

ASSEMBLY BILL

No. 615

Introduced by Assembly Member Bocanegra

February 20, 2013

An act to amend Section 1253.3 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 615, as introduced, Bocanegra. Unemployment insurance: classified employees.

Existing law provides for the payment of unemployment compensation benefits and extended duration benefits to eligible persons who meet specified requirements. Existing law prohibits the payment of unemployment benefits to education employees of a public entity, as defined, including teachers, researchers, and administrators for the period between 2 academic years when there is a reasonable assurance that the employee will perform his or her regular services in the subsequent academic year, except as specified. Existing law similarly prohibits the payment of unemployment benefits to specified education employees of a public entity, other than teachers, researchers, or administrators between 2 academic years, except as specified, but provides a procedure for this 2nd category of educational employees, under certain conditions, to seek payment of retroactive unemployment benefits for the period between 2 academic years.

This bill would delete the prohibition on the payment of unemployment benefits to education employees, other than teachers, researchers, and administrators, as specified, between 2 academic years and would make conforming changes.

Because this bill would expand the categories of people who could receive benefits from the Unemployment Insurance Fund, a continuously-appropriated fund, it would make an appropriation.

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

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

1 SECTION 1. Section 1253.3 of the Unemployment Insurance
2 Code is amended to read:

3 1253.3. (a) Notwithstanding any other provision of this
4 division, unemployment compensation benefits, extended duration
5 benefits, and federal-state extended benefits are payable on the
6 basis of service to which Section 3309(a)(1) of the Internal
7 Revenue Code of 1954 applies, in the same amount, on the same
8 terms, and subject to the same conditions as benefits payable on
9 the basis of other service subject to this division, except as provided
10 by this section.

11 (b) Benefits specified by subdivision (a) based on service
12 performed in the employ of a nonprofit organization, or of any
13 entity as defined by Section 605, with respect to service in an
14 instructional, research, or principal administrative capacity for an
15 educational institution are not payable to any individual with
16 respect to any week which begins during the period between two
17 successive academic years or terms or, when an agreement provides
18 instead for a similar period between two regular but not successive
19 terms, during that period, or during a period of paid sabbatical
20 leave provided for in the individual’s contract, if the individual
21 performs services in the first of the academic years or terms and
22 if there is a contract or a reasonable assurance that the individual
23 will perform services for any educational institution in the second
24 of the academic years or terms.

25 ~~(c) Benefits specified by subdivision (a) based on service~~
26 ~~performed in the employ of a nonprofit organization, or of any~~
27 ~~entity as defined by Section 605, with respect to service in any~~
28 ~~other capacity than specified in subdivision (b) for an educational~~
29 ~~institution shall not be payable to any individual with respect to~~
30 ~~any week which commences during a period between two~~
31 ~~successive academic years or terms if the individual performs the~~
32 ~~service in the first of the academic years or terms and there is a~~

1 reasonable assurance that the individual will perform the service
2 in the second of the academic years or terms. However, if the
3 individual was not offered an opportunity to perform the services
4 for an educational institution for the second of the academic years
5 or terms, the individual shall be entitled to a retroactive payment
6 of benefits for each week for which the individual filed a timely
7 claim for benefits and for which benefits were denied solely by
8 reason of this subdivision. Retroactive benefits shall be claimed
9 in accordance with the department's procedures which shall specify
10 that except where the individual was entitled to benefits based on
11 services performed for other than an educational institution, an
12 individual who has a reasonable assurance of reemployment may
13 satisfy the search for work requirement of subdivision (e) of
14 Section 1253, by registering for work pursuant to subdivision (b)
15 of Section 1253 during the period between the first and second
16 academic terms or years. A claim for retroactive benefits may be
17 made no later than 30 days following the commencement of the
18 second academic year or term.

19 (d)

20 (c) Benefits specified by subdivision (a) based on service
21 performed in the employ of a nonprofit organization, or of any
22 entity as defined by Section 605, with respect to services specified
23 by subdivision (b) ~~or (e)~~, are not payable to any individual with
24 respect to any week that commences during an established and
25 customary vacation period or holiday recess if the individual
26 performs the services in the period immediately before the vacation
27 period or holiday recess, and there is a reasonable assurance that
28 the individual will perform the services in the period immediately
29 following the vacation period or holiday recess.

30 (e)

31 (d) With respect to any services specified by subdivision (b) ~~or~~
32 (e), compensation payable on the basis of services in that capacity
33 may be denied as specified in subdivision (b), ~~(e)~~, ~~or (d)~~ or (c) to
34 any individual who performed the services in an educational
35 institution while in the employ of an educational service agency,
36 and for this purpose the term "educational service agency" means
37 a governmental agency or governmental entity that is established
38 and operated exclusively for the purpose of providing the services
39 to one or more educational institutions.

40 (f)

1 (e) Benefits specified by subdivision (a) based on service
 2 performed in the employ of a nonprofit organization, or of any
 3 entity as defined by Section 605, are not payable during the periods
 4 of time, and subject to the same conditions, contained in
 5 subdivisions (b), (c), ~~(d)~~, and ~~(h)~~ and (g), if the services are
 6 provided to, or on behalf of, an educational institution.

7 ~~(g)~~

8 (f) For purposes of this section, “reasonable assurance” includes,
 9 but is not limited to, an offer of employment or assignment made
 10 by the educational institution, provided that the offer or assignment
 11 is not contingent on enrollment, funding, or program changes. An
 12 individual who has been notified that he or she will be replaced
 13 and does not have an offer of employment or assignment to perform
 14 services for an educational institution is not considered to have
 15 reasonable assurance.

16 ~~(h)~~

17 (g) For purposes of this section, if the time for service performed
 18 during the period of and pursuant to any contract for any academic
 19 year or term by an individual for any employing unit as specified
 20 in subdivision (b) ~~or (e)~~ constitutes one-half or more of the time
 21 in total service performed for the employing unit by the individual
 22 during that same period for remuneration, all the services of the
 23 individual for the employing unit for that period shall be deemed
 24 subject to the benefit payment restriction provisions of this section.

25 ~~(i)~~

26 (h) Any entity as defined by Section 605, with respect to any
 27 individual performing a service in any other capacity other than
 28 specified in subdivision (b) for an educational institution, shall
 29 provide a written statement indicating the following to the
 30 individual no later than 30 days before the end of the first of the
 31 academic years or terms:

32 (1) Whether or not there is a reasonable assurance of
 33 reemployment.

34 (2) Whether or not it is stated that the individual has no
 35 reasonable assurance of reemployment, that the individual should
 36 file a claim for benefits at the close of the academic year or term.

37 (3) If it is stated that the individual has reasonable assurance of
 38 reemployment, the written statement shall also inform the employee
 39 that he or she may file a claim for benefits and that the

1 determination for eligibility for benefits is made by the
2 Employment Development Department and not by the employer.

3 (4) If it is stated that the individual has reasonable assurance of
4 reemployment, that the individual shall be entitled to a retroactive
5 payment of benefits if the individual is not offered an opportunity
6 to perform the services for the educational institution for the second
7 of the academic years or terms, if the individual is otherwise
8 eligible and he or she filed a claim for each week benefits are
9 claimed, and if a claim for retroactive benefits is made no later
10 than 30 days following the commencement of the second academic
11 year or term.

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