

AMENDED IN ASSEMBLY MAY 17, 2017
AMENDED IN ASSEMBLY MARCH 27, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 568

Introduced by Assembly Member Gonzalez Fletcher

February 14, 2017

An act to amend Sections 44965, 45193, 87766, and 88193 of the Education Code, relating to employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 568, as amended, Gonzalez Fletcher. School and community college employees: paid maternity leave.

(1) Existing law requires the governing board of a school district, and the governing board of a community college district, to provide for a leave of absence from duty for a certificated employee, or an academic employee, of the district who is required to be absent from duties because of pregnancy, miscarriage, childbirth, and recovery therefrom.

Existing law, the Charter Schools Act of 1992, provides for the establishment and operation of charter schools, and exempts charter schools from the laws governing school districts, except as specified.

This bill would require ~~at least 6 weeks of the leave of absence to be with full pay.~~ the governing board of a school district, the governing body of a charter school, and the governing board of a community college district to provide at least 6 weeks of a leave of absence with full pay for a certificated employee, or an academic employee, of the district or charter school who is required to be absent from duties because of pregnancy, miscarriage, childbirth, and recovery therefrom. The bill would authorize the paid leave to begin before and continue

after childbirth, provided that the employee is actually disabled by pregnancy, childbirth, or a related condition.

(2) Existing law authorizes the governing board of a school district, and the governing board of a community college district, to provide for such leave of absence from duty as it deems appropriate for a female employee in the classified service of the district who is required to absent herself from her duties because of ~~pregnancy or convalescence following childbirth~~ *pregnancy, miscarriage, childbirth, and recovery therefrom*. Existing law authorizes the governing board of a school district, and the governing board of a community college district, to adopt rules and regulations prescribing the manner of proof of pregnancy, the time during pregnancy at which the leave of absence shall be taken, and the length of time for which the leave of absence shall continue after birth of the child. Existing law also authorizes the governing board of a school district, and the governing board of a community college district, to provide in the rules and regulations whether the leave granted shall be with or without pay, as provided.

This bill would instead require the governing board of a school district, *the governing body of a charter school*, and the governing board of a community college ~~district, district~~ to provide for such leave of absence from duty as it deems appropriate for a female employee in the classified service of the district *or charter school* who is required to absent herself from her duties because of ~~pregnancy or convalescence following childbirth~~ *pregnancy, miscarriage, childbirth, and recovery therefrom*. The bill would require the governing board of a school district, *the governing body of a charter school*, and the governing board of a community college ~~district, district~~ to adopt rules and regulations prescribing the manner of proof of pregnancy and the duration of the leave of absence, provided that at least 6 weeks of the leave of absence shall be with full pay. The bill would also require the governing board of a school district, *the governing body of a charter school*, and the governing board of a community college ~~district, district~~ to provide in the rules and regulations that at least 6 weeks of the leave granted shall be with full pay.

(3) This bill would prohibit these provisions from diminishing the right of an employee of a school ~~district district~~ *district, charter school*, or community college district to take, or be compensated during, other leaves of absence, as provided.

(4) This bill would also make various nonsubstantive changes to these provisions.

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

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

1 SECTION 1. Section 44965 of the Education Code is amended
2 to read:

3 44965. (a) The governing board of a school district *and the*
4 *governing body of a charter school* shall provide for a leave of
5 absence from duty for a certificated employee of the school district
6 *or charter school* who is required to be absent from duties because
7 of pregnancy, miscarriage, childbirth, and recovery therefrom. The
8 length of the leave of absence, including the date on which the
9 leave shall commence and the date on which the employee shall
10 resume duties, shall be determined by the employee and the
11 employee's physician. At least six weeks of the leave of absence
12 shall be with full pay. The paid leave may begin before and
13 continue after childbirth, provided that the employee is actually
14 disabled by pregnancy, childbirth, or a related condition.

15 (b) Disabilities caused or contributed to by pregnancy,
16 miscarriage, childbirth, and recovery therefrom are, for all
17 job-related purposes, temporary disabilities and shall be treated as
18 such under any health or temporary disability insurance or sick
19 leave plan available in connection with employment by a school
20 district.

21 (c) Except as provided herein, written and unwritten employment
22 policies and practices of a school district shall be applied to
23 disability due to pregnancy or childbirth on the same terms and
24 conditions applied to other temporary disabilities.

25 (d) Paid leave taken under this section shall not diminish the
26 employee's right to take, or be compensated during, other leaves
27 of absence, including, but not limited to, pregnancy disability leave
28 pursuant to Section 11042 of Title 2 of the California Code of
29 Regulations, disability leave, sick leave, bonding leave, and
30 vacation leave, even when these other leaves of absence are taken
31 due to illness or injury resulting from pregnancy, miscarriage,
32 childbirth, or recovery therefrom.

33 SEC. 2. Section 45193 of the Education Code is amended to
34 read:

1 45193. (a) The governing board of a school district *and the*
2 *governing body of a charter school* shall provide for such leave
3 of absence from duty as it deems appropriate for a female employee
4 in the classified service of the school district *or charter school*
5 who is required to absent herself from her duties because of
6 ~~pregnancy or convalescence following childbirth~~, *pregnancy,*
7 *miscarriage, childbirth, and recovery therefrom*, and shall adopt
8 rules and regulations prescribing the manner of proof of pregnancy
9 and the duration of the leave of absence, provided that at least six
10 weeks of the leave of absence shall be with full pay. The paid leave
11 may begin before and continue after childbirth, provided that the
12 employee is actually disabled by pregnancy, childbirth, or a related
13 condition. Nothing in this section or in the rules and regulations
14 adopted by the governing board of a school district *or the*
15 *governing body of a charter school* shall diminish an employee's
16 right to take up to four months of leave for a disability related to
17 pregnancy, childbirth, or a related medical condition pursuant to
18 Section 11042 of Title 2 of the California Code of Regulations, or
19 an extended leave as a reasonable accommodation of a disability
20 under the California Fair Employment and Housing Act (Part 2.8
21 (commencing with Section 12900) of Division 3 of Title 2 of the
22 Government Code).

23 (b) The governing board of a school district *and the governing*
24 *body of a charter school* shall also provide in the rules and
25 regulations that at least six weeks of the leave granted under this
26 section shall be with full pay.

27 (c) Paid leave taken under this section shall not diminish the
28 employee's right to take, or be compensated during, other leaves
29 of absence, including, but not limited to, pregnancy disability leave
30 pursuant to Section 11042 of Title 2 of the California Code of
31 Regulations, disability leave, sick leave, bonding leave, and
32 vacation leave, even when these other leaves of absence are taken
33 due to illness or injury resulting from pregnancy, miscarriage,
34 childbirth, or recovery therefrom.

35 (d) This section shall apply to school districts that have adopted
36 the merit system in the same manner and effect as if it were a part
37 of Article 6 (commencing with Section 45240) of this chapter.

38 SEC. 3. Section 87766 of the Education Code is amended to
39 read:

87766. (a) The governing board of a community college district shall provide for a leave of absence from duty for an academic employee of the community college district who is required to be absent from duties because of pregnancy, miscarriage, childbirth, and recovery therefrom. The length of the leave of absence, including the date on which the leave shall commence and the date on which the employee shall resume duties, shall be determined by the employee and the employee's physician. At least six weeks of the leave of absence shall be with full pay. The paid leave may begin before and continue after childbirth, provided that the employee is actually disabled by pregnancy, childbirth, or a related condition.

(b) Disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment by a community college district.

(c) Except as provided herein, written and unwritten employment policies and practices of a community college district shall be applied to disability due to pregnancy or childbirth on the same terms and conditions applied to other temporary disabilities.

(d) Paid leave taken under this section shall not diminish the employee's right to take, or be compensated during, other leaves of absence, including, but not limited to, pregnancy disability leave pursuant to Section 11042 of Title 2 of the California Code of Regulations, disability leave, sick leave, bonding leave, and vacation leave, even when these other leaves of absence are taken due to illness or injury resulting from pregnancy, miscarriage, childbirth, or recovery therefrom.

SEC. 4. Section 88193 of the Education Code is amended to read:

88193. (a) The governing board of a community college district shall provide for such leave of absence from duty as it deems appropriate for a female employee in the classified service of the community college district who is required to absent herself from her duties because of ~~pregnancy or convalescence following childbirth~~, pregnancy, miscarriage, childbirth, and recovery therefrom, and shall adopt rules and regulations prescribing the manner of proof of pregnancy and the duration of the leave of

1 absence, provided that at least six weeks of the leave of absence
2 shall be with full pay. The paid leave may begin before and
3 continue after childbirth, provided that the employee is actually
4 disabled by pregnancy, childbirth, or a related condition. Nothing
5 in this section or in the rules and regulations adopted by the
6 governing board of a community college district shall diminish an
7 employee's right to take up to four months of leave for a disability
8 related to pregnancy, childbirth, or a related medical condition
9 pursuant to Section 11042 of Title 2 of the California Code of
10 Regulations, or an extended leave as a reasonable accommodation
11 of a disability under the California Fair Employment and Housing
12 Act (Part 2.8 (commencing with Section 12900) of Division 3 of
13 Title 2 of the Government Code).

14 (b) The governing board of a community college district shall
15 also provide in the rules and regulations that at least six weeks of
16 the leave granted under this section shall be with full pay.

17 (c) Paid leave taken under this section shall not diminish the
18 employee's right to take, or be compensated during, other leaves
19 of absence, including, but not limited to, pregnancy disability leave
20 pursuant to Section 11042 of Title 2 of the California Code of
21 Regulations, disability leave, sick leave, bonding leave, and
22 vacation leave, even when these other leaves of absence are taken
23 due to illness or injury resulting from pregnancy, miscarriage,
24 childbirth, or recovery therefrom.

25 (d) This section shall apply to community college districts that
26 have adopted the merit system in the same manner and effect as
27 if it were a part of Article 3 (commencing with Section 88060) of
28 this chapter.