

AMENDED IN ASSEMBLY FEBRUARY 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 55

**Introduced by Assembly Member Hernández
(Coauthor: Assembly Member Quirk-Silva)**

January 7, 2013

An act to amend Sections 7.1, 1689.5, 1689.24, 1695.1, and 1812.303 of the Civil Code, to amend Sections 37220.7, 45203, 79020, and 88203 of the Education Code, and to amend Sections 6700, 6712, 19853, and 19853.1 Section 6700 of the Government Code, relating to holidays.

LEGISLATIVE COUNSEL'S DIGEST

AB 55, as amended, Roger Hernández. State holidays: Native American Day.

Existing law recognizes various holidays. Existing law requires the Governor to proclaim annually the 4th Friday in September to be Native American Day.

This bill would recognize the 4th Friday in September as a state holiday to be known as Native American Day.

Existing law establishes specified state holidays, including Columbus Day, which is celebrated on the 2nd Monday in October. Existing law provides that state employees are entitled to specified holidays unless these provisions are in conflict with the provisions of a memorandum of understanding, in which case that memorandum controls, as specified. Existing law defines specified days as business days for the purposes of certain contracts, including home solicitation contracts, and excepts Columbus Day from this definition. Existing law requires the Governor to proclaim annually the 4th Friday in September to be Native American Day. Existing law authorizes public schools and junior colleges, pursuant

~~to memoranda of understanding, to be closed on Native American Day, and authorizes public school and community colleges to provide, pursuant to memoranda of understanding, a paid holiday on Native American Day to specified classified employees. Existing law permits a state employee, as defined, to elect to receive 8 hours of holiday credit for Native American Day in lieu of receiving 8 hours of personal holiday credit, as specified.~~

This bill would require that the Governor proclaim the 2nd Monday in October as Native American Day. The bill would eliminate references to Columbus Day in the provisions described above and, instead, apply Native American Day to those provisions. The bill would provide that ~~the 2nd Monday in October is a holiday for state employees, would delete provisions permitting a state employee to elect to receive holiday credit for Native American Day in lieu of personal holiday credit, as described above, and would set forth specified legislative findings and declarations relative to recognizing and honoring Native American Day.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares the following:*
- 2 (a) *As the original peoples of our nation and state, Native*
- 3 *Americans have provided extensive historical contributions to the*
- 4 *State of California. For more than 12,000 years, Native Americans*
- 5 *have inhabited, preserved, and cultivated this land that ultimately*
- 6 *became the Golden State. To this day, several iconic regions in*
- 7 *California, from Lake Tahoe to Malibu, are named after native*
- 8 *origin.*
- 9 (b) *The resiliency of Native American peoples is a profound*
- 10 *statement of their strength. Even in light of egregious injustices*
- 11 *and genocide, Native Americans have remained a constant*
- 12 *presence, with California being home to the largest population of*
- 13 *Native Americans in the country's 50 states. In honor of the*
- 14 *contributions and endurance of Native Americans, the Legislature*
- 15 *declares the fourth Friday of September to be the state holiday of*
- 16 *Native American Day.*
- 17 SEC. 2. *Section 6700 of the Government Code is amended to*
- 18 *read:*
- 19 6700. The holidays in this state are:

- 1 (a) Every Sunday.
- 2 (b) January 1st.
- 3 (c) The third Monday in January, known as “Dr. Martin Luther
- 4 King, Jr. Day.”
- 5 (d) February 12th, known as “Lincoln Day.”
- 6 (e) The third Monday in February.
- 7 (f) March 31st known as “Cesar Chavez Day.”
- 8 (g) The last Monday in May.
- 9 (h) July 4th.
- 10 (i) The first Monday in September.
- 11 (j) September 9th, known as “Admission Day.”
- 12 (k) *The fourth Friday in September, known as “Native American*
- 13 *Day.”*
- 14 ~~(k)~~
- 15 (l) The second Monday in October, known as “Columbus Day.”
- 16 ~~(l)~~
- 17 (m) November 11th, known as “Veterans Day.”
- 18 ~~(m)~~
- 19 (n) December 25th.
- 20 ~~(n)~~
- 21 (o) Good Friday from 12 noon until 3 p.m.
- 22 ~~(o)~~
- 23 (p) Every day appointed by the President or Governor for a
- 24 public fast, thanksgiving, or holiday.

25 Except for the Thursday in November appointed as Thanksgiving
 26 Day, this subdivision and subdivisions (c) and (f) shall not apply
 27 to a city, county, or district unless made applicable by charter, or
 28 by ordinance or resolution of the governing body thereof.

29 If the provisions of this section are in conflict with the provisions
 30 of a memorandum of understanding reached pursuant to Chapter
 31 12 (commencing with Section 3560) of Division 4 of Title 1, the
 32 memorandum of understanding shall be controlling without further
 33 legislative action, except that if those provisions of a memorandum
 34 of understanding require the expenditure of funds, the provisions
 35 shall not become effective unless approved by the Legislature in
 36 the annual Budget Act.

37 ~~SECTION 1. The Legislature finds and declares all of the~~
 38 ~~following:~~

- 39 ~~(a) In order to recognize the genocide inflicted upon Native~~
- 40 ~~Americans and their removal from their ancestral lands, and to~~

1 ~~acknowledge the numerous contributions made by Native~~
2 ~~Americans to California and the nation, the second Monday in~~
3 ~~October, previously known as Columbus Day, shall be known as~~
4 ~~Native American Day.~~

5 (b) ~~In order to honor and recognize Native American Day with~~
6 ~~the dignity and distinction that it deserves, this act grants state~~
7 ~~employees a holiday on the second Monday in October. Local~~
8 ~~agencies, including counties, cities, special districts, and school~~
9 ~~districts, acting appropriately through the collective bargaining~~
10 ~~process, may provide their employees with a paid holiday on the~~
11 ~~second Monday in October so that Native American Day may be~~
12 ~~appropriately honored throughout the state.~~

13 ~~SEC. 2. Section 7.1 of the Civil Code is amended to read:~~

14 ~~7.1. Optional bank holidays within the meaning of Section 9~~
15 ~~are:~~

16 (a) ~~Any closing of a bank because of an extraordinary situation,~~
17 ~~as that term is defined in the Bank Extraordinary Situation Closing~~
18 ~~Act (Chapter 20 (commencing with Section 3600) of Division 1~~
19 ~~of the Financial Code).~~

20 (b) ~~Every Saturday.~~

21 (c) ~~Every Sunday.~~

22 (d) ~~January 1st.~~

23 (e) ~~The third Monday in January, known as “Dr. Martin Luther~~
24 ~~King, Jr. Day.”~~

25 (f) ~~February 12, known as “Lincoln Day.”~~

26 (g) ~~The third Monday in February.~~

27 (h) ~~The last Monday in May.~~

28 (i) ~~July 4th.~~

29 (j) ~~The first Monday in September.~~

30 (k) ~~September 9th, known as “Admission Day.”~~

31 (l) ~~The second Monday in October, known as “Native American~~
32 ~~Day.”~~

33 (m) ~~November 11th, known as “Veteran’s Day.”~~

34 (n) ~~December 25th.~~

35 (o) ~~Good Friday from 12 noon until closing.~~

36 (p) ~~The Thursday in November appointed as “Thanksgiving~~
37 ~~Day.”~~

38 (q) ~~Any Monday following any Sunday on which January 1st,~~
39 ~~February 12th, July 4th, September 9th, November 11th, or~~
40 ~~December 25th falls.~~

1 ~~(r) Any Friday preceding any Saturday on which July 4th,~~
2 ~~September 9th, or December 25th falls.~~

3 ~~SEC. 3. Section 1689.5 of the Civil Code is amended to read:~~
4 ~~1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and~~
5 ~~in Section 1689.14:~~

6 ~~(a) “Home solicitation contract or offer” means any contract,~~
7 ~~whether single or multiple, or any offer that is subject to approval,~~
8 ~~for the sale, lease, or rental of goods or services or both, made at~~
9 ~~other than appropriate trade premises in an amount of twenty-five~~
10 ~~dollars (\$25) or more, including any interest or service charges.~~
11 ~~“Home solicitation contract” does not include any contract under~~
12 ~~which the buyer has the right to rescind pursuant to Title 1, Chapter~~
13 ~~2, Section 125 of the Federal Consumer Credit Protection Act (P.L.~~
14 ~~90-321) and the regulations promulgated pursuant thereto.~~

15 ~~(b) “Appropriate trade premises,” means premises where either~~
16 ~~the owner or seller normally carries on a business, or where goods~~
17 ~~are normally offered or exposed for sale in the course of a business~~
18 ~~carried on at those premises.~~

19 ~~(c) “Goods” means tangible chattels bought for use primarily~~
20 ~~for personal, family, or household purposes, including certificates~~
21 ~~or coupons exchangeable for these goods, and including goods~~
22 ~~that, at the time of the sale or subsequently, are to be so affixed to~~
23 ~~real property as to become a part of the real property whether or~~
24 ~~not severable therefrom, but does not include any vehicle required~~
25 ~~to be registered under the Vehicle Code, nor any goods sold with~~
26 ~~this vehicle if sold under a contract governed by Section 2982, and~~
27 ~~does not include any mobilehome, as defined in Section 18008 of~~
28 ~~the Health and Safety Code, nor any goods sold with this~~
29 ~~mobilehome if either are sold under a contract subject to Section~~
30 ~~18036.5 of the Health and Safety Code.~~

31 ~~(d) “Services” means work, labor and services, including, but~~
32 ~~not limited to, services furnished in connection with the repair,~~
33 ~~restoration, alteration, or improvement of residential premises, or~~
34 ~~services furnished in connection with the sale or repair of goods~~
35 ~~as defined in Section 1802.1, and courses of instruction, regardless~~
36 ~~of the purpose for which they are taken, but does not include the~~
37 ~~services of attorneys, real estate brokers and salesmen, securities~~
38 ~~dealers or investment counselors, physicians, optometrists, or~~
39 ~~dentists, nor financial services offered by banks, savings~~
40 ~~institutions, credit unions, industrial loan companies, personal~~

1 property brokers, consumer finance lenders, or commercial finance
2 lenders, organized pursuant to state or federal law, that are not
3 connected with the sale of goods or services, as defined herein,
4 nor the sale of insurance that is not connected with the sale of
5 goods or services as defined herein, nor services in connection
6 with the sale or installation of mobilehomes or of goods sold with
7 a mobilehome if either are sold or installed under a contract subject
8 to Section 18036.5 of the Health and Safety Code, nor services for
9 which the tariffs, rates, charges, costs, or expenses, including in
10 each instance the time sale price, is required by law to be filed
11 with and approved by the federal government or any official,
12 department, division, commission, or agency of the United States
13 or of the state.

14 (e) “Business day” means any calendar day except Sunday, or
15 the following business holidays: New Year’s Day, Washington’s
16 Birthday, Memorial Day, Independence Day, Labor Day, Native
17 American Day, Veterans’ Day, Thanksgiving Day, and Christmas
18 Day.

19 (f) This section shall become operative on January 1, 2006.

20 SEC. 4. Section 1689.24 of the Civil Code is amended to read:
21 1689.24. As used in Sections 1689.20 to 1689.23, inclusive:

22 (a) “Seminar sales solicitation contract or offer” means any
23 contract, whether single or multiple, or any offer that is subject to
24 approval, for the sale, lease, or rental of goods or services or both,
25 made using selling techniques in a seminar setting in an amount
26 of twenty-five dollars (\$25) or more, including any interest or
27 service charges. “Seminar sales solicitation contract” does not
28 include any contract under which the buyer has the right to rescind
29 pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer
30 Credit Protection Act (P.L. 90-321) and the regulations
31 promulgated pursuant thereto or any contract which contains a
32 written and dated statement signed by the prospective buyer stating
33 that the negotiation between the parties was initiated by the
34 prospective buyer.

35 (b) “Seminar setting” means premises other than the residence
36 of the buyer.

37 (c) “Goods” means tangible chattels bought for use primarily
38 for personal, family, or household purposes, including certificates
39 or coupons exchangeable for these goods, and including goods
40 which, at the time of the sale or subsequently, are to be so affixed

1 to real property as to become a part of the real property whether
2 or not severable therefrom, but does not include any vehicle
3 required to be registered under the Vehicle Code, nor any goods
4 sold with a vehicle if sold under a contract governed by Section
5 2982, and does not include any mobilehome, as defined in Section
6 18008 of the Health and Safety Code, nor any goods sold with a
7 mobilehome if either are sold under a contract subject to Section
8 18036.5 of the Health and Safety Code.

9 (d) “Services” means work, labor and services, including, but
10 not limited to, services furnished in connection with the repair,
11 alteration, or improvement of residential premises, or services
12 furnished in connection with the sale or repair of goods as defined
13 in Section 1802.1, and courses of instruction, regardless of the
14 purpose for which they are taken, but does not include the services
15 of attorneys, real estate brokers and salesmen, securities dealers
16 or investment counselors, physicians, optometrists, or dentists, nor
17 financial services offered by banks, savings institutions, credit
18 unions, industrial loan companies, personal property brokers,
19 consumer finance lenders, or commercial finance lenders, organized
20 pursuant to state or federal law, which are not connected with the
21 sale of goods or services, as defined herein, nor the sale of
22 insurance which is not connected with the sale of goods or services
23 as defined herein, nor services in connection with the sale or
24 installation of mobilehomes or of goods sold with a mobilehome
25 if either are sold or installed under a contract subject to Section
26 18036.5 of the Health and Safety Code, nor services for which the
27 tariffs, rates, charges, costs, or expenses, including in each instance
28 the time sale price, is required by law to be filed with and approved
29 by the federal government or any official, department, division,
30 commission, or agency of the United States or of the State of
31 California.

32 (e) “Business day” means any calendar day except Sunday, or
33 the following business holidays: New Year’s Day, Washington’s
34 Birthday, Memorial Day, Independence Day, Labor Day, Native
35 American Day, Veterans’ Day, Thanksgiving Day, and Christmas
36 Day.

37 SEC. 5. Section 1695.1 of the Civil Code is amended to read:
38 1695.1. The following definitions apply to this chapter:

1 (a) “Equity purchaser” means any person who acquires title to
2 any residence in foreclosure, except a person who acquires such
3 title as follows:

4 (1) For the purpose of using such property as a personal
5 residence.

6 (2) By a deed in lieu of foreclosure of any voluntary lien or
7 encumbrance of record.

8 (3) By a deed from a trustee acting under the power of sale
9 contained in a deed of trust or mortgage at a foreclosure sale
10 conducted pursuant to Article 1 (commencing with Section 2920)
11 of Chapter 2 of Title 14 of Part 4 of Division 3.

12 (4) At any sale of property authorized by statute.

13 (5) By order or judgment of any court.

14 (6) From a spouse, blood relative, or blood relative of a spouse.

15 (b) “Residence in foreclosure” and “residential real property in
16 foreclosure” means residential real property consisting of one- to
17 four-family dwelling units, one of which the owner occupies as
18 his or her principal place of residence, and against which there is
19 an outstanding notice of default, recorded pursuant to Article 1
20 (commencing with Section 2920) of Chapter 2 of Title 14 of Part
21 4 of Division 3.

22 (c) “Equity seller” means any seller of a residence in foreclosure.

23 (d) “Business day” means any calendar day except Sunday, or
24 the following business holidays: New Year’s Day, Washington’s
25 Birthday, Memorial Day, Independence Day, Labor Day, Native
26 American Day, Veterans’ Day, Thanksgiving Day, and Christmas
27 Day.

28 (e) “Contract” means any offer or any contract, agreement, or
29 arrangement, or any term thereof, between an equity purchaser
30 and equity seller incident to the sale of a residence in foreclosure.

31 (f) “Property owner” means the record title owner of the
32 residential real property in foreclosure at the time the notice of
33 default was recorded.

34 SEC. 6. Section 1812.303 of the Civil Code is amended to
35 read:

36 1812.303. (a) A membership camping contract shall be written
37 in the same language as that principally used in any oral sales
38 presentation (e.g., Spanish). A membership camping contract shall
39 be dated, signed by the purchaser, and contain, in immediate
40 proximity to the space reserved for the signature of the purchaser,

1 a conspicuous statement in a size equal to at least 10-point bold
 2 type, as follows: “You, the purchaser, may cancel this contract at
 3 any time prior to midnight of the third business day after the date
 4 of the transaction. See an explanation of this right as set forth in
 5 this contract or on the attached notice of cancellation form.” In
 6 the alternative the notice of cancellation as set forth in subdivision
 7 (b) may be placed in immediate proximity to the signature line of
 8 the contract in lieu of the foregoing statement.

9 (b) The contract shall be accompanied by a completed form in
 10 duplicate, captioned “Notice of Cancellation”, which shall be
 11 attached to the contract and easily detachable. In the alternative,
 12 the seller may include all of the cancellation information on the
 13 contract and provide the consumer with a carbon copy which may
 14 be retained after cancellation. Both shall contain, in type of at least
 15 10-point, the following statement written in the same language as
 16 used in the contract:

17
 18 **“Notice of Cancellation”**

19
 20 —“You may cancel this contract, without any penalty or obligation, within
 21 three business days from the date the contract is executed:

22 —“To cancel this contract, mail or deliver a signed and dated copy of this
 23 cancellation notice or a copy of this contract if it contains the cancellation
 24 instructions, or any other written notice, or send a telegram to

25 _____, at
 26 (Name of seller)

27 _____
 28 (Address of seller’s place of business)

29 not later than midnight of _____.
 30 (Date)

31 I hereby cancel this transaction _____.
 32 (Date)

33 _____
 34 (Purchaser’s signature)

35
 36 “With the notice of cancellation, or separately if a telegram is
 37 sent, you must return the original membership camping contract,
 38 membership card and all other evidence of membership to the
 39 seller. You should promptly return these documents with the notice
 40 of cancellation, or separately if a telegram is sent. Failure to send

1 the documents promptly could delay your refund. You should
2 retain for your records one copy of the cancellation notice, or a
3 carbon of the contract when it provides the cancellation
4 information, or other writing showing intent to cancel. Mailing by
5 ordinary mail is adequate but certified mail return receipt requested
6 is recommended.”

7 (e) On the date of purchase the membership camping operator
8 shall provide the purchaser with a copy of the contract and
9 duplicate of the notice of cancellation. The membership camping
10 operator shall inform the purchaser orally of the right to cancel at
11 the time the contract is executed.

12 (d) Within 20 days after the membership camping operator
13 receives a notice of cancellation, the membership camping contract,
14 the membership card and all other evidence of purchase or
15 membership, the membership camping operator shall refund to
16 the purchaser any sums paid as a deposit, downpayment or other
17 payment therefor. If the purchaser does not promptly return the
18 evidence of membership, the 20-day period shall be extended until
19 such evidence of membership is returned.

20 (e) Until the membership camping operator has complied with
21 this section, the purchaser shall have the right to cancel the
22 contract.

23 (f) “Business day” means any calendar day except Sunday, or
24 the following business holidays: New Year’s Day, Washington’s
25 Birthday, Memorial Day, Independence Day, Labor Day, Native
26 American Day, Veteran’s Day, Thanksgiving Day, and Christmas
27 Day.

28 SEC. 7. Section 37220.7 of the Education Code is amended to
29 read:

30 37220.7. (a) In addition to the holidays prescribed in Section
31 37220, public schools may be closed on the second Monday in
32 October, known as “Native American Day,” if the governing board,
33 pursuant to a memorandum of understanding reached pursuant to
34 Chapter 10.7 (commencing with Section 3540) of Division 4 of
35 Title 1 of the Government Code, agrees to close schools for that
36 purpose.

37 (b) On the second Monday in October, or, if schools are closed
38 on that date as specified in subdivision (a), on an alternate day
39 determined by the governing board, public schools and educational
40 institutions throughout this state may include exercises, funded

1 through existing resources, commemorating and directing attention
2 to the many contributions that Native Americans have made to
3 this country. The State Board of Education may adopt a model
4 curriculum guide to be available for use by public schools for
5 exercises related to Native American Day.

6 ~~SEC. 8. Section 45203 of the Education Code is amended to~~
7 ~~read:~~

8 ~~45203. All probationary or permanent employees that are a~~
9 ~~part of the classified service shall be entitled to the following paid~~
10 ~~holidays provided they are in a paid status during any portion of~~
11 ~~the working day immediately preceding or succeeding the holiday:~~
12 ~~January 1, February 12 known as "Lincoln Day," the third Monday~~
13 ~~in February known as "Washington Day," the last Monday in May~~
14 ~~known as "Memorial Day," July 4, the first Monday in September~~
15 ~~known as "Labor Day," November 11 known as "Veterans Day,"~~
16 ~~that Thursday in November proclaimed by the President as~~
17 ~~"Thanksgiving Day," December 25, every day appointed by the~~
18 ~~President, or the Governor of this state, as provided for in~~
19 ~~subdivisions (b) and (c) of Section 37220 for a public fast,~~
20 ~~thanksgiving or holiday, or any day declared a holiday under~~
21 ~~Section 1318 or 37222 for classified or certificated employees.~~
22 ~~School recesses during the Christmas, Easter, and mid-February~~
23 ~~periods shall not be considered holidays for classified employees~~
24 ~~who are normally required to work during that period. However,~~
25 ~~this shall not be construed as affecting vacation rights specified in~~
26 ~~this section.~~

27 ~~Regular employees of the district who are not normally assigned~~
28 ~~to duty during the school holidays of December 25 and January 1~~
29 ~~shall be paid for those two holidays provided that they were in a~~
30 ~~paid status during any portion of the working day of their normal~~
31 ~~assignment immediately preceding or succeeding the holiday~~
32 ~~period.~~

33 ~~When a holiday listed in this section falls on a Sunday, the~~
34 ~~following Monday shall be deemed to be the holiday in lieu of the~~
35 ~~day observed. When a holiday listed in this section falls on a~~
36 ~~Saturday, the preceding Friday shall be deemed to be the holiday~~
37 ~~in lieu of the day observed. When a classified employee is required~~
38 ~~to work on any of these holidays, he or she shall be paid~~
39 ~~compensation, or given compensating time off, for such work, in~~

1 addition to the regular pay received for the holiday, at the rate of
2 time and one-half the employee's regular rate of pay.

3 The provisions of Article 3 (commencing with Section 37220)
4 of Chapter 2 of Part 22 shall not be construed to in any way limit
5 the provisions of this section, nor shall anything in this section be
6 construed to prohibit the governing board from adopting separate
7 work schedules for the certificated and the classified services, or
8 from providing holiday pay for employees who have not been in
9 paid status on the days specified herein. Notwithstanding the
10 adoption of separate work schedules for the certificated and the
11 classified services, on any schoolday during which pupils would
12 otherwise have been in attendance but are not and for which
13 certificated personnel receive regular pay, classified personnel
14 shall also receive regular pay whether or not they are required to
15 report for duty that day.

16 In addition to the other paid holidays specified in this section,
17 the classified service may be entitled to a paid holiday on March
18 31 known as "Cesar Chavez Day," and a paid holiday on the second
19 Monday in October known as "Native American Day," provided
20 they are in a paid status during any portion of the working day
21 immediately preceding or succeeding the holiday, if the governing
22 board, pursuant to a memorandum of understanding reached
23 pursuant to Chapter 10.7 (commencing with Section 3540) of
24 Division 4 of Title 1 of the Government Code, agrees to the paid
25 holiday.

26 This section shall apply to districts that have adopted the merit
27 system in the same manner and effect as if it were a part of Article
28 6 (commencing with Section 45240):

29 SEC. 9. Section 79020 of the Education Code is amended to
30 read:

31 79020. Except as otherwise provided the community colleges
32 shall continue in session or close on specified holidays as follows:

33 (a) The community colleges shall close on January 1st, the third
34 Monday in January, commencing in the 1989-90 fiscal year, known
35 as "Dr. Martin Luther King, Jr. Day," February 12th known as
36 "Lincoln Day," the third Monday in February known as
37 "Washington Day," the last Monday in May known as "Memorial
38 Day," July 4th, the first Monday in September known as "Labor
39 Day," November 11th known as "Veterans Day," that Thursday

1 in November proclaimed by the President as “Thanksgiving Day,”
2 and December 25th.

3 (b) Any contractual provision between any community college
4 district and its employees in effect on the effective date of the act
5 that adds this subdivision shall prevail over any conflict regarding
6 Dr. Martin Luther King, Jr. Day until the termination date of the
7 contract or upon termination by mutual agreement of the parties,
8 whichever occurs first.

9 (c) The Governor in appointing any other day for a public fast,
10 thanksgiving, or holiday may provide whether the community
11 colleges shall close on the day. If the Governor does not provide
12 whether the community colleges shall close, they shall continue
13 in session on all special or limited holidays appointed by the
14 Governor, but shall close on all other days appointed by the
15 Governor for a public fast, thanksgiving, or holiday.

16 (d) The community colleges shall close on every day appointed
17 by the President as a public fast, thanksgiving, or holiday, unless
18 it is a special or limited holiday.

19 (e) The community colleges shall continue in session on all
20 legal holidays other than those designated by or pursuant to this
21 section, and shall hold proper exercises commemorating the day.

22 (f) When any of the holidays on which the schools would be
23 closed fall on Sunday, the community colleges shall close on the
24 Monday following, except that (1) if Lincoln Day falls on a
25 Sunday, the community colleges may observe this holiday on the
26 preceding or following Friday, the following Monday, or the
27 following Tuesday, and maintain classes on the date specified in
28 subdivision (a) where applicable, or (2) if Lincoln Day falls on a
29 Monday, the community colleges may observe this holiday on the
30 preceding or following Friday, that Monday, or the following
31 Tuesday, and maintain classes on the date specified in subdivision
32 (a) where applicable.

33 (g) When any of the holidays on which the schools would be
34 closed, except Lincoln Day, fall on Saturday, the community
35 colleges shall close on the preceding Friday, and that Friday shall
36 be declared a state holiday.

37 (h) If any holiday on which the community colleges are required
38 to close pursuant to subdivision (a) occurs under federal law on a
39 date different than the date specified in subdivision (a), the
40 governing board of any community college district may close the

1 community colleges of the district on the date recognized by federal
2 law and maintain classes on the date specified in subdivision (a).

3 (i) ~~When Veterans Day would fall on Tuesday, the governing~~
4 ~~board of a community college district may close the colleges on~~
5 ~~the preceding Monday, and maintain classes on the date specified~~
6 ~~in subdivision (a). When Veterans Day would fall on Wednesday,~~
7 ~~the governing board of a community college district may close the~~
8 ~~colleges on either the preceding Monday or the following Friday,~~
9 ~~and maintain classes on the date specified in subdivision (a). When~~
10 ~~Veterans Day would fall on Thursday, the governing board of a~~
11 ~~community college district may close the colleges on the following~~
12 ~~Friday, and maintain classes on the date specified in subdivision~~
13 ~~(a).~~

14 (j) ~~When Lincoln Day would fall on Tuesday, the governing~~
15 ~~board of a community college district may close the colleges on~~
16 ~~the preceding Monday, the preceding Friday, or the following~~
17 ~~Friday, and maintain classes on the date specified in subdivision~~
18 ~~(a) where appropriate. When Lincoln Day would fall on~~
19 ~~Wednesday, the governing board of a community college district~~
20 ~~may close the colleges on the preceding Monday, the preceding~~
21 ~~Friday, or the following Friday, and maintain classes on the date~~
22 ~~specified in subdivision (a). When Lincoln Day would fall on~~
23 ~~Thursday, the governing board of a community college district~~
24 ~~may close the colleges on the preceding Friday or the following~~
25 ~~Friday, and maintain classes on the date specified in subdivision~~
26 ~~(a). When Lincoln Day falls on Saturday, the governing board of~~
27 ~~a community college district may close the colleges on the~~
28 ~~preceding Friday or the following Friday, and maintain classes on~~
29 ~~the date specified in subdivision (a) where appropriate.~~

30 (k) ~~In addition to the holidays specified in subdivision (a), a~~
31 ~~community college may close on March 31 known as “Cesar~~
32 ~~Chavez Day” if the governing board, pursuant to a memorandum~~
33 ~~of understanding reached pursuant to Chapter 10.7 (commencing~~
34 ~~with Section 3540) of Division 4 of Title 1 of the Government~~
35 ~~Code, agrees to close the community college for that purpose.~~

36 (l) ~~In addition to the holidays specified in subdivision (a), a~~
37 ~~community college may close on the second Monday in October~~
38 ~~known as “Native American Day” if the governing board, pursuant~~
39 ~~to a memorandum of understanding reached pursuant to Chapter~~
40 ~~10.7 (commencing with Section 3540) of Division 4 of Title 1 of~~

1 the Government Code, agrees to close the community college for
2 that purpose.

3 (m) This section shall not be interpreted as authorizing a
4 community college district governing board to maintain community
5 colleges in its district for a lesser number of days during the college
6 year than the minimum established by law.

7 SEC. 10.— Section 88203 of the Education Code is amended to
8 read:

9 88203. All probationary or permanent employees who are part
10 of the classified service shall be entitled to the following paid
11 holidays if they are in a paid status during any portion of the
12 working day immediately preceding or succeeding the holiday:
13 January 1, February 12 known as “Lincoln Day,” the third Monday
14 in February known as “Washington Day,” the last Monday in May
15 known as “Memorial Day,” July 4, the first Monday in September
16 known as “Labor Day,” November 11 known as “Veterans Day,”
17 that Thursday in November proclaimed by the President as
18 “Thanksgiving Day,” December 25, every day appointed by the
19 President, or the Governor of this state, as provided for in
20 subdivisions (c) and (d) of Section 79020 for a public fast,
21 thanksgiving or holiday, or any day declared a holiday under
22 Section 1318 for classified or academic employees. College
23 recesses during the Christmas and Easter periods shall not be
24 considered holidays for classified employees who are normally
25 required to work during that period; provided, however, that this
26 shall not be construed as affecting vacation rights specified in this
27 section.

28 Regular employees of the district who are not normally assigned
29 to duty during the college holidays of December 25 and January
30 1 shall be paid for those two holidays if they were in a paid status
31 during any portion of the working day of their normal assignment
32 immediately preceding or succeeding the holiday period.

33 When a holiday herein listed falls on a Sunday, the following
34 Monday shall be deemed to be the holiday in lieu of the day
35 observed. When a holiday herein listed falls on a Saturday, the
36 preceding Friday shall be deemed to be the holiday in lieu of the
37 day observed. When a classified employee is required to work on
38 any of said holidays, he or she shall be paid compensation, or given
39 compensating time off, for such work, in addition to the regular

1 pay received for the holiday, at the rate of time and one-half his
 2 or her regular rate of pay.

3 ~~Article 3 (commencing with Section 79020) of Chapter 8 of Part~~
 4 ~~48 of this division shall not be construed to in any way limit this~~
 5 ~~section, nor shall anything in this section be construed to prohibit~~
 6 ~~the governing board from adopting separate work schedules for~~
 7 ~~the academic and the classified services, or from providing holiday~~
 8 ~~pay for employees who have not been in paid status on the days~~
 9 ~~specified herein. Notwithstanding the adoption of separate work~~
 10 ~~schedules for the academic and the classified services, on any~~
 11 ~~school day during which students would otherwise have been in~~
 12 ~~attendance, but are not and for which faculty receive regular pay,~~
 13 ~~classified personnel shall also receive regular pay whether or not~~
 14 ~~they are required to report for duty that day.~~

15 ~~In addition to the other paid holidays specified in this section,~~
 16 ~~the classified service may be entitled to a paid holiday on March~~
 17 ~~31 known as “Cesar Chavez Day” and a paid holiday on the second~~
 18 ~~Monday in October known as “Native American Day,” if they are~~
 19 ~~in a paid status during any portion of the working day immediately~~
 20 ~~preceding or succeeding the holiday, if the governing board,~~
 21 ~~pursuant to a memorandum of understanding reached pursuant to~~
 22 ~~Chapter 10.7 (commencing with Section 3540) of Division 4 of~~
 23 ~~Title 1 of the Government Code, agrees to the paid holiday.~~

24 ~~This section shall apply to districts that have adopted the merit~~
 25 ~~system in the same manner and effect as if it were a part of Article~~
 26 ~~3 (commencing with Section 88060).~~

27 ~~SEC. 11. Section 6700 of the Government Code is amended~~
 28 ~~to read:~~

29 ~~6700. The holidays in this state are:~~

30 ~~(a) Every Sunday.~~

31 ~~(b) January 1st.~~

32 ~~(c) The third Monday in January, known as “Dr. Martin Luther~~
 33 ~~King, Jr. Day.”~~

34 ~~(d) February 12th, known as “Lincoln Day.”~~

35 ~~(e) The third Monday in February.~~

36 ~~(f) March 31st known as “Cesar Chavez Day.”~~

37 ~~(g) The last Monday in May.~~

38 ~~(h) July 4th.~~

39 ~~(i) The first Monday in September.~~

40 ~~(j) September 9th, known as “Admission Day.”~~

1 ~~(k) The second Monday in October, known as “Native American~~
2 ~~Day.”~~

3 ~~(l) November 11th, known as “Veterans Day.”~~

4 ~~(m) December 25th.~~

5 ~~(n) Good Friday from 12 noon until 3 p.m.~~

6 ~~(o) Every day appointed by the President or Governor for a~~
7 ~~public fast, thanksgiving, or holiday.~~

8 Except for the Thursday in November appointed as Thanksgiving
9 Day, this subdivision and subdivisions (c) and (f) shall not apply
10 to a city, county, or district unless made applicable by charter, or
11 by ordinance or resolution of the governing body thereof.

12 If the provisions of this section are in conflict with the provisions
13 of a memorandum of understanding reached pursuant to Chapter
14 12 (commencing with Section 3560) of Division 4 of Title 1, the
15 memorandum of understanding shall be controlling without further
16 legislative action, except that if those provisions of a memorandum
17 of understanding require the expenditure of funds, the provisions
18 shall not become effective unless approved by the Legislature in
19 the annual Budget Act.

20 ~~SEC. 12.~~ Section 6712 of the Government Code is amended
21 to read:

22 ~~6712.~~ The Governor shall proclaim annually the second
23 Monday in October to be “Native American Day.”

24 ~~SEC. 13.~~ Section 19853 of the Government Code is amended
25 to read:

26 19853. (a) All state employees shall be entitled to the following
27 holidays: January 1, the third Monday in January, the third Monday
28 in February, March 31, the last Monday in May, July 4, the first
29 Monday in September, the second Monday in October, November
30 11, Thanksgiving Day, the day after Thanksgiving, December 25,
31 the day chosen by an employee pursuant to Section 19854, and
32 every day appointed by the Governor of this state for a public fast,
33 thanksgiving, or holiday.

34 (b) If a day listed in this subdivision falls on a Sunday, the
35 following Monday shall be deemed to be the holiday in lieu of the
36 day observed. If November 11 falls upon a Saturday, the preceding
37 Friday shall be deemed to be the holiday in lieu of the day
38 observed.

39 (c) Any state employee who may be required to work on any
40 of the holidays included in this section, and who does work on any

1 of these holidays, shall be entitled to receive straight-time pay and
2 eight hours of holiday credit.

3 ~~(d) For the purpose of computing the number of hours worked,~~
4 ~~time when an employee is excused from work because of holidays,~~
5 ~~sick leave, vacation, annual leave, compensating time off, or any~~
6 ~~other leave shall not be considered as time worked by the employee~~
7 ~~for the purpose of computing cash compensation for overtime or~~
8 ~~compensating time off for overtime.~~

9 ~~(e) Persons employed on less than a full-time basis shall receive~~
10 ~~holidays in accordance with the Department of Human Resources~~
11 ~~rules.~~

12 ~~(f) If subdivision (a), (c), or (d) is in conflict with the provisions~~
13 ~~of a memorandum of understanding executed or amended pursuant~~
14 ~~to Section 3517.5 on or after February 1, 2009, or the date that the~~
15 ~~act adding this section takes effect, whichever is later, the~~
16 ~~memorandum of understanding shall be controlling without further~~
17 ~~legislative action, except that if those provisions of the~~
18 ~~memorandum of understanding require the expenditure of funds,~~
19 ~~the provisions shall not become effective unless approved by the~~
20 ~~Legislature in the annual Budget Act.~~

21 ~~(g) This section shall become operative on February 1, 2009,~~
22 ~~or the date that the act adding this section takes effect, whichever~~
23 ~~is later.~~

24 ~~SEC. 14. Section 19853.1 of the Government Code is amended~~
25 ~~to read:~~

26 ~~19853.1. (a) Notwithstanding Section 19853, this section shall~~
27 ~~apply to state employees in State Bargaining Unit 5.~~

28 ~~(b) Except as provided in subdivision (c), all employees shall~~
29 ~~be entitled to the following holidays: January 1, the third Monday~~
30 ~~in January, the third Monday in February, March 31, the last~~
31 ~~Monday in May, July 4, the first Monday in September, the second~~
32 ~~Monday in October, November 11, the day after Thanksgiving,~~
33 ~~December 25, and every day appointed by the Governor of this~~
34 ~~state for a public fast, thanksgiving, or holiday.~~

35 ~~If a day listed in this subdivision falls on a Sunday, the following~~
36 ~~Monday shall be deemed to be the holiday in lieu of the day~~
37 ~~observed. If November 11 falls upon a Saturday, the preceding~~
38 ~~Friday shall be deemed to be the holiday in lieu of the day~~
39 ~~observed. Any employee who may be required to work on any of~~
40 ~~the holidays included in this section and who does work on any~~

1 of these holidays shall be entitled to be paid compensation or given
2 compensating time off for that work in accordance with his or her
3 classification's assigned workweek group.

4 (e) If the provisions of subdivision (b) are in conflict with the
5 provisions of a memorandum of understanding reached pursuant
6 to Section 3517.5, the memorandum of understanding shall be
7 controlling without further legislative action, except that if the
8 provisions of a memorandum of understanding require the
9 expenditure of funds, the provisions shall not become effective
10 unless approved by the Legislature in the annual Budget Act.

11 (d) Any employee who either is excluded from the definition
12 of state employee in subdivision (c) of Section 3513, or is a
13 nonelected officer or employee of the executive branch of
14 government who is not a member of the civil service, is entitled
15 to the following holidays, with pay, in addition to any official state
16 holiday appointed by the Governor:

17 (1) January 1, the third Monday in January, the third Monday
18 in February, March 31, the last Monday in May, July 4, the first
19 Monday in September, November 11, Thanksgiving Day, the day
20 after Thanksgiving, and December 25.

21 (2) When November 11 falls on a Saturday, employees shall be
22 entitled to the preceding Friday as a holiday with pay.

23 (3) When a holiday, other than a personal holiday, falls on a
24 Saturday, an employee shall, regardless of whether he or she works
25 on the holiday, accrue only an additional eight hours of personal
26 holiday credit per fiscal year for the holiday. The holiday credit
27 shall be accrued on the actual date of the holiday and shall be used
28 within the same fiscal year.

29 (4) When a holiday other than a personal holiday falls on
30 Sunday, employees shall be entitled to the following Monday as
31 a holiday with pay.

32 (5) Employees who are required to work on a holiday shall be
33 entitled to pay or compensating time off for this work in accordance
34 with their classification's assigned workweek group.

35 (6) Persons employed on less than a full-time basis shall receive
36 holidays in accordance with the Department of Human Resources
37 rules.

38 (e) This section shall become effective with regard to the March
39 31 holiday only when the Department of Human Resources notifies
40 the Legislature that the language contained in this section has been

1 ~~agreed to by all exclusive representatives, and the Department of~~
2 ~~Human Resources authorizes this holiday to be applied to~~
3 ~~employees designated as excluded from the Ralph C. Dills Act~~
4 ~~(Chapter 10.3 (commencing with Section 3512), Division 4, Title~~
5 ~~1), and the necessary statutes are amended to reflect this change.~~

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