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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 2.6. PERSONNEL ADMINISTRATION [19815 - 19999.7] (Part 2.6 added by Stats. 1981, Ch. 230, Sec. 55.)

CHAPTER 2.5. Days and Hours of Work [19851 - 19991.14] (Chapter 2.5 added by Stats. 1981, Ch. 230, Sec. 55.)

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ARTICLE 4. Industrial Disability Leave [19869 - 19877.1] (Article 4 added by Stats. 1981, Ch. 230, Sec. 55.)

19869. This article applies to state officers and employees who are members of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after the effective date of this article and to state officers and employees, whether or not members of such systems, who are employees of the Legislature and are not members of the civil service.

This article does not apply to state officers and employees who are included in the provisions of Article 6 (commencing with Section 4800) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

(Added by Stats. 1981, Ch. 230, Sec. 55.)

19870. As used in this article:

(a) "Industrial disability leave" means temporary disability as defined in Divisions 4 (commencing with Section 3201) and 4.5

(commencing with Section 6100) of the Labor Code and includes any period in which the disability is permanent and stationary and the disabled employee is undergoing vocational rehabilitation.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution if he had not vacated his position.

(c) "Nonrepresented employee" means an employee who is excluded from, or not otherwise subject to, collective bargaining, and who is employed in a class which has been designated by the director as being entitled to the enhanced benefits provided by Section 19871.2 due to the relationship of that class to represented classes who are entitled to the enhanced benefits pursuant to a memorandum of understanding.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Amended by Stats. 1984, Ch. 1190, Sec. 1. Effective September 17, 1984.)

19871. (a) Except as provided in Section 19871.2 or 19871.3, when a state officer or employee is temporarily disabled by illness or injury arising out of and in the course of state employment, he or she shall become entitled, regardless of his or her period of service, to receive industrial disability leave and payments for a period not exceeding 52 weeks within two years from the first day of disability. These payments shall be in the amount of the employees full pay less withholding based on his or her exemptions in effect on the date of his or her disability for federal income taxes, state income taxes, and social security taxes not to exceed 22 working days of disability subject to Section 19875. Thereafter, the payment shall be two-thirds of full pay. Payments shall be additionally adjusted to offset disability benefits, excluding those disability benefits payable from the State Teachers' Retirement System, the employee may receive from other employer-subsidized programs, except that no adjustment may be made for benefits to which the employee's family is entitled up to a maximum of three-quarters of full pay. Contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall be deducted in the amount based on full pay. Discretionary deductions of the employee including those for coverage under a state health benefits plan in which the employee is enrolled shall continue to be deducted unless canceled by the employee. State employer contributions to the Public Employees' Retirement System and state

employer normal retirement contributions to the State Teachers' Retirement System shall be made on the basis of full pay and the state contribution pursuant to Sections 22871 and 22885 because of the employee's enrollment in a health benefits plan shall continue.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(Amended by Stats. 2017, Ch. 857, Sec. 1. (SB 334) Effective January 1, 2018.)

19871.1. (a) A state officer or employee who is receiving industrial disability leave benefits, shall continue to receive all employee benefits which he or she would have received had he or she not incurred disability.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Added by Stats. 1981, Ch. 230, Sec. 55.)

19871.2. When an excluded employee is temporarily disabled for more than 22 consecutive working days by an injury or type of injury designated by the director as qualifying an employee for the benefits of this section, he or she shall receive an enhanced industrial disability leave benefit. The enhanced benefit shall be equivalent to the injured employee's net take home salary on the date of occurrence of injury. Eligibility and benefits may not exceed 52 weeks within a two-year period after the date of occurrence of the injury. For the purposes of this section, "net salary" means the amount of salary received after federal income tax, state income tax, and the employee's retirement contribution has been deducted from the employee's gross salary.

The final decision as to whether an employee is eligible for, or continues to be eligible for, enhanced benefits shall rest with the appointing authority or his or her designee. The appointing authority may periodically review the employee's condition by any means necessary to determine an employee's continued eligibility for enhanced benefits.

(Amended by Stats. 1999, Ch. 272, Sec. 2. Effective August 31, 1999.)

19871.3. (a) If an employee who is a member of State Bargaining Unit 8 is temporarily disabled by illness or injury arising out of and in the course of state employment, he or she shall receive an enhanced industrial disability leave benefit. The enhanced industrial disability leave benefit shall be equivalent to the injured employee's net salary, including any increases the employee would have received during the leave. The benefit may not exceed 52 weeks after the date of the occurrence of the injury or illness or until the date the injury or illness is declared permanent and stationary, whichever is earlier.

(b) Notwithstanding the above 52-week limitation, an employee described in subdivision (a) whose injuries are burn-related may receive the benefit described in subdivision (a) for a period not to exceed 156 weeks after the date of the occurrence of the injury or illness or until the date the injury or illness is declared permanent and stationary, whichever is earlier.

(c) For purposes of this section, "net salary" means the amount of salary received after federal income tax, state income tax, and the employee's retirement contribution has been deducted from the employee's gross salary.

(Amended by Stats. 2018, Ch. 897, Sec. 1. (SB 1144) Effective January 1, 2019.)

19872. (a) The disabled employee shall not receive temporary disability indemnity or sick leave or annual leave with pay for any period for which he or she receives industrial disability leave.

(b) Notwithstanding subdivision (a), an employee may elect to supplement industrial disability leave payments from the 23rd workday with accrued leave credits including annual leave, vacation, sick leave, or compensatory time off (CTO) in an amount necessary to approximate the employee's full net pay. Partial supplementation shall be allowed, but fractions of less than one hour shall not be permitted. Once the level of supplementation is selected, it may be decreased to accommodate a declining leave balance but it may not be increased. Reductions to supplementation amounts shall be made on a prospective basis only. The department may adopt rules for the administration and enforcement of this subdivision.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Amended by Stats. 1994, Ch. 1027, Sec. 3. Effective January 1, 1995.)

19873. (a) Division 4.7 (commencing with Section 6200) of the Labor Code shall not apply to employees to which this article applies.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Added by Stats. 1981, Ch. 230, Sec. 55.)

19874. (a) If the employee continues to be temporarily disabled after termination of benefits under this article, he or she shall be entitled to the benefits provided by Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code and to payments under Section 19863.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Added by Stats. 1981, Ch. 230, Sec. 55.)

19875. (a) If an illness or injury causes temporary disability, the employee shall be placed on industrial disability leave on the fourth calendar day after the injured employee leaves work as a result of the illness or injury, except that in case the injury causes disability of more than 14 days or necessitates hospitalization, the employee shall be placed on industrial disability leave from the first day he or she leaves work or is hospitalized as a result of the injury.

(b) Notwithstanding subdivision (a), in the case of state civil service employees and employees of the Regents of the University of California, the disability payment shall be made from the first day the injured employee leaves work as a result of the injury, if the injury is the result of a criminal act of violence against the employee.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Amended by Stats. 1988, Ch. 670, Sec. 5.)

19876. (a) Payments shall be contingent on the complete medical certification of the illness or injury including diagnosis and any prognosis of recovery. Further, payments shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan when furnished by the state subject to appropriate medical approval as determined by the department.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Amended by Stats. 1988, Ch. 670, Sec. 6.)

19876.5. State employees in state bargaining units 1, 4, 15, 18, and 20 who suffer a job-related injury or illness and become eligible for vocational rehabilitation under Section 139.5 of the Labor Code on or after January 1, 1993, shall first be subject to an evaluation to determine what type of state employment can be performed. The evaluation shall include vocational rehabilitation when deemed appropriate, based on a medical evaluation and previous experience. Disability benefits shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan necessary to continue state employment. This section shall not apply to any job-related or job-incurred injury or illness that occurs on or after January 1, 2000.

(Amended by Stats. 2000, Ch. 402, Sec. 10. Effective September 11, 2000. Applicable from January 1, 2000, by Sec. 22 of Ch. 402.)

19877. The department shall adopt any rules and regulations necessary for the administration of this article.

The appointing power of any officer or employee not a member of the civil service shall adopt any rules and regulations necessary for the administration of this article for such officers or employees.

(Amended by Stats. 1988, Ch. 670, Sec. 7.)

19877.1. (a) The provisions of this article shall be effective upon the adoption of applicable rules and regulations, but not later than January 1, 1975.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Added by Stats. 1981, Ch. 230, Sec. 55.)