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SB-731 Public school employees: former or current members of the Armed Forces of the United States or California National Guard: leave of absence for illness or injury. (2017-2018)

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Date Published: 10/09/2017 09:00 PM

Senate Bill No. 731

CHAPTER 597

An act to amend Sections 44978.2 and 45191.5 of the Education Code, relating to school employees.

[Approved by Governor October 08, 2017. Filed with Secretary of State October 08, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 731, Newman. Public school employees: former or current members of the Armed Forces of the United States or California National Guard: leave of absence for illness or injury.

(1) Existing law requires a certificated employee hired on or after January 1, 2017, who is a military veteran with a military service-connected disability rated at 30% or more by the United States Department of Veterans Affairs to be entitled to a leave of absence for illness or injury with pay of up to 10 days for the purpose of undergoing medical treatment for his or her military service-connected disability, as specified.

This bill would expand these requirements to include a certificated employee who is a former active duty member of the Armed Forces of the United States or a former or current member of the California National Guard or a federal reserve component, who was hired on or after, or employed on or after, January 1, 2017, with a service-connected disability rated at 30% or more by the United States Department of Veterans Affairs that was incurred during the active duty recently completed.

The bill would require credit for leave of absence under this provision to be credited to a qualifying certificated employee on the effective date of the employee's disability rating decision from the United States Department of Veterans Affairs, or on the first day the qualifying certificated employee begins, or returns to, employment after active duty, whichever is later, except under specified circumstances when provisions authorizing alternative leave arrangements would be applicable.

(2) Existing law requires a classified employee hired on or after January 1, 2017, who is a military veteran with a military service-connected disability rated at 30% or more by the United States Department of Veterans Affairs to be entitled to a leave of absence for illness or injury with pay of up to 12 days for the purpose of undergoing medical treatment for his or her military service-connected disability, as specified.

This bill would expand these requirements to include a classified employee who is a former active duty member of the Armed Forces of the United States or a former or current member of the California National Guard or a federal reserve component, who was hired on or after, or employed on or after, January 1, 2017, with a service-connected disability rated at 30% or more by the United States Department of Veterans Affairs that was incurred during the active duty recently completed.

The bill would require credit for leave of absence under this provision to be credited to a qualifying classified employee on the effective date of the employee's disability rating decision from the United States Department of Veterans Affairs, or on the first day the qualifying classified employee begins, or returns to, employment after active duty, whichever is later, except under specified circumstances when provisions authorizing alternative leave arrangements would be applicable.

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

SECTION 1. Section 44978.2 of the Education Code is amended to read:

44978.2. (a) (1) In addition to any other entitlement for leave of absence for illness or injury with pay, a certificated employee hired on or after, or employed on or after, January 1, 2017, who is a former active duty member of the Armed Forces of the United States or a former or current member of the California National Guard or a federal reserve component, with a service-connected disability rated at 30 percent or more by the United States Department of Veterans Affairs, shall be entitled to leave of absence for illness or injury with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability.

(2) Credit for leave of absence for illness or injury granted under this subdivision shall be credited to a qualifying certificated employee on the effective date of the employee's disability rating decision from the United States Department of Veterans Affairs, or on the first day the qualifying certificated employee begins, or returns to, employment after active duty, whichever is later, and shall remain available for use for the following 12 months of employment.

(3) Notwithstanding paragraph (2), credit for leave of absence for illness or injury granted under this subdivision shall be credited to a certificated employee on the date the employee receives confirmation of submission of his or her disability application to the United States Department of Veterans Affairs. When the certificated employee receives his or her disability rating decision from the United States Department of Veterans Affairs, the employee shall report that information to the employer. If the certificated employee's disability rating decision makes the employee ineligible pursuant to paragraph (1), the employer may change the leave of absence for illness or injury time used before the disability rating decision to an alternative leave balance. If the certificated employee's disability rating decision makes the employee eligible pursuant to paragraph (1), the employee shall be entitled to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability minus the time used before the disability rating decision, for the 12-month period beginning with the confirmation of submission of his or her disability application.

(4) Leave of absence for illness or injury credited pursuant to this subdivision that is not used during the 12-month period shall not be carried over and shall be forfeited.

(5) Submission of satisfactory proof that a leave of absence for illness or injury granted under this subdivision is used for treatment of a service-connected disability may be required pursuant to rules adopted by the governing board of a school district.

(b) A certificated employee, as described in subdivision (a), employed less than 5 days per week, shall be entitled to that proportion of 10 days' leave of absence for illness or injury granted pursuant to subdivision (a) as the number of days he or she is employed per week bears to 5.

(c) Nothing in this section shall be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater leave of absence rights to employees than the rights established under this section.

SEC. 2. Section 45191.5 of the Education Code is amended to read:

45191.5. (a) (1) In addition to any other entitlement for leave of absence for illness or injury with pay, a classified employee hired on or after, or employed on or after, January 1, 2017, who is a former active duty member of the Armed Forces of the United States or a former or current member of the California National Guard or a federal reserve component, with a service-connected disability rated at 30 percent or more by the United States Department of Veterans Affairs, shall be entitled to leave of absence for illness or injury with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability.

(2) Credit for leave of absence for illness or injury granted under this subdivision shall be credited to a qualifying classified employee on the effective date of the employee's disability rating decision from the United States Department of Veterans Affairs, or on the first day the qualifying classified employee begins, or returns to, employment after active duty, whichever is later, and shall remain available for use for the following 12 months of employment.

(3) Notwithstanding paragraph (2), credit for leave of absence for illness or injury granted under this subdivision shall be credited to a classified employee on the date the employee receives confirmation of submission of his or her disability application to the United States Department of Veterans Affairs. When the classified employee receives his or her disability

rating decision from the United States Department of Veterans Affairs, the employee shall report that information to the employer. If the classified employee's disability rating decision makes the employee ineligible pursuant to paragraph (1), the employer may change the leave of absence for illness or injury time used before the disability rating decision to an alternative leave balance. If the classified employee's disability rating decision makes the employee eligible pursuant to paragraph (1), the employee shall be entitled to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability minus the time used before the disability rating decision, for the 12-month period beginning with the confirmation of submission of his or her disability application.

(4) Leave of absence for illness or injury credited pursuant to this subdivision that is not used during the 12-month period shall not be carried over and shall be forfeited.

(5) Submission of satisfactory proof that a leave of absence for illness or injury granted under this subdivision is used for treatment of a service-connected disability may be required pursuant to rules adopted by the governing board of a school district.

(b) A classified employee, as described in subdivision (a) and employed five days per week, who is employed for less than a full fiscal year, is entitled to that proportion of 12 days' leave of absence for illness or injury granted pursuant to subdivision (a) as the number of months he or she is employed bears to 12.

(c) A classified employee, as described in subdivision (a), employed less than five days per week, shall be entitled to that proportion of 12 days' leave of absence for illness or injury granted pursuant to subdivision (a) as the number of days he or she is employed per week bears to five. When such persons are employed for less than a full fiscal year of service, this subdivision and subdivision (b) shall determine that proportion of leave of absence for illness or injury granted pursuant to subdivision (a) to which they are entitled.

(d) Nothing in this section shall be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater leave of absence rights to employees than the rights established under this section.