by an individual for any employing unit as specified  
40 in subdivision (b) or (c) constitutes one-half or more of the time

1 in total service performed for the employing unit by the individual  
2 during that same period for remuneration, all the services of the  
3 individual for the employing unit for that period shall be deemed  
4 subject to the benefit payment restriction provisions of this section.

5 (i) Any entity as defined by Section 605, with respect to any  
6 individual performing a service in any other capacity other than  
7 specified in subdivision (b) for an educational institution, shall  
8 provide a written statement indicating the following to the  
9 individual no later than 30 days before the end of the first of the  
10 academic years or terms:

11 (1) Whether or not there is a reasonable assurance of  
12 reemployment.

13 (2) Whether or not it is stated that the individual has no  
14 reasonable assurance of reemployment, that the individual should  
15 file a claim for benefits at the close of the academic year or term.

16 (3) If it is stated that the individual has reasonable assurance of  
17 reemployment, the written statement shall also inform the employee  
18 that he or she may file a claim for benefits and that the  
19 determination for eligibility for benefits is made by the  
20 Employment Development Department and not by the employer.

21 (4) If it is stated that the individual has reasonable assurance of  
22 reemployment, that the individual shall be entitled to a retroactive  
23 payment of benefits if the individual is not offered an opportunity  
24 to perform the services for the educational institution for the second  
25 of the academic years or terms, if the individual is otherwise  
26 eligible and he or she filed a claim for each week benefits are  
27 claimed, and if a claim for retroactive benefits is made no later  
28 than 30 days following the commencement of the second academic  
29 year or term.

30 *SEC. 2. Section 1451 of the Unemployment Insurance Code is*  
31 *amended to read:*

32 1451. (a) Nonprofessional employees of the Fremont and  
33 Riverside campuses of the California School for the Deaf, the  
34 Fremont campus of the California School for the Blind, and the  
35 diagnostic schools for individuals with neurological disabilities  
36 located in Los Angeles, San Francisco, and Fresno, shall be eligible  
37 for benefits provided by this chapter, on the same terms and  
38 conditions as are specified by this part, Part 3 (commencing with  
39 Section 3501), and Part 4 (commencing with Section 4001), for  
40 all other individuals, except where inconsistent with the provisions

1 of this chapter. Except where inconsistent with the provisions of  
 2 this chapter, the provisions of this division and authorized  
 3 regulations shall apply to any matter arising pursuant to this  
 4 chapter.

5 (b) *This section shall become inoperative on July 1, 2017, and,*  
 6 *as of January 1, 2018, is repealed.*

7 *SEC. 3. Section 1452 of the Unemployment Insurance Code is*  
 8 *amended to read:*

9 1452. (a) Notwithstanding Section 1253.3, between terms  
 10 unemployment compensation benefits are payable by the  
 11 Controller, from funds appropriated for support of the State  
 12 Department of Education and allocated to the state special schools,  
 13 upon authorization by the Employment Development Department  
 14 to individuals who are eligible to receive these benefits under this  
 15 chapter. These benefits shall only be paid for weeks of  
 16 unemployment occurring between school terms and during an  
 17 established and customary vacation period or holiday recess when  
 18 other benefits are denied solely by reason of Section 1253.3.

19 (b) *This section shall become inoperative on July 1, 2017, and,*  
 20 *as of January 1, 2018, is repealed.*

21 *SEC. 4. Section 1453 of the Unemployment Insurance Code is*  
 22 *amended to read:*

23 1453. (a) There shall be transferred to the Employment  
 24 Development Department from funds appropriated for support of  
 25 the State Department of Education and allocated to the state special  
 26 schools, at the times and in the manner provided in subdivision  
 27 (b), an amount equal to the additional cost to the Employment  
 28 Development Department for added administrative work arising  
 29 out of this chapter.

30 (b) The director shall determine the sums he or she estimates  
 31 the department will be entitled to receive from the State Department  
 32 of Education under this section for each fiscal year, reduced or  
 33 increased by any sum by which he or she finds that his or her  
 34 estimates for any prior fiscal year were greater or less than the  
 35 amounts which were actually required. The sum of the amounts  
 36 transferred or expended pursuant to Section 1452, subdivision (a),  
 37 and this subdivision in any one fiscal year shall not exceed the  
 38 amount appropriated in the then current fiscal year to the State  
 39 Department of Education for the purposes of this chapter.

1 (c) The director may require from the State Department of  
2 Education ~~such~~ *the* employment, wage, financial, statistical, or  
3 other information and reports, properly verified, as may be deemed  
4 necessary by the director to carry out his or her duties under this  
5 division, which shall be filed with the director at the time and in  
6 the manner prescribed by him or her.

7 (d) The director may tabulate and publish information obtained  
8 pursuant to this chapter in statistical form and may divulge the  
9 name of the employing unit.

10 (e) The State Department of Education shall provide each  
11 employee subject to this chapter, at the end of each school term,  
12 with written information advising the employee of benefit rights  
13 pursuant to this chapter.

14 (f) *This section shall become inoperative on July 1, 2017, and,*  
15 *as of January 1, 2018, is repealed.*

16 ~~SEC. 2. Section 1451 of the Unemployment Insurance Code~~  
17 ~~is repealed.~~

18 ~~SEC. 3. Section 1452 of the Unemployment Insurance Code~~  
19 ~~is repealed.~~

20 ~~SEC. 4. Section 1453 of the Unemployment Insurance Code~~  
21 ~~is repealed.~~