

AMENDED IN SENATE AUGUST 9, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2397

Introduced by Assembly Member Solorio

February 19, 2010

An act to amend Section 4850 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2397, as amended, Solorio. Workers' compensation: public employees: leaves of absence.

Existing workers' compensation law requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, and in the course of, employment.

Existing law generally provides that whenever certain public employees who are employed on a regular, full-time basis, and are disabled, whether temporarily or permanently, by injury or illness arising out of, and in the course of, their duties, they are required to become entitled, regardless of their period of service with the public employer, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments or maintenance allowance payments, if any, for the period of 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 payment, or certain advanced disability pension payment.

This bill would provide that the ~~injured employee and his or her employer~~ *employees and the employer through the collective bargaining process* may mutually agree to extend the leave of absence under the

above-described provisions beyond the one year period of disability, but that the extension may only be for a maximum of one additional year.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

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

3 4850. (a) (1) Whenever any person listed in subdivision (b),
4 who is employed on a regular, full-time basis, and is disabled,
5 whether temporarily or permanently, by injury or illness arising
6 out of and in the course of his or her duties, he or she shall become
7 entitled, regardless of his or her period of service with the city,
8 county, or district, to a leave of absence while so disabled without
9 loss of salary in lieu of temporary disability payments or
10 maintenance allowance payments under Section 139.5, if any, that
11 would be payable under this chapter, for the period of the disability,
12 but not exceeding one year, *unless the employees and the employer*
13 *through the collective bargaining process have mutually agreed*
14 *to extend the leave of absence beyond one year, or until that earlier*
15 date as he or she is retired on permanent disability pension, and is
16 actually receiving disability pension payments, or advanced
17 disability pension payments pursuant to Section 4850.3.

18 (2) *If the employees and the employer through the collective*
19 *bargaining process have mutually agreed to extend the leave of*
20 *absence to which paragraph (1) applies beyond one year, the*
21 *extension may only be for a maximum of one additional year.*

22 (b) The persons eligible under subdivision (a) include all of the
23 following:

24 (1) City police officers.

25 (2) City, county, or district firefighters.

26 (3) Sheriffs.

27 (4) Officers or employees of any sheriff's offices.

28 (5) Inspectors, investigators, detectives, or personnel with
29 comparable titles in any district attorney's office.

30 (6) County probation officers, group counselors, or juvenile
31 services officers.

32 (7) Officers or employees of a probation office.

1 (8) Peace officers under Section 830.31 of the Penal Code
2 employed on a regular, full-time basis by a county of the first class.

3 (9) Lifeguards employed year round on a regular, full-time basis
4 by a county of the first class.

5 (10) Airport law enforcement officers under subdivision (d) of
6 Section 830.33 of the Penal Code.

7 (11) Harbor or port police officers, wardens, or special officers
8 of a harbor or port district or city or county harbor department
9 under subdivision (a) of Section 830.1 or subdivision (b) of Section
10 830.33 of the Penal Code.

11 (12) Police officers of the Los Angeles Unified School District.

12 (c) This section shall apply only to persons listed in subdivision
13 (b) who meet the requirements of subdivision (a), and shall not
14 include any of the following:

15 (1) Employees of a police department whose principal duties
16 are those of a telephone operator, clerk, stenographer, machinist,
17 mechanic, or otherwise, and whose functions do not clearly fall
18 within the scope of active law enforcement service.

19 (2) Employees of a county sheriff's office whose principal duties
20 are those of a telephone operator, clerk, stenographer, machinist,
21 mechanic, or otherwise, and whose functions do not clearly come
22 within the scope of active law enforcement service.

23 (3) Employees of a county probation office whose principal
24 duties are those of a telephone operator, clerk, stenographer,
25 machinist, mechanic, or otherwise, and whose functions do not
26 clearly come within the scope of active law enforcement service.

27 (4) Employees of a city fire department, county fire department,
28 or fire district whose principal duties are those of a telephone
29 operator, clerk, stenographer, machinist, mechanic, or otherwise,
30 and whose functions do not clearly fall within the scope of active
31 firefighting and prevention service.

32 (d) If the employer is insured, the payments that, except for this
33 section, the insurer would be obligated to make as disability
34 indemnity to the injured, the insurer may pay to the insured.

35 (e) No leave of absence taken pursuant to this section by a peace
36 officer, as defined by Chapter 4.5 (commencing with Section 830)
37 of Title 3 of Part 2 of the Penal Code, or by a city, county, or
38 district firefighter, shall be deemed to constitute family care and
39 medical leave, as defined in Section 12945.2 of the Government

1 Code, or to reduce the time authorized for family care and medical
2 leave by Section 12945.2 of the Government Code.

3 (f) This section shall not apply to any persons described in
4 paragraph (1) or (2) of subdivision (b) who are employees of the
5 City and County of San Francisco.

6 (g) Amendments to subdivision (f) made by the act adding this
7 subdivision shall be applied retroactively to January 1, 2010.

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

10 ~~4850. (a) (1) Whenever any person listed in subdivision (b),~~
11 ~~who is employed on a regular, full-time basis, and is disabled,~~
12 ~~whether temporarily or permanently, by injury or illness arising~~
13 ~~out of and in the course of his or her duties, he or she shall become~~
14 ~~entitled, regardless of his or her period of service with the city,~~
15 ~~county, or district, to a leave of absence while so disabled without~~
16 ~~loss of salary in lieu of temporary disability payments or~~
17 ~~maintenance allowance payments under Section 139.5, if any, that~~
18 ~~would be payable under this chapter, for the period of the disability,~~
19 ~~but not exceeding one year, unless the injured employee and his~~
20 ~~or her employer have mutually agreed to extend the leave of~~
21 ~~absence beyond one year, or until that earlier date as he or she is~~
22 ~~retired on permanent disability pension, and is actually receiving~~
23 ~~disability pension payments, or advanced disability pension~~
24 ~~payments pursuant to Section 4850.3.~~

25 ~~(2) If the injured employee and his or her employer mutually~~
26 ~~agree to extend the leave of absence to which paragraph (1) applies~~
27 ~~beyond one year, the extension may only be for a maximum of~~
28 ~~one additional year.~~

29 ~~(b) The persons eligible under subdivision (a) include all of the~~
30 ~~following:~~

31 ~~(1) City police officers.~~

32 ~~(2) City, county, or district firefighters.~~

33 ~~(3) Sheriffs.~~

34 ~~(4) Officers or employees of any sheriff's offices.~~

35 ~~(5) Inspectors, investigators, detectives, or personnel with~~
36 ~~comparable titles in any district attorney's office.~~

37 ~~(6) County probation officers, group counselors, or juvenile~~
38 ~~services officers.~~

39 ~~(7) Officers or employees of a probation office.~~

1 ~~(8) Peace officers under Section 830.31 of the Penal Code~~
2 ~~employed on a regular, full-time basis by a county of the first class.~~

3 ~~(9) Lifeguards employed year round on a regular, full-time basis~~
4 ~~by a county of the first class.~~

5 ~~(10) Airport law enforcement officers under subdivision (d) of~~
6 ~~Section 830.33 of the Penal Code.~~

7 ~~(11) Harbor or port police officers, wardens, or special officers~~
8 ~~of a harbor or port district or city or county harbor department~~
9 ~~under subdivision (a) of Section 830.1 or subdivision (b) of Section~~
10 ~~830.33 of the Penal Code.~~

11 ~~(12) Police officers of the Los Angeles Unified School District.~~

12 ~~(c) This section shall apply only to persons listed in subdivision~~
13 ~~(b) who meet the requirements of subdivision (a), and shall not~~
14 ~~include any of the following:~~

15 ~~(1) Employees of a police department whose principal duties~~
16 ~~are those of a telephone operator, clerk, stenographer, machinist,~~
17 ~~mechanic, or otherwise, and whose functions do not clearly fall~~
18 ~~within the scope of active law enforcement service.~~

19 ~~(2) Employees of a county sheriff's office whose principal duties~~
20 ~~are those of a telephone operator, clerk, stenographer, machinist,~~
21 ~~mechanic, or otherwise, and whose functions do not clearly come~~
22 ~~within the scope of active law enforcement service.~~

23 ~~(3) Employees of a county probation office whose principal~~
24 ~~duties are those of a telephone operator, clerk, stenographer,~~
25 ~~machinist, mechanic, or otherwise, and whose functions do not~~
26 ~~clearly come within the scope of active law enforcement service.~~

27 ~~(4) Employees of a city fire department, county fire department,~~
28 ~~or fire district whose principal duties are those of a telephone~~
29 ~~operator, clerk, stenographer, machinist, mechanic, or otherwise,~~
30 ~~and whose functions do not clearly fall within the scope of active~~
31 ~~firefighting and prevention service.~~

32 ~~(d) If the employer is insured, the payments that, except for~~
33 ~~this section, the insurer would be obligated to make as disability~~
34 ~~indemnity to the injured, the insurer may pay to the insured.~~

35 ~~(e) No leave of absence taken pursuant to this section by a peace~~
36 ~~officer, as defined by Chapter 4.5 (commencing with Section 830)~~
37 ~~of Title 3 of Part 2 of the Penal Code, or by a city, county, or~~
38 ~~district firefighter, shall be deemed to constitute family care and~~
39 ~~medical leave, as defined in Section 12945.2 of the Government~~

- 1 ~~Code, or to reduce the time authorized for family care and medical~~
- 2 ~~leave by Section 12945.2 of the Government Code.~~
- 3 ~~(f) This section shall not apply to any persons described in~~
- 4 ~~subdivision (b) who are employees of the City and County of San~~
- 5 ~~Francisco.~~