

Date of Hearing: June 30, 2015

ASSEMBLY COMMITTEE ON VETERANS AFFAIRS

Jacqui Irwin, Chair

SB 221 (Jackson) – As Amended April 20, 2015

SENATE VOTE: 40-0

SUBJECT: State public employees: sick leave: veterans with service-related disabilities

SUMMARY: Creates a new category of sick leave available to newly hired state disabled veteran employees. Specifically, **this bill:**

- 1) Requires that in addition to any other entitlement for sick leave with pay, a state officer or employee hired on or after January 1, 2016, who is a military veteran with a military service-connected disability rated at 30 percent or more by the United States Department of Veterans Affairs shall be entitled to additional credit for sick leave with pay of up to 96 hours for the purpose of undergoing medical treatment for his or her military service-connected disability.
- 2) States that credit for sick leave granted under this subdivision shall be credited to a qualifying officer or employee on the first day of employment and shall remain available for use for the following 12 months of employment.
- 3) Clarifies that sick leave credited pursuant to this subdivision that is not used during the 12-month period shall not be carried over and shall be forfeited.
- 4) Allows a department to require submission of satisfactory proof that sick leave granted under this subdivision is used for treatment of a military service-connected disability
- 5) Clarifies that if the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, 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.

EXISTING LAW:

- 1) Requires that each state officer and employee who is employed full time be allowed one day of credit for sick leave with pay following completion of one month of continuous service and one day of credit for sick leave with pay for each additional calendar month of service thereafter.
- 2) Provides that each state officer or employee is entitled to this leave with pay, on the submission of satisfactory proof of the necessity for sick leave as provided by rule of the California Department of Human Resources (CalHR).
- 3) Authorizes CalHR to provide by rule for the regulation and method of accumulation of sick leave for civil service employees.

- 4) Provides that CalHR may provide by rule for sick leave or annual leave without pay for those employees who have used all sick leave or annual leave with pay to which they are entitled.
- 5) States that a memorandum of understanding governing sick leave shall be controlling without further legislative action, except that if the provisions of the 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.

FISCAL EFFECT: Unknown at this time, however, Senate Appropriations Committee estimated:

Fiscal Impact:

- Unknown, potentially over \$50,000 for sick leave credit (General/Special Funds)
- Unknown, potentially minor, administrative costs (General)

Exact costs will depend on the number of military veterans who are hired into state service and who have a service-connected disability rated at 30 percent or higher. Additionally, the source of funding (General or Special) will depend on the department that hires the veteran. Assuming the new employee has a monthly salary of \$4,000, the cost of an additional 96 hours in sick leave would be approximately \$2,220 per employee. There will be additional, unknown but likely minor, costs for administering and tracking this new benefit. According to CalHR, there were 121 disabled veterans hired in 2013, and 147 disabled veterans hired in 2014. It is not known if these individuals have a disability rated at 30 percent or more because the department is not currently tracking this information. ...

COMMENTS: According to the author:

Newly hired state employees begin their careers with no sick leave, and accrue it slowly, after their first month of employment, at a rate of 8 hours per month. As a result, disabled veterans who have recently entered the workforce may not have sufficient sick leave to attend medical appointments on a regular basis.

Many veterans are returning from Iraq and Afghanistan with physical and mental health issues that require medical attention. VA appointments can be very hard to get and very difficult to reschedule. A shortage of mental health specialists in the VA makes it particularly important to follow up and attend appointments as soon as they are received. ...

For these disabled veterans, SB 221 will mean an easier transition from military to state service. For the state, this will mean a healthier and more productive workforce, and a way to show our continued commitment to the men and women who have served our country.

The State of California has a long standing policy of embracing diversity in its workforce, including embracing diversity far beyond the efforts of the federal government and other states. This holds true in terms of California's hiring of people with disabilities and reducing barriers to their successful participation in state employment. There has also been a consistent state policy, including various versions of a hiring preference, to support the hiring of veterans both out of recognition of their service and sacrifice as well as, unfortunately, what has historically been a higher than average rate of unemployment. This bill aligns with all of the foregoing policy

considerations. California has also been at the forefront of expanding the categories of people entitled to protection from employment discrimination in housing and employment.

People with disabilities would generally be entitled to reasonable accommodation under both the federal Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). Military and Veteran status is also a separate protected category under FEHA. A reasonable accommodation for any person with a disability could include time off to attend medical treatment. Reasonable accommodation is generally the result of a dialog between the employer and employee and when that dialog works well, it should not be a cumbersome process most of the time.

However, this bill would remove the need for a request for reasonable accommodation to attend treatment for a service connected 30% or greater disability and remove the need for every similarly situated employee to make similar requests. Moreover, it will grant the employee paid leave, which would generally not be the case for leave granted as a reasonable accommodation.

The author has clearly crafted this measure to strike a balance between employer and employee. The author has also considered the costs of implementation and the reasonable need for the employer to guard against abuse. Careful choices have been made about allowing the leave to carry over, requiring a 30% disability minimum, permitting documentation of disability, and considering the interplay with collective bargaining.

REGISTERED SUPPORT / OPPOSITION:

Support

American Legion-Department of California
AMVETS- Department of California
California Association of County Veterans Service Officers
California State Commanders Veterans Council
Military Officers Association of America- California Council of Chapters
National Association of Social Workers
VFW-Department of California
Vietnam Veterans of America-California State Council

Opposition

None on File.

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