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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair

2015 - 2016 Regular

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**Bill No:** AB 2294  
**Author:** Gomez  
**Version:** May 9, 2016  
**Urgency:** No  
**Consultant:** Lenin DelCastillo

**Hearing Date:** June 8, 2016  
**Fiscal:** Yes

**Subject:** The California State University: employees: leaves of absence without loss of compensation

## SUMMARY

This bill requires the California State University (CSU) to grant an employee a leave of absence without loss of compensation to serve as an elected officer of any CSU campus public employee organization.

## BACKGROUND

Existing law:

- 1) Establishes the CSU governed by the Board of Trustees (Trustees) and provides that that the Trustees are responsible for the rule of government of their appointees and employees. (Education Code § 89500, et seq.)
- 2) Establishes the Higher Education Employer-Employee Relations Act (HEERA) to provide a statutory framework to regulate labor relations at the University of California, the CSU, and Hastings College of Law and their employees and provides the Public Employment Relations Board (PERB) with the authority to enforce HEERA. (Government Code § 3560-3599)
- 3) Requires the governing board of a school district to grant any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local school district public employee organization or any statewide or national public employee organization with which the local organization is affiliated. Provides that following the district's payment of the employee for the leave of absence, the district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. (Education Code § 44987)
- 4) Requires the governing board of a community college district to grant any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local school district public employee organization or any statewide or national public employee organization with which the local organization is affiliated. Provides that following the district's payment of the employee for the leave of absence, the district shall be reimbursed by the employee organization of which the employee

is an elected officer for all compensation paid the employee on account of the leave. (Education Code § 87768.5)

## ANALYSIS

This bill:

- 1) Requires the California State University (CSU) Trustees to grant any employee, upon a request that provides at least 30 days of notice before commencement, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any CSU campus public employee organization or any statewide or national public employee organization with which the university campus organization is affiliated.
- 2) Provides that the leave shall include, but is not limited to, absence for purposes of attendance by the employee at meetings of the organization, as specified.
- 3) Provides that compensation during the leave shall include retirement fund contributions required of the employer, including any amount necessary to pay any unfunded liability cost for the retirement plan.
- 4) Provides that the employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed, and provides that the maximum amount of the service credit earned shall not exceed 12 calendar years.
- 5) Provides that any employee who serves as a full-time officer of a public employee organization shall not be eligible for disability benefits under the Public Employees' Retirement System while on the leave of absence.
- 6) Provides that following payment of the employee for the leave of absence, the CSU or campus shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Requires reimbursement by the employee organization to be made within 10 days after its receipt of the certification of payment of compensation to the employee.
- 7) Provides that the leave of absence without loss of compensation provided for by this bill is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by Section 3569 of the Government Code.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "in the state's K-12 and community college systems, employees are routinely granted leaves of absence without loss of pay to enable the employee to serve as an elected officer of a union with which his or her labor union is affiliated. Education Code Sections 44987 (K-12) and 87768.5 (community colleges) specify that compensation during the leave includes retirement costs while on the leave of absence. A

recent review of the California Education Code revealed that California State University (CSU) faculty lack statutory parity for identical leaves of absence.” The author argues that legislation is necessary to ensure that CSU employees have the right to take leave time to participate in leadership roles with their union affiliates. The author’s office indicates that CSU faculty participation in a union elected leadership position is subject to the discretion of the CSU, under relevant memorandums of understanding (MOUs) and local bargaining agreements.

- 2) **Consistency with K-12 school districts and community colleges.** Current law requires school districts and the community colleges to grant employees a leave of absence without loss of compensation to serve as elected officers of a union. The districts are then reimbursed by the employee organization of which the employee is an elected officer for all compensation paid to the employee while on leave, including any retirement costs. While each of the CSU’s 13 bargaining groups have agreements that provide some level of leave for academic employees to work on behalf of their union, the amounts may vary and are not specified in statute.
- 3) **Arguments in opposition.** The CSU opposes this bill, arguing that the measure sidesteps the collective bargaining process where union leave requests are a negotiated term of employment and therefore would impact 13 collective bargaining units. This would hinder the CSU’s ability to consider these leave requests in the context of its impact on campus operations and instruction. For example, CSU notes that under the current faculty agreement there is a notice requirement and an opportunity to discuss the impact of the release time on academic departments. Additionally, the bill only provides a 30 day notification blanket waiver for all requests, without reference to the academic term. CSU indicates that a campus should be notified before the academic terms begin so that students taking a course with a faculty member that goes on leave are not negatively impacted by mid-term changes in instructors. For this reason, **staff recommends** that the bill be amended to specify that “when possible, an employee shall provide a notice of at least 30 days before the start of the academic term during which the leave will occur.”
- 4) **Technical amendment.** The bill currently requires the trustees of the CSU to grant the employee leave requests that would be authorized, upon request. However, the CSU believes that for practical purposes, the request should be made to the CSU Chancellor’s Office or campus rather than the trustees. For example, the CSU indicates that “the Board of Trustees only meets every other month for two days and therefore it seems impractical for the Board to grant a leave within the time constraints provided by this measure.” Therefore, **staff recommends** an amendment to replace “trustees” with the “California State University.”
- 5) **Fiscal impact.** According to the Assembly Appropriations Committee, this bill would result in net minor costs or savings to CSU. To the extent more employees take leave, CSU could experience increased administrative costs to fill the additional vacant positions. It is assumed that the replacement employee would generally receive less, or at most, the same compensation as the

employee on leave, whose compensation (salary, retirement contribution, health care benefits) would be fully reimbursed by the union.

**SUPPORT**

California Faculty Association  
California Labor Federation  
California State University Employees Union  
California Teachers Association  
Service Employees International Union

**OPPOSITION**

California State University

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