

Assembly Bill No. 2393

CHAPTER 883

An act to amend Section 44977.5 of, and to add Sections 45196.1, 87780.1, and 88196.1 to, the Education Code, relating to school employees.

[Approved by Governor September 30, 2016. Filed with
Secretary of State September 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2393, Campos. School employees: sick leave: parental leave.

Under existing law, when a person employed in a position requiring certification qualifications exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of up to 5 school months, he or she, during that additional period, receives the difference between his or her salary and the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed. Existing law also provides the differential pay benefit described above for up to 12 school weeks if the person employed in a position requiring certification qualifications is absent on account of maternity or paternity leave. Existing law provides that the 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of maternity or paternity leave. Existing law prohibits a person employed in a position requiring certification qualifications on maternity or paternity leave pursuant to the Moore-Brown-Roberti Family Rights Act from being denied access to differential pay while on that leave.

This bill would additionally provide that if a school district maintains a rule that credits a person employed in a position requiring certification qualifications at least 100 working days of sick leave paid at no less than 50% of his or her regular salary, when he or she has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave, the person employed in a position requiring certification qualifications would be compensated at no less than 50% of his or her regular salary for the remaining portion of the 12-workweek period of parental leave. The bill would no longer require a person employed in a position requiring certification qualifications to have 1,250 hours of service with the employer during the previous 12-month period, as required by the Moore-Brown-Roberti Family Rights Act, in order to take parental leave pursuant to these provisions. The bill would require that parental leave taken pursuant to these provisions run concurrently with parental leave taken pursuant to the act, and that the aggregate amount

of parental leave taken pursuant to either these provisions or under the act not exceed 12 workweeks in a 12-month period.

Under existing law, when a classified school employee in certain school districts and community college districts exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of up to 5 school months, the employee during that additional period receives the difference between his or her salary and the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence. Under existing law, when a classified school employee in certain other school districts and community college districts exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of up to 5 school months, the employee during that additional period receives at least 50% of the employee's regular salary.

This bill would additionally provide the differential pay benefits described above for up to 12 workweeks if the classified school employee is absent on account of parental leave, as defined. The bill would provide that the 12-workweek period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of parental leave. The bill would no longer require a classified employee to have 1,250 hours of service with the employer during the previous 12-month period, as required by the Moore-Brown-Roberti Family Rights Act, in order to take parental leave pursuant to these provisions. The bill would require that parental leave taken pursuant to these provisions run concurrently with parental leave taken pursuant to the act, and that the aggregate amount of parental leave taken pursuant to either these provisions or under the act not exceed 12 workweeks in a 12-month period.

Under existing law, when a person employed in an academic position in a community college district exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of up to 5 school months, the person employed in an academic position during that additional period receives the difference between his or her salary and the sum that is actually paid a temporary employee employed to fill his or her position during his or her absence or, if no temporary employee was employed, the amount that would have been paid to the temporary employee had he or she been employed.

This bill would additionally provide the differential pay benefit described above for up to 12 workweeks if the person employed in an academic position is absent on account of parental leave, as defined, as specified. The bill would provide that the 12-workweek period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of parental leave. The bill would additionally provide that if a community college district maintains a rule that credits a person employed in an academic position at least 100 working days of sick leave paid at no less than 50% of the employee's regular salary, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues

to be absent from his or her duties on account of parental leave, the employee would be compensated at no less than 50% of the employee's regular salary for the remaining portion of the 12-workweek period of parental leave. The bill would no longer require a person employed in an academic position to have 1,250 hours of service with the employer during the previous 12-month period, as required by the Moore-Brown-Roberti Family Rights Act, in order to take parental leave pursuant to these provisions. The bill would require that parental leave taken pursuant to these provisions run concurrently with parental leave taken pursuant to the act, and that the aggregate amount of parental leave taken pursuant to either these provisions or under the act not exceed 12 workweeks in a 12-month period.

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

SECTION 1. Section 44977.5 of the Education Code is amended to read: 44977.5. (a) (1) Notwithstanding any other law, during each school year, a person employed in a position requiring certification qualifications may use his or her sick leave for purposes of parental leave for a period of up to 12 workweeks.

(2) In school districts that use the differential pay system described in Section 44977, when a person employed in a position requiring certification qualifications has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the amount deducted from the salary due him or her for any of the remaining portion of the 12-workweek period in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to a substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(3) In school districts that use the differential pay system described in Section 44983, when a person employed in a position requiring certification qualifications has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the person shall be compensated at no less than 50 percent of his or her regular salary for the remaining portion of the 12-workweek period of parental leave.

(b) For purposes of subdivision (a), all of the following apply:

(1) The 12-workweek period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of parental leave.

(2) A person employed in a position requiring certification qualifications shall not be provided more than one 12-week period for parental leave during any 12-month period.

(3) Parental leave taken pursuant to this section shall run concurrently with parental leave taken pursuant to Section 12945.2 of the Government Code. The aggregate amount of parental leave taken pursuant to this section and Section 12945.2 of the Government Code shall not exceed 12 workweeks in a 12-month period.

(c) This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing school district.

(d) Notwithstanding subdivision (a) of Section 12945.2 of the Government Code, a person employed in a position requiring certification qualifications is not required to have 1,250 hours of service with the employer during the previous 12-month period in order to take parental leave pursuant to this section.

(e) Nothing in this section shall be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater parental leave rights to employees than the rights established under this section.

(f) For purposes of this section, “parental leave” means leave for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

SEC. 2. Section 45196.1 is added to the Education Code, to read:

45196.1. (a) (1) Notwithstanding any other law, during each school year, a classified employee may use his or her sick leave for purposes of parental leave for a period of up to 12 workweeks.

(2) In school districts that use the differential pay system described in the first paragraph of Section 45196, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the amount deducted from the salary due him or her for any of the remaining portion of the 12-workweek period in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence.

(3) In school districts that use the differential pay system described in the last paragraph of Section 45196, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the employee shall be compensated at no less than 50 percent of the employee’s regular salary for the remaining portion of the 12-workweek period of parental leave.

(b) For purposes of subdivision (a), all of the following apply:

(1) The 12-workweek period of parental leave shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of parental leave.

(2) An employee shall not be provided more than one 12-workweek period for parental leave during any 12-month period.

(3) Parental leave taken pursuant to this section shall run concurrently with parental leave taken pursuant to Section 12945.2 of the Government Code. The aggregate amount of parental leave taken pursuant to this section and Section 12945.2 of the Government Code shall not exceed 12 workweeks in a 12-month period.

(c) This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing school district.

(d) Notwithstanding subdivision (a) of Section 12945.2 of the Government Code, a classified employee is not required to have 1,250 hours of service with the employer during the previous 12-month period in order to take parental leave pursuant to this section.

(e) Nothing in this section shall be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater parental leave rights to employees than the rights established under this section.

(f) For purposes of this section, “parental leave” means leave for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

SEC. 3. Section 87780.1 is added to the Education Code, to read:

87780.1. (a) (1) Notwithstanding any other law, during each school year, a person employed in an academic position may use his or her sick leave for purposes of parental leave for a period of up to 12 workweeks.

(2) In community college districts that use the differential pay system described in Section 87780, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the amount deducted from the salary due him or her for any of the remaining portion of the 12-workweek period in which the absence occurs shall not exceed the sum that is actually paid a temporary employee employed to fill his or her position during his or her absence or, if no temporary employee was employed, the amount that would have been paid to the temporary employee had he or she been employed.

(3) In community college districts that use the differential pay system described in Section 87786, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the employee shall be compensated at

no less than 50 percent of the employee's regular salary for the remaining portion of the 12-workweek period of parental leave.

(b) For purposes of subdivision (a), all of the following apply:

(1) The 12-workweek period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of parental leave.

(2) An employee shall not be provided more than one 12-workweek period for parental leave during any 12-month period.

(3) Parental leave taken pursuant to this section shall run concurrently with parental leave taken pursuant to Section 12945.2 of the Government Code. The aggregate amount of parental leave taken pursuant to this section and Section 12945.2 of the Government Code shall not exceed 12 workweeks in a 12-month period.

(c) This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing community college district.

(d) Notwithstanding subdivision (a) of Section 12945.2 of the Government Code, a person employed in an academic position is not required to have 1,250 hours of service with the employer during the previous 12-month period in order to take parental leave pursuant to this section.

(e) Nothing in this section shall be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater parental leave rights to employees than the rights established under this section.

(f) For purposes of this section, "parental leave" means leave for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

SEC. 4. Section 88196.1 is added to the Education Code, to read:

88196.1. (a) (1) Notwithstanding any other law, during each school year, a classified employee may use his or her sick leave for purposes of parental leave for a period of up to 12 workweeks.

(2) In the community college districts that use the differential pay system described in the first paragraph of Section 88196, when a employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the amount deducted from the salary due him or her for any of the remaining portion of the 12-workweek period in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence.

(3) In community college districts that use the differential pay system described in the last paragraph of Section 88196, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave

pursuant to Section 12945.2 of the Government Code, the employee shall be compensated at no less than 50 percent of the employee's regular salary for the remaining portion of the 12-workweek period of parental leave.

(b) For purposes of subdivision (a), all of the following apply:

(1) The 12-workweek period of parental leave shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of parental leave.

(2) An employee shall not be provided more than one 12-workweek period for parental leave during any 12-month period.

(3) Parental leave taken pursuant to this section shall run concurrently with parental leave taken pursuant to Section 12945.2 of the Government Code. The aggregate amount of parental leave taken pursuant to this section and Section 12945.2 of the Government Code shall not exceed 12 workweeks in a 12-month period.

(c) This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing community college district.

(d) Notwithstanding subdivision (a) of Section 12945.2 of the Government Code, a classified employee is not required to have 1,250 hours of service with the employer during the previous 12-month period in order to take parental leave pursuant to this section.

(e) Nothing in this section shall be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater parental leave rights to employees than the rights established under this section.

(f) For purposes of this section, "parental leave" means leave for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.