

AMENDED IN ASSEMBLY MAY 31, 2016

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, 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, *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.~~ *contingent on funds being appropriated for that purpose in the annual Budget Act.*

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

1 successive academic years or terms or, when an agreement provides  
2 instead for a similar period between two regular but not successive  
3 terms, during that period, or during a period of paid sabbatical  
4 leave provided for in the individual's contract, if the individual  
5 performs services in the first of the academic years or terms and  
6 if there is a contract or a reasonable assurance that the individual  
7 will perform services for any educational institution in the second  
8 of the academic years or terms.

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

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

- 1 (A) Two weeks of benefits during 2017, beginning July~~1~~,  
2 *provided that funds are appropriated for that purpose in the annual*  
3 *Budget Act.*
- 4 (B) Four weeks of benefits during 2018, beginning July~~1~~,  
5 *provided that funds are appropriated for that purpose in the annual*  
6 *Budget Act.*
- 7 (C) Six weeks of benefits during 2019, beginning July~~1~~,  
8 *provided that funds are appropriated for that purpose in the annual*  
9 *Budget Act.*
- 10 (D) Eight weeks of benefits during 2020, and each year  
11 thereafter, beginning July~~1~~, *provided that funds are*  
12 *appropriated for that purpose in the annual Budget Act.*
- 13 (d) Benefits specified by subdivision (a) based on service  
14 performed in the employ of a nonprofit organization, or of any  
15 entity as defined by Section 605, with respect to services specified  
16 by subdivision (b) or (c), are not payable to any individual with  
17 respect to any week that commences during an established and  
18 customary vacation period or holiday recess if the individual  
19 performs the specified services in the period immediately before  
20 the vacation period or holiday recess, and there is a reasonable  
21 assurance that the individual will perform the services in the period  
22 immediately following the vacation period or holiday recess.
- 23 (e) With respect to any services specified by subdivision (b) or  
24 (c), compensation payable on the basis of services in that capacity  
25 may be denied as specified in subdivision (b), (c), or (d) to any  
26 individual who performed the services in an educational institution  
27 while in the employ of an educational service agency, and for this  
28 purpose the term “educational service agency” is defined as a  
29 governmental agency or governmental entity that is established  
30 and operated exclusively for the purpose of providing the services  
31 to one or more educational institutions.
- 32 (f) Benefits specified by subdivision (a) based on service  
33 performed in the employ of a nonprofit organization, or of any  
34 entity as defined by Section 605, are not payable during the periods  
35 of time, and subject to the same conditions, contained in  
36 subdivisions (b), (c), (d), and (h), if the services are provided to,  
37 or on behalf of, an educational institution.
- 38 (g) For purposes of this section, “reasonable assurance” includes,  
39 but is not limited to, an offer of employment or assignment made  
40 by the educational institution, provided that the offer or assignment

1 is not contingent on enrollment, funding, or program changes. An  
2 individual who has been notified that he or she will be replaced  
3 and does not have an offer of employment or assignment to perform  
4 services for an educational institution is not considered to have  
5 reasonable assurance.

6 (h) For purposes of this section, if the time for service performed  
7 during the period of and pursuant to any contract for any academic  
8 year or term by an individual for any employing unit as specified  
9 in subdivision (b) or (c) constitutes one-half or more of the time  
10 in total service performed for the employing unit by the individual  
11 during that same period for remuneration, all the services of the  
12 individual for the employing unit for that period shall be deemed  
13 subject to the benefit payment restriction provisions of this section.

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

20 (1) Whether or not there is a reasonable assurance of  
21 reemployment.

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

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

30 (4) If it is stated that the individual has reasonable assurance of  
31 reemployment, that the individual shall be entitled to a retroactive  
32 payment of benefits if the individual is not offered an opportunity  
33 to perform the services for the educational institution for the second  
34 of the academic years or terms, if the individual is otherwise  
35 eligible and he or she filed a claim for each week benefits are  
36 claimed, and if a claim for retroactive benefits is made no later  
37 than 30 days following the commencement of the second academic  
38 year or term.

39 ~~SEC. 2. Section 1451 of the Unemployment Insurance Code~~  
40 ~~is amended to read:~~

1 1451. ~~(a) Nonprofessional employees of the Fremont and~~  
2 ~~Riverside campuses of the California School for the Deaf, the~~  
3 ~~Fremont campus of the California School for the Blind, and the~~  
4 ~~diagnostic schools for individuals with neurological disabilities~~  
5 ~~located in Los Angeles, San Francisco, and Fresno, shall be eligible~~  
6 ~~for benefits provided by this chapter, on the same terms and~~  
7 ~~conditions as are specified by this part, Part 3 (commencing with~~  
8 ~~Section 3501), and Part 4 (commencing with Section 4001), for~~  
9 ~~all other individuals, except where inconsistent with this chapter.~~  
10 ~~Except where inconsistent with this chapter, this division and~~  
11 ~~authorized regulations shall apply to any matter arising pursuant~~  
12 ~~to this chapter.~~

13 ~~(b) This section shall become inoperative on July 1, 2017, and,~~  
14 ~~as of January 1, 2018, is repealed.~~

15 ~~SEC. 3. Section 1452 of the Unemployment Insurance Code~~  
16 ~~is amended to read:~~

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

27 ~~(b) This section shall become inoperative on July 1, 2017, and,~~  
28 ~~as of January 1, 2018, is repealed.~~

29 ~~SEC. 4. Section 1453 of the Unemployment Insurance Code~~  
30 ~~is amended to read:~~

31 ~~1453. (a) There shall be transferred to the Employment~~  
32 ~~Development Department from funds appropriated for support of~~  
33 ~~the State Department of Education and allocated to the state special~~  
34 ~~schools, at the times and in the manner provided in subdivision~~  
35 ~~(b), an amount equal to the additional cost to the Employment~~  
36 ~~Development Department for added administrative work arising~~  
37 ~~out of this chapter.~~

38 ~~(b) The director shall determine the sums he or she estimates~~  
39 ~~the department will be entitled to receive from the State Department~~  
40 ~~of Education under this section for each fiscal year, reduced or~~

1 increased by any sum by which he or she finds that his or her  
2 estimates for any prior fiscal year were greater or less than the  
3 amounts which were actually required. The sum of the amounts  
4 transferred or expended pursuant to Section 1452, subdivision (a),  
5 and this subdivision in any one fiscal year shall not exceed the  
6 amount appropriated in the then current fiscal year to the State  
7 Department of Education for the purposes of this chapter.

8 (e) The director may require from the State Department of  
9 Education the employment, wage, financial, statistical, or other  
10 information and reports, properly verified, as may be deemed  
11 necessary by the director to carry out his or her duties under this  
12 division, which shall be filed with the director at the time and in  
13 the manner prescribed by him or her.

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

17 (e) The State Department of Education shall provide each  
18 employee subject to this chapter, at the end of each school term,  
19 with written information advising the employee of benefit rights  
20 pursuant to this chapter.

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