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AB-375 School employees: sick leave: paternity and maternity leave. (2015-2016)

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Assembly Bill No. 375

CHAPTER 400

An act to add Section 44977.5 to the Education Code, relating to school employees.

[Approved by Governor October 01, 2015. Filed with Secretary of State October 01, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 375, Campos. School employees: sick leave: paternity and maternity leave.

Under existing law, when a certificated school employee 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 or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed.

This bill would additionally provide the differential pay benefit described above for up to 12 weeks if the certificated school employee is absent on account of maternity or paternity leave, as defined, as specified. The bill would provide that the 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, during a period of maternity or paternity leave. The bill would prohibit a certificated school employee 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. The bill would provide that, to the extent these provisions conflict with any provision of a collective bargaining agreement entered into before January 1, 2016, by a public school employer and an exclusive bargaining representative, these provisions shall not apply until the expiration or renewal of that collective bargaining agreement.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 44977.5 is added to the Education Code, to read:

44977.5. (a) During each school year, 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 maternity or paternity leave pursuant to Section 12945.2 of the Government Code for a period of up to 12 school weeks, whether or not the absence arises out of or in the course of the employment of the employee, the amount deducted from the salary due him or her for any of the additional 12 weeks 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 the substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(b) For purposes of subdivision (a):

(1) 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 pursuant Section 12945.2 of the Government Code.

(2) An employee shall not be provided more than one 12-week period per maternity or paternity leave. However, if a school year terminates before the 12-week period is exhausted, the employee may take the balance of the 12-week period in the subsequent school year.

(3) An employee on maternity or paternity leave pursuant to Section 12945.2 of the Government Code shall not be denied access to differential pay while on that leave.

(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) To the extent that this section conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2016, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, this section shall not apply until expiration or renewal of that collective bargaining agreement.

(e) For purposes of this section, "maternity or paternity 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.