

Assembly Bill No. 2197

Passed the Assembly June 2, 2016

Chief Clerk of the Assembly

Passed the Senate August 22, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1253.3 of the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2197, 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.

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 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.

Appropriation: yes.

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

SECTION 1. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of a public entity, as defined by Section 605, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) (1) Except as provided in paragraph (2), benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of a public entity, as defined by Section 605, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms. However, if the individual was not offered an opportunity to perform the services for an educational institution

for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision. Retroactive benefits shall be claimed in accordance with the department's procedures which shall specify that except where the individual was entitled to benefits based on services performed for other than an educational institution, an individual who has a reasonable assurance of reemployment may satisfy the search for work requirement of subdivision (e) of Section 1253, by registering for work pursuant to subdivision (b) of Section 1253 during the period between the first and second academic terms or years. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

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

(A) Two weeks of benefits during 2017, beginning July 1, provided that funds are appropriated for that purpose in the annual Budget Act.

(B) Four weeks of benefits during 2018, beginning July 1, provided that funds are appropriated for that purpose in the annual Budget Act.

(C) Six weeks of benefits during 2019, beginning July 1, provided that funds are appropriated for that purpose in the annual Budget Act.

(D) Eight weeks of benefits during 2020, and each year thereafter, beginning July 1, provided that funds are appropriated for that purpose in the annual Budget Act.

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

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

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

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

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

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

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

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

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

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

Approved _____, 2016

Governor