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An act to amend Sections 19878, 19879.1, 19880, 19881, 19882, 19883, and 19884 of, and to add Sections 3539.6 and 19878.5 to, the Government Code, relating to public employment.



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

SECTION 1. Section 3539.6 is added to the Government Code, to read:

3539.6. Notwithstanding any other law, an employee excluded from the definition of "state employee" in subdivision (c) of Section 3513 or a nonelected officer of the executive branch exempt from civil service eligible for managerial benefits, who elects to participate in the annual leave program and who is eligible to receive Nonindustrial Disability Insurance benefits pursuant to Section 19879.1, shall also be eligible for Nonindustrial Disability Insurance Family Care Leave under that section.

SEC. 2. Section 19878 of the Government Code is amended to read:

19878. (a) As used in this article:

(1) "Appeals board" means the California Unemployment Insurance Appeals Board.

(2) "Disability" or "disabled" includes mental or physical illness and mental or physical injury, including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of the employee's physical, mental, or medical condition, the employee is unable to perform their regular or customary work.

(3) "Disability benefit period," with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits or Nonindustrial Disability Insurance Family Care Leave benefits. For the purposes of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(a)

(4) "Employee" means any of the following:

(1)

(A) A permanent or probationary full-time state officer or employee, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after October 1, 1976. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(2)

(B) A permanent or probationary part-time or intermittent state officer or employee, with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979, or a part-time or intermittent employee of the Legislature, whether or not a member of the Public Employees' Retirement System, in compensated employment on or after January 1, 1984.

(b)

(5) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of ~~his or her~~ the employee's disability.



~~(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury, including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.~~

~~(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.~~

~~(e) "Appeals board" means the California Unemployment Insurance Appeals Board.~~

(6) "Nonindustrial Disability Insurance Family Care Leave" has the same meaning as "family care leave" as defined in Section 3302 of the Unemployment Insurance Code. The definitions of terms in Section 3302 of the Unemployment Insurance Code that are relevant for purposes of the definition of "family care leave" in that section shall also apply. Commencing January 1, 2021, "Nonindustrial Disability Insurance Family Care Leave" shall also include for these purposes qualifying exigency leave as described in Section 3302.2 of the Unemployment Insurance Code.

(7) "Nonindustrial Disability Insurance Family Care Leave benefits" or "Family Care Leave benefits" means benefits authorized by Section 19878.5.

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(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if ~~such~~ those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

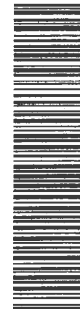
SEC. 3. Section 19878.5 is added to the Government Code, to read:

19878.5. For purposes of this article relating to Nonindustrial Disability Insurance Family Care Leave, an "eligible employee" is an employee excluded from the definition of "state employee" in subdivision (c) of Section 3513 or a nonelected officer of the executive branch exempt from civil service and eligible for managerial benefits, who has enrolled in the annual leave program under Article 2.5 (commencing with Section 19858.3). An eligible employee shall be entitled to receive up to six weeks of benefits during a 12-month period for Nonindustrial Disability Insurance Family Care Leave in accordance with this article.

SEC. 4. Section 19879.1 of the Government Code is amended to read:

19879.1. (a) For the purpose of this ~~section~~, section relating to nonindustrial disability leave benefits, an eligible employee is an employee defined by Section 19858.3.

(b) Notwithstanding any other provision of this article, an eligible employee who has enrolled in the annual leave program under Article 2.5 (commencing with Section 19858.3) shall receive nonindustrial disability leave benefits or Family Care Leave benefits under this article in accordance with all of the following:



(1) A disabled employee shall be eligible to receive Nonindustrial Disability Insurance benefits in an amount equal to one-half full pay, 50 percent of gross salary. An employee covered by Section 19878.5 shall be eligible to receive Nonindustrial Disability Insurance Family Care Leave benefits in an amount equal to one-half full pay, 50 percent of gross salary.

(2) A disabled employee ~~or an employee covered by Section 19878.5~~ shall be eligible to receive ~~Nonindustrial Disability Insurance~~ benefits described in paragraph (1) without being required to use any sick leave accrued under Article 3 (commencing with Section 19859) or annual leave accrued under Article 2.5 (commencing with Section 19858.3) unless the employee, ~~in his or her~~ the employee's sole discretion, elects to use sick leave or annual leave in lieu of receiving benefits.

(3) If the employee elects to use sick leave or annual leave credits prior to receiving ~~Nonindustrial Disability Insurance~~ payments, ~~he or she~~ payments, the employee shall not be required to exhaust the accrued leave balance.

(4) Following the start of ~~Nonindustrial Disability Insurance~~ payments, an employee may at any time change from the receipt of ~~Nonindustrial Disability Insurance~~ payments to the utilization of sick leave or annual leave. Once this election is made, the employee ~~may~~ shall not recommence receiving ~~Nonindustrial Disability Insurance~~ payments until that leave is exhausted.

(5) In accordance with the state's return to work policy, ~~an a disabled~~ a disabled employee who is eligible to receive Nonindustrial Disability Insurance benefits and who is medically certified as unable to return to ~~his or her~~ the employee's full-time work during the period of ~~his or her~~ their disability, may, with medical approval, and at the discretion of ~~his or her~~ the employee's appointing power, work up to the number of hours, in hour increments, which when combined with ~~his or her~~ the employee's Nonindustrial Disability Insurance benefits will result in a salary that does not exceed 100 percent of ~~his or her~~ their regular full pay.

(6) If ~~an a disabled~~ a disabled employee refuses to return to work in a position offered by the employer under the state's Injured State Worker Assistance Program, Nonindustrial Disability Insurance benefits shall be terminated effective as of the date of the offer.

(7) ~~An employee may~~ employee, with ~~his or her~~ their department head's approval ~~approval, may~~ may elect to supplement ~~Nonindustrial Disability Insurance~~ benefits described in paragraph (1) with sick or annual leave up to 100 percent of ~~his or her~~ their regular full pay.

SEC. 5. Section 19880 of the Government Code is amended to read:

19880. (a) A disabled employee or an employee covered by Section 19878.5 is eligible to receive nonindustrial disability benefits or Family Care Leave benefits, as applicable, under this article, equal to one-seventh of his or her the employee's weekly benefit amount specified in Section 19879 for each full day during which he or she the employee is unemployed due to a disability their own disability, or due to Nonindustrial Disability Insurance Family Care Leave, only if the Director of Employment Development finds that:

~~(a) He or she~~

(1) The employee has made a claim for ~~disability~~ benefits as required by authorized regulations.

~~(b) He or she~~



(2) A disabled employee has been disabled for a waiting period of seven consecutive days during each disability benefit period, with respect to which waiting period no benefits under this article are payable, except for confinement in a hospital or nursing home for at least one day.

~~(e) He or she~~

(3) The employee has exhausted all the leave to which ~~he or she~~ the employee was entitled under Article 3 (commencing with Section 19859). A person who elects to use vacation credits or sick leave credits prior to receiving nonindustrial disability benefits is not required to exhaust the leave, as described in this subdivision, if ~~he or she~~ the person is a permanent employee who meets any of the following criteria:

~~(1)~~

(A) Is excluded from the definition of state employee contained in subdivision (c) of Section 3513.

~~(2)~~

(B) Is a nonelected officer or employee of the executive branch of state government and is not a member of the civil service.

~~(4)~~

(4) Except for an individual described in Section 2709 of the Unemployment Insurance Code, ~~he or she~~ a disabled individual has submitted to any reasonable examinations as the Director of Employment Development may require for the purpose of determining ~~his or her mental or physical disability.~~ benefit eligibility.

~~(e) He or she~~

(5) A disabled person has filed a certificate described in Section 2708 or 2709 of the Unemployment Insurance Code.

~~(f)~~

(6) Except as otherwise provided, ~~he or she~~ a disabled person meets, in all other respects, the eligibility requirements imposed on individuals by Part 2 (commencing with Section 2601) of Division 1 of the Unemployment Insurance Code for receipt of unemployment compensation disability benefits.

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(b) In case of any conflict between Part 2 (commencing with Section 2601) of the Unemployment Insurance Code and this chapter, this chapter shall prevail.

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(c) If the provisions of this section conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 6. Section 19881 of the Government Code is amended to read:

19881. (a) An employee is not eligible for disability benefits or Family Care Leave benefits under this article with respect to any period for which the Director of Employment Development finds that ~~he or she~~ the employee has received or is entitled to receive unemployment compensation benefits under Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code or under an unemployment compensation act of any other state or of the federal government.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum



of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 7. Section 19882 of the Government Code is amended to read:

19882. (a) Except as provided in this section, an individual is not eligible for disability benefits or Family Care Leave benefits under this article for any day of unemployment and disability or family temporary disability insurance for which ~~he or she~~ the individual has received, or is entitled to ~~receive~~ receive, "other benefits" in the form of cash payments.

(b) "Other benefits" as used in this section means:

(1) Temporary disability indemnity under a workers' compensation law of this state or of any other state or of the federal government or under Article 4 (commencing with Section 19869) of this part.

(2) Temporary disability benefits under any employer's liability law of this state or of any other state or of the federal government.

(c) If such "other benefits" are less than the amount an individual would otherwise receive as disability benefits under this article, ~~he or she~~ they shall be entitled to receive, for such day, if otherwise eligible, disability benefits under this article reduced by the amount of such "other benefits." If after receipt of, or determination of entitlement to receive, such other benefits, a claim for disability benefits under this article is filed during the same continuous period of disability, because of a disability for which a claim for such other benefits was made, the maximum amount of disability benefits payable under this article during the disability benefit period thereby established shall be reduced by the amount of such "other benefits" which the claimant has received or has been determined to be entitled to receive.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 8. Section 19883 of the Government Code is amended to read:

19883. (a) (1) Discretionary deductions of the employee, including those for coverage under a state health benefits plan in which the employee is enrolled, shall be deducted from the disability benefits or Family Care Leave benefits under this article unless canceled by the employee. If an employee deduction under a state health benefits plan is continued, the state employer contribution shall also continue.

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(2) An employee shall not receive service credit under the Public Employees' Retirement System or the State Teachers' Retirement System during the period of receipt of disability benefits under this article and contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall not be deducted. State employer contributions shall also not be made to either system during such period.

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(3) An employee shall not accrue sick leave or vacation credit or service credit for any other purpose during the period of receipt of disability benefits under this



article, except, when provided by a rule or regulation adopted by the department, an employee receiving ~~nonindustrial disability insurance~~ those benefits pursuant to Section 19879.1 may accrue these credits to the extent that annual leave or sick leave credits are used to supplement ~~nonindustrial disability insurance~~ those benefits.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 9. Section 19884 of the Government Code is amended to read:

19884. (a) (1) Filing, determination, and payment of disability benefit claims under this article shall be made in accordance with the procedures prescribed by Article 4 (commencing with Section 2701) of Chapter 2 of Part 2 of Division 1 of the Unemployment Insurance Code.

(2) Filing, determination, and payment of claims for Family Care Leave benefit claims under this article shall be made in accordance with the same qualifying conditions set forth in subdivision (a) of Section 3301 of the Unemployment Insurance Code. Notwithstanding specified dates, all relevant definitions and provisions in Sections 2708 and 2709, Sections 3302 to 3304, inclusive, and Sections 3306 and 3307 of the Unemployment Insurance Code, and Chapter 2.4 (commencing with Section 2781) of Part 2 of Division 1 of the Unemployment Insurance Code, shall also apply.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Nonindustrial disability insurance benefits: family care leave.

(1) Existing law establishes, within the state disability insurance program, a family temporary disability insurance program, also known as the Paid Family Leave program, for the provision of wage replacement benefits to workers who take time off work to care for a seriously ill family member or to bond with a minor child within one year of birth or placement, for up to 6 weeks within any 12-month period.

Under existing law, when a state employee is disabled, whether temporarily or permanently, the employee is entitled, subject to certain conditions, to receive specified Nonindustrial Disability Insurance benefits, unless a memorandum of understanding conflicts with this requirement. Existing law authorizes an eligible employee, as defined, who has enrolled in the state annual leave program to receive Nonindustrial Disability Insurance benefits equal to $\frac{1}{2}$ pay in lieu of using sick leave or annual leave.

This bill would authorize an eligible employee, as defined, to receive Nonindustrial Disability Insurance Family Care Leave benefits equal to $\frac{1}{2}$ pay in lieu of using sick leave or annual leave, for up to 6 weeks of benefits during any 12-month period, for Nonindustrial Disability Insurance Family Care Leave, as defined. The bill would make conforming changes to existing Nonindustrial Disability Insurance benefits provisions.

(2) The existing Bill of Rights for State Excluded Employees prescribes various rights and terms and conditions of employment for excluded employees, defined as certain supervisory, managerial, and confidential state employees, among other specified employees.

This bill would amend the bill of rights to make certain employees or nonelected officers, who elect to participate in the state annual leave program and who are eligible to receive Nonindustrial Disability Insurance benefits that provide $\frac{1}{2}$ pay, eligible for Nonindustrial Disability Insurance Family Care Leave benefits established by the bill.

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

