

AMENDED IN SENATE MAY 16, 2000

SENATE BILL

No. 1397

Introduced by Senator Solis

January 26, 2000

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

SB 1397, as amended, Solis. Unemployment insurance: educational employees.

Existing law prohibits the payment of unemployment compensation insurance benefits to employees of certain educational institutions for the period between 2 succeeding academic years or for vacation or holiday periods, as specified.

This bill would provide that the prohibition on payment of benefits between 2 succeeding academic years does not apply to unemployment compensation benefits payable on or after January 1, 2001, to certain educational employees who perform duties that are not instructional, research, or principal administrative *in nature*. It would also exclude ~~from the above prohibition~~ certain employees who hold positions in the classified service of school districts and nonfaculty employees of the University of California or the California State University from the prohibition on payment of benefits during vacation or holiday periods, as specified.

~~The bill would also provide that benefits performed for certain government and tax exempt organizations are not~~

~~payable to persons who are currently receiving employer paid health benefits.~~

This bill would impose a state-mandated local program by requiring school districts to pay additional benefits to classified employees. By providing for additional benefits to be paid from the Unemployment Fund, a continuously appropriated fund, this bill would make an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 1253.3 of the Unemployment
 2 Insurance Code is amended to read:
 3 1253.3. (a) Notwithstanding any other provision of
 4 this division, unemployment compensation benefits,
 5 extended duration benefits, and federal-state extended
 6 benefits are payable on the basis of service to which
 7 Section 3309(a)(1) of the Internal Revenue Code of 1954
 8 applies, in the same amount, on the same terms, and
 9 subject to the same conditions as benefits payable on the
 10 basis of other service subject to this division, except as
 11 provided by this section.
 12 (b) Benefits specified by subdivision (a) based on
 13 service performed in the employ of a nonprofit
 14 organization, or of any public entity as defined by Section
 15 605, with respect to service in an instructional, research,
 16 or principal administrative capacity for an educational
 17 institution are not payable to any individual with respect



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

11 (c) Benefits specified by subdivision (a) based on
12 service performed in the employ of a nonprofit
13 organization, or of any public entity as defined by Section
14 605, with respect to service in any other capacity than
15 specified in subdivision (b) for an educational institution
16 shall not be payable to any individual with respect to any
17 week which commences during a period between two
18 successive academic years or terms if the individual
19 performs the service in the first of the academic years or
20 terms and there is a reasonable assurance that the
21 individual will perform the service in the second of the
22 academic years or terms. However, if the individual was
23 not offered an opportunity to perform the services for an
24 educational institution for the second of the academic
25 years or terms, the individual shall be entitled to a
26 retroactive payment of benefits for each week for which
27 the individual filed a timely claim for benefits and for
28 which benefits were denied solely by reason of this
29 subdivision. Retroactive benefits shall be claimed in
30 accordance with the department's procedures which
31 shall specify that except where the individual was entitled
32 to benefits based on services performed for other than an
33 educational institution, an individual who has a
34 reasonable assurance of reemployment may satisfy the
35 search for work requirement of subdivision (e) of Section
36 1253, by registering for work pursuant to subdivision (b)
37 of Section 1253 during the period between the first and
38 second academic terms or years. A claim for retroactive
39 benefits may be made no later than 30 days following the
40 commencement of the second academic year or term.



1 The prohibition of this subdivision does not apply to
2 benefits payable on or after January 1, 2001.

3 (d) Benefits specified by subdivision (a) based on
4 service performed in the employ of a nonprofit
5 organization, or of any public entity as defined by Section
6 605, with respect to services specified by subdivision (b)
7 or (c), are not payable to any individual with respect to
8 any week which commences during an established and
9 customary vacation period or holiday recess if the
10 individual performs the services in the period
11 immediately before the vacation period or holiday recess,
12 and there is a reasonable assurance that the individual
13 will perform the services in the period immediately
14 following the vacation period or holiday recess. This
15 subdivision does not apply to an employee serving in a
16 position designated as part of the classified service under
17 Sections 45104 and 88004 of the Education Code, or an
18 employee of either the University of California or the
19 California State University who does not hold a position
20 on the faculty of those universities, in which case benefits
21 specified in subdivision (a) are fully payable without
22 consideration of whether there is a reasonable assurance
23 of reemployment of these employees.

24 ~~(e) Benefits payable pursuant to subdivisions (e) and~~
25 ~~(d), except for retroactive benefits paid pursuant to these~~
26 ~~subdivisions, shall be financed out of the classified section~~
27 ~~of the school budget.~~

28 ~~(f)~~

29 (e) With respect to any services specified by
30 subdivision (b) or (c), compensation payable on the basis
31 of services in any ~~such capacity~~ *capacity described by*
32 *those subdivisions* may be denied as specified in
33 subdivision (b), (c), or (d) to any individual who
34 performed the services in an educational institution while
35 in the employ of an educational service agency, and for
36 this purpose the term “educational service agency”
37 means a governmental agency or governmental entity
38 which is established and operated exclusively for the
39 purpose of providing the services to one or more
40 educational institutions.



1 ~~(g)~~

2 (f) Benefits specified by subdivision (a) based on
3 service performed in the employ of a nonprofit
4 organization, or of any public entity as defined by Section
5 605, are not payable during the periods of time, and
6 subject to the same conditions, contained in subdivisions
7 (b), (c), (d), and (i), if the services are provided to, or on
8 behalf of, an educational institution.

9 ~~(h)~~

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

19 ~~(i)~~

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

30 ~~(j)~~

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

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



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

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

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

21 ~~(k) Notwithstanding any other provision of this~~
22 ~~section, benefits specified by subdivision (a) are not~~
23 ~~payable to persons who are currently receiving employer~~
24 ~~paid health benefits.~~

25 SEC. 2. Notwithstanding Section 17610 of the
26 Government Code, if the Commission on State Mandates
27 determines that this act contains costs mandated by the
28 state, reimbursement to local agencies and school
29 districts for those costs shall be made pursuant to Part 7
30 (commencing with Section 17500) of Division 4 of Title
31 2 of the Government Code. If the statewide cost of the
32 claim for reimbursement does not exceed one million
33 dollars (\$1,000,000), reimbursement shall be made from
34 the State Mandates Claims Fund.

