
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: SB 731 **Hearing Date:** April 26, 2017
Author: Newman and Jackson
Version: February 17, 2017
Urgency: No **Fiscal:** No
Consultant: Ian Johnson

Subject: Public school employees: military veterans: leave of absence for illness or injury

SUMMARY

This bill provides school employees who are members or military veterans of the California National Guard or reserve component of the military returning from a military mobilization with a service-connected disability with additional paid leave of absence for illness or injury, for the purpose of undergoing medical treatment for those disabilities.

BACKGROUND

Existing law:

- 1) Provides certificated and classified school employees hired on or after January 1, 2017 who are military veterans with service-connected disabilities with additional paid leave of absence for illness or injury, for the purpose of undergoing medical treatment for those disabilities during their first year of employment. (Education Code § 44978.2 and 45191.5)
- 2) Provides every certificated employee that is employed five days a week by a school district with 10 days of leave of absence for illness or injury and additional days that the governing board may allow for illness or injury with full pay for a year of service. Certificated employees that are employed less than five days per week shall be entitled to that proportion of 10 days of this leave of absence as the number of days worked per week is proportional to five days per week. The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury to utilize sick leave. (EC § 44978)
- 3) Provides every classified employee that is employed five days a week by a school district with 12 days of leave of absence for illness or injury and such additional days as the governing board may allow for illness or injury with full pay for a fiscal year of service. Classified employees that are employed less than five days per week shall be entitled to that proportion of 12 days of this leave of absence as the number of days worked per week is proportional to five days per week. The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury to utilize sick leave. (EC § 45191)

ANALYSIS

This bill:

- 1) Provides school employees, who are members or military veterans of the California National Guard or reserve component of the federal military returning from a federal military mobilization with service-connected disabilities rated at 30 percent or higher, with leave of absence for illness or injury, with pay and in addition to any other entitlement for leave of absence for illness or injury, for the purpose of undergoing medical treatment for those disabilities, as follows:
 - a) Up to 10 days for certificated employees, as specified.
 - b) Up to 12 days for classified employees, as specified.
- 2) Regarding certificated school employees:
 - a) Establishes eligibility for an employee who is a member or military veteran of the California National Guard or reserve component of the federal military returning from a federal military mobilization with a service-connected disability rated at 30 percent or more by the United States Department of Veterans Affairs that was incurred during the federal active duty recently completed.
 - b) Provides that certificated school employees be entitled to a leave of absence for illness or injury with pay of up to 10 days for the purpose of undergoing medical treatment for the service-connected disability, as specified.
 - c) Provides that credit for this leave of absence for illness or injury shall be credited on the first day of employment and shall remain available for use for the following 12 months of employment.
 - d) Provides that leave of absence not used during the 12-month period shall not be carried over and shall be forfeited.
 - e) Provides that submission of satisfactory proof that use of this leave of absence is for treatment of a service-connected disability may be required pursuant to rules adopted by the governing board of a school district.
 - f) Provides that an eligible employee, employed less than five days per week, shall be entitled to that proportion of 10 days of this leave of absence as the number of days worked per week is proportional to five days per week.
- 3) Regarding classified school employees:
 - a) Establishes eligibility for an employee who is a member or military veteran of the California National Guard or reserve component of the federal military returning from a federal military mobilization with a service-

connected disability rated at 30 percent or more by the United States Department of Veterans Affairs (USDVA) that was incurred during the federal active duty recently completed.

- b) Provides that classified school employees are entitled to a leave of absence for illness or injury with pay of up to 12 days for the purpose of undergoing medical treatment for the service-connected disability, as specified.
- c) Provides that credit for this leave of absence for illness or injury shall be credited on the first day of employment and shall remain available for use for the following 12 months of employment.
- d) Provides that leave of absence not used during the 12-month period shall not be carried over and shall be forfeited.
- e) Provides that submission of satisfactory proof that use of this leave of absence is for treatment of a service-connected disability may be required pursuant to rules adopted by the governing board of a school district.
- f) Provides that a classified employee, who is employed five days a week, and who is employed for less than a full fiscal year, shall be entitled to that proportion of 12 days this leave of absence proportional as the number of months worked is proportional to 12 months.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, existing law, enacted by SB 1180 of 2016 by Senator Jackson, provides new school employees who are military veterans with service-connected disabilities with additional paid leave of absence for illness or injury, for the special purpose of undergoing medical treatment. SB 1180 addresses only new hires, and does not take into account the needs of current school employees who also serve as members of federally recognized military reserve components, such as the National Guard or federal military reserves. While new hires can receive their benefits of SB 1180, existing employees who may incur injuries leading to a service-related disability while mobilized onto active federal military duty, may have no means of taking leave to seek appropriate, treatment for those disabilities.

This bill would expand the existing SB 1180 sick leave provisions to include current school employees who also serve as members of federally recognized military reserve components, such as the National Guard or federal military reserves—both classified and certificated. The bill also applies the same time limits and accountability measures that were enacted in SB 1180.

- 2) ***Veterans with service-connected disabilities.*** The Senate Committee on Veterans Affairs indicates that the United States Department of Veterans Affairs provides direct health care treatment and monetary compensation to veterans with service-connected disabilities. A service-connected disability is an injury or disease certified by the USDVA as having occurred during active duty, or made

worse by active military service. The United States Department of Veterans Affairs (USDVA) rates disabilities to facilitate in-patient and out-patient health care and to evaluate claims for disability compensation. The extent of health care provided and the amount of disability benefit paid may vary depending on the condition's rated severity.

A veteran need not be totally disabled in order to be eligible for compensation. USDVA rates disability along a continuum of 0 percent - to - 100 percent in 10 percent increments, depending upon the level of disability determined. The disability percentage also can be derived by analyzing the composite condition of an individual veteran with multiple disabilities. The 10 percent rating is the lowest for which compensable income is awarded. A veteran with a 100 percent rating will have one or more disabilities that significantly interfere with normal life functions. A veteran with a 0 percent rating may have a service-connected condition, but the condition does not interfere with normal life functions. The majority of disabled veterans are rated between 10 percent - 30 percent.

In general, it makes sense for a veteran to seek an initial disability evaluation because, even for a condition likely to receive a 0 percent rating (which is not monetarily compensable). The reason is that the veteran, at a minimum, will have documented a service-connected health condition, which may deteriorate later into a more serious, perhaps compensable disability. In addition, individuals with a 0 percent rating may be eligible for federal and state veterans' benefits other than monetary compensation. As time passes, a veteran's disability claim may require re-ratings. The re-ratings can be initiated by administrative decisions by the USDVA, changes in law, advances in medical knowledge, or fluctuations in the veteran's physical or mental condition. A re-rating can cause an individual's percentage to go up or down.

- 3) **Technical Amendment.** If it is the desire of the Committee to pass this measure, **staff recommends** that the bill be amended to specify that credit for leave of absence for illness or injury granted by this bill be credited to a qualifying certificated or classified employee on the first day after returning to school employment and remain available for use for the following 12 months of employment.
- 4) **Prior Legislation.**

SB 1180 (Jackson, Chapter 728, Statutes of 2016) provides school employees who are military veterans with service-connected disabilities with additional paid leave of absence for illness or injury, for the purpose of undergoing medical treatment for those disabilities, during their first year of employment. This measure was passed by the Legislature and signed by the Governor.

SUPPORT

American Federation of State, County, and Municipal Employees
American G.I. Forum of California
AMVETS Department of California
California Association of County Veterans Service Officers

California School Employees Association
Military Officers Association of America, California Council of Chapters

OPPOSITION

None received.

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