

Assembly Bill No. 1387

CHAPTER 970

An act to amend Sections 4850 and 4850.5 of the Labor Code, relating to public employee disability.

[Approved by Governor October 10, 1999. Filed with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1387, Florez. Public employee disability benefits.

(1) Under existing law, certain peace officers and other specified public employees are entitled to a leave of absence without loss of salary while disabled by injury or illness arising out of and in the course of their duties.

This bill would extend that provision to specified employees of a probation office.

(2) This bill would incorporate additional changes in Section 4850 of the Labor Code proposed by AB 224, to be operative if AB 224 and this bill are both enacted and become effective on or before January 1, 2000, and this bill is enacted last.

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

SECTION 1. Section 4850 of the Labor Code is amended to read:

4850. (a) Whenever any city police officer, city, county, or district firefighter, sheriff or any officer or employee of a sheriff's office, any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, any county probation officer, group counselor, or juvenile services officer, or any officer or employee of a probation office, or lifeguard employed year round on a regular, full-time basis by a county of the first class, who is a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service with the city or county, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments or maintenance allowance payments under Section 139.5, if any, which would be payable under this chapter, for the period of the disability, but not exceeding one year, or until that earlier date as he or she is retired on permanent disability pension, and is actually



receiving disability pension payments, or advanced disability pension payments pursuant to Section 4850.3.

(b) This section shall apply only to city police officers, sheriffs or any officer or employee of a sheriff's office, and any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, or any county probation officer, group counselor, or juvenile services officer, or any officer or employee of a probation office, who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active law enforcement service, and excludes employees of a county sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It also excludes employees of a county probation office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It shall also apply to city, county, or district firefighters who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code), and excludes employees of the city fire department, county fire department, and of any fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active firefighting and prevention service. It shall also apply to deputy sheriffs subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). It shall also apply to probation officers, group counselors, juvenile services officers, or any officer or employee of a probation office, subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). It shall also apply to lifeguards employed year round on a regular, full-time basis by counties of the first class who are subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code).

(c) If the employer is insured, the payments which, except for this section, the insurer would be obligated to make as disability indemnity to the injured, the insurer may pay to the insured.



(d) No leave of absence taken pursuant to this section by a peace officer, as defined by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall be deemed to constitute family care and medical leave, as defined in Section 12945.2 of the Government Code, or to reduce the time authorized for family care and medical leave by Section 12945.2 of the Government Code.

SEC. 1.5. Section 4850 of the Labor Code is amended to read:

4850. (a) Whenever any city police officer, city, county, or district firefighter, sheriff or any officer or employee of a sheriff's office, any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, any county probation officer, group counselor, or juvenile services officer, or any officer or employee of a probation office, any peace officer under Section 830.31 of the Penal Code employed on a regular, full-time basis by a county of the first class, or lifeguard employed year round on a regular, full-time basis by a county of the first class, who is a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code), is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service with the city or county, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments or maintenance allowance payments under Section 139.5, if any, which would be payable under this chapter, for the period of the disability, but not exceeding one year, or until that earlier date as he or she is retired on permanent disability pension, and is actually receiving disability pension payments, or advanced disability pension payments pursuant to Section 4850.3.

(b) This section shall apply only to city police officers, sheriffs or any officer or employee of a sheriff's office, and any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, or any county probation officer, group counselor, or juvenile services officer or any officer, or employee of a probation office, who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active law enforcement service, and excludes employees of a county sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It also excludes employees of a county



probation office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It shall also apply to city, county, or district firefighters who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes employees of the city fire department, county fire department, and of any fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active firefighting and prevention service. It shall also apply to deputy sheriffs, and to peace officers under Section 830.31 of the Penal Code employed on a regular, full-time basis by a county of the first class, who are subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). It shall also apply to probation officers, group counselors, juvenile service officers, or any officer or employee of a probation office, subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). It shall also apply to lifeguards employed year round on a regular, full-time basis by a county of the first class who are subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code).

(c) If the employer is insured, the payments which, except for this section, the insurer would be obligated to make as disability indemnity to the injured, the insurer may pay to the insured.

(d) No leave of absence taken pursuant to this section by a peace officer, as defined by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall be deemed to constitute family care and medical leave, as defined in Section 12945.2 of the Government Code, or to reduce the time authorized for family care and medical leave by Section 12945.2 of the Government Code.

SEC. 2. Section 4850.5 of the Labor Code is amended to read:

4850.5. Any firefighter employed by the County of San Luis Obispo, and the sheriff or any officer or employee of the sheriff's office of the County of San Luis Obispo, and any county probation officer, group counselor, or juvenile services officer, or any officer or employee of a probation office, employed by the County of San Luis Obispo, shall, upon the adoption of a resolution of the board of supervisors so declaring, be entitled to the benefits of this article, if otherwise entitled to these benefits, even though the employee is not a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3



(commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code).

SEC. 3. The Legislature finds and declares with respect to Section 1.5 of this act that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because the work of peace officers under Section 830.31 of the Penal Code who are employed on a regular, full-time basis by a county of the first class require the disability benefits of Section 4850 of the Labor Code.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 4850 of the Labor Code proposed by both this bill and AB 224. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 4850 of the Labor Code, and (3) this bill is enacted after AB 224, in which case Section 1 of this bill shall not become operative.

SEC. 5. Section 3 of this act shall only become operative if Section 1.5 of this act becomes operative.

