

ASSEMBLY BILL

No. 399

Introduced by Assembly Member Ridley-Thomas

February 19, 2015

An act to amend Section 1253.3 of, and to repeal Sections 1451, 1452, and 1453 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 399, as introduced, Ridley-Thomas. 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. Existing law requires specified notice regarding reasonable assurance of employment in the following academic term be sent to employees before the end of the current academic term. Existing law also authorizes payment of unemployment insurance benefits, using funds from the State

Department of Education, to the 2nd category of educational employees at specified schools between academic terms in circumstances where benefits would otherwise be denied.

This bill would delete the prohibition on the payment of unemployment benefits to education employees of a public school, other than teachers, researchers, and administrators, as specified, between 2 academic years. The bill would phase in up to 8 weeks of benefits available to those specified employees over a 4-year timeframe and would make conforming changes, including eliminating the provisions for payment of unemployment benefits to these employees at the specified schools.

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) (1) 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, *except for a public school as*
- 14 *defined in Section 22161 of the Education Code*, with respect to
- 15 service in an instructional, research, or principal administrative
- 16 capacity for an educational institution are not payable to any
- 17 individual with respect to any week which begins during the period
- 18 between two successive academic years or terms or, when an
- 19 agreement provides instead for a similar period between two regular
- 20 but not successive terms, during that period, or during a period of
- 21 paid sabbatical leave provided for in the individual's contract, if

1 the individual performs services in the first of the academic years
2 or terms and if there is a contract or a reasonable assurance that
3 the individual will perform services for any educational institution
4 in the second of the academic years or terms.

5 (2) *Benefits specified by subdivision (a) are authorized for an*
6 *employee of a public school, as referenced in paragraph (1), as*
7 *follows:*

8 (A) *Two weeks of benefits during 2016 beginning July 1.*

9 (B) *Four weeks of benefits during 2017 beginning July 1.*

10 (C) *Six weeks of benefits during 2018 beginning July 1.*

11 (D) *Eight weeks of benefits during 2019 and each year thereafter*
12 *beginning July 1.*

13 (c) Benefits specified by subdivision (a) based on service
14 performed in the employ of a nonprofit organization, or of any
15 entity as defined by Section 605, with respect to service in any
16 other capacity than specified in subdivision (b) for an educational
17 institution shall not be payable to any individual with respect to
18 any week which commences during a period between two
19 successive academic years or terms if the individual performs the
20 service in the first of the academic years or terms and there is a
21 reasonable assurance that the individual will perform the service
22 in the second of the academic years or terms. However, if the
23 individual was not offered an opportunity to perform the services
24 for an educational institution for the second of the academic years
25 or terms, the individual shall be entitled to a retroactive payment
26 of benefits for each week for which the individual filed a timely
27 claim for benefits and for which benefits were denied solely by
28 reason of this subdivision. Retroactive benefits shall be claimed
29 in accordance with the department's procedures which shall specify
30 that except where the individual was entitled to benefits based on
31 services performed for other than an educational institution, an
32 individual who has a reasonable assurance of reemployment may
33 satisfy the search for work requirement of subdivision (e) of
34 Section 1253, by registering for work pursuant to subdivision (b)
35 of Section 1253 during the period between the first and second
36 academic terms or years. A claim for retroactive benefits may be
37 made no later than 30 days following the commencement of the
38 second academic year or term.

39 (d) Benefits specified by subdivision (a) based on service
40 performed in the employ of a nonprofit organization, or of any

1 entity as defined by Section 605, with respect to services specified
2 by subdivision (b) or (c), are not payable to any individual with
3 respect to any week that commences during an established and
4 customary vacation period or holiday recess if the individual
5 performs the *specified* services in the ~~period~~ *week* immediately
6 before the vacation period or holiday recess, and there is a
7 reasonable assurance that the individual will perform the services
8 in the period immediately following the vacation period or holiday
9 recess.

10 (e) With respect to any services specified by subdivision (b) or
11 (c), compensation payable on the basis of services in that capacity
12 may be denied as specified in subdivision (b), (c), or (d) to any
13 individual who performed the services in an educational institution
14 while in the employ of an educational service agency, and for this
15 purpose the term “educational service agency” ~~means~~ *is defined*
16 *as* a governmental agency or governmental entity that is established
17 and operated exclusively for the purpose of providing the services
18 to one or more educational institutions.

19 (f) Benefits specified by subdivision (a) based on service
20 performed in the employ of a nonprofit organization, or of any
21 entity as defined by Section 605, are not payable during the periods
22 of time, and subject to the same conditions, contained in
23 subdivisions (b), (c), (d), and (h), if the services are provided to,
24 or on behalf of, an educational institution.

25 (g) For purposes of this section, “reasonable assurance” includes,
26 but is not limited to, an offer of employment or assignment made
27 by the educational institution, provided that the offer or assignment
28 is not contingent on enrollment, funding, or program changes. An
29 individual who has been notified that he or she will be replaced
30 and does not have an offer of employment or assignment to perform
31 services for an educational institution is not considered to have
32 reasonable assurance.

33 (h) For purposes of this section, if the time for service performed
34 during the period of and pursuant to any contract for any academic
35 year or term by an individual for any employing unit as specified
36 in subdivision (b) or (c) constitutes one-half or more of the time
37 in total service performed for the employing unit by the individual
38 during that same period for remuneration, all the services of the
39 individual for the employing unit for that period shall be deemed
40 subject to the benefit payment restriction provisions of this section.

1 (i) Any entity as defined by Section 605, with respect to any
2 individual performing a service in any other capacity other than
3 specified in subdivision (b) for an educational institution, shall
4 provide a written statement indicating the following to the
5 individual no later than 30 days before the end of the first of the
6 academic years or terms:

7 (1) Whether or not there is a reasonable assurance of
8 reemployment.

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

12 (3) If it is stated that the individual has reasonable assurance of
13 reemployment, the written statement shall also inform the employee
14 that he or she may file a claim for benefits and that the
15 determination for eligibility for benefits is made by the
16 Employment Development Department and not by the employer.

17 (4) If it is stated that the individual has reasonable assurance of
18 reemployment, that the individual shall be entitled to a retroactive
19 payment of benefits if the individual is not offered an opportunity
20 to perform the services for the educational institution for the second
21 of the academic years or terms, if the individual is otherwise
22 eligible and he or she filed a claim for each week benefits are
23 claimed, and if a claim for retroactive benefits is made no later
24 than 30 days following the commencement of the second academic
25 year or term.

26 SEC. 2. Section 1451 of the Unemployment Insurance Code
27 is repealed.

28 ~~1451. Nonprofessional employees of the Fremont and Riverside~~
29 ~~campuses of the California School for the Deaf, the Fremont~~
30 ~~campus of the California School for the Blind, and the diagnostic~~
31 ~~schools for individuals with neurological disabilities located in~~
32 ~~Los Angeles, San Francisco, and Fresno, shall be eligible for~~
33 ~~benefits provided by this chapter, on the same terms and conditions~~
34 ~~as are specified by this part, Part 3 (commencing with Section~~
35 ~~3501), and Part 4 (commencing with Section 4001), for all other~~
36 ~~individuals, except where inconsistent with the provisions of this~~
37 ~~chapter. Except where inconsistent with the provisions of this~~
38 ~~chapter, the provisions of this division and authorized regulations~~
39 ~~shall apply to any matter arising pursuant to this chapter.~~

1 SEC. 3. Section 1452 of the Unemployment Insurance Code
2 is repealed.

3 ~~1452. Notwithstanding Section 1253.3, between terms~~
4 ~~unemployment compensation benefits are payable by the~~
5 ~~Controller, from funds appropriated for support of the State~~
6 ~~Department of Education and allocated to the state special schools,~~
7 ~~upon authorization by the Employment Development Department~~
8 ~~to individuals who are eligible to receive these benefits under this~~
9 ~~chapter. These benefits shall only be paid for weeks of~~
10 ~~unemployment occurring between school terms and during an~~
11 ~~established and customary vacation period or holiday recess when~~
12 ~~other benefits are denied solely by reason of Section 1253.3.~~

13 SEC. 4. Section 1453 of the Unemployment Insurance Code
14 is repealed.

15 ~~1453. (a) There shall be transferred to the Employment~~
16 ~~Development Department from funds appropriated for support of~~
17 ~~the State Department of Education and allocated to the state special~~
18 ~~schools, at the times and in the manner provided in subdivision~~
19 ~~(b), an amount equal to the additional cost to the Employment~~
20 ~~Development Department for added administrative work arising~~
21 ~~out of this chapter.~~

22 ~~(b) The director shall determine the sums he or she estimates~~
23 ~~the department will be entitled to receive from the State Department~~
24 ~~of Education under this section for each fiscal year, reduced or~~
25 ~~increased by any sum by which he or she finds that his or her~~
26 ~~estimates for any prior fiscal year were greater or less than the~~
27 ~~amounts which were actually required. The sum of the amounts~~
28 ~~transferred or expended pursuant to Section 1452, subdivision (a),~~
29 ~~and this subdivision in any one fiscal year shall not exceed the~~
30 ~~amount appropriated in the then current fiscal year to the State~~
31 ~~Department of Education for the purposes of this chapter.~~

32 ~~(c) The director may require from the State Department of~~
33 ~~Education such employment, wage, financial, statistical, or other~~
34 ~~information and reports, properly verified, as may be deemed~~
35 ~~necessary by the director to carry out his or her duties under this~~
36 ~~division, which shall be filed with the director at the time and in~~
37 ~~the manner prescribed by him or her.~~

38 ~~(d) The director may tabulate and publish information obtained~~
39 ~~pursuant to this chapter in statistical form and may divulge the~~
40 ~~name of the employing unit.~~

1 ~~(e) The State Department of Education shall provide each~~
2 ~~employee subject to this chapter, at the end of each school term,~~
3 ~~with written information advising the employee of benefit rights~~
4 ~~pursuant to this chapter.~~

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