

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 731 (Newman) – As Amended July 5, 2017

[This bill was double referred from the Veterans Affairs Committee and was heard by that committee as it relates to their jurisdiction.]

SENATE VOTE: 38-0

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

SUMMARY: Grants certificated employees who are a member or veteran of the California National Guard or reserve component of the federal military with a disability rating of 30% or more, 10 days of paid leaves of absence to undergo medical treatment; and, grants classified employees who are a member or veteran of the California National Guard or reserve component of the federal military with a disability rating of 30% or more, 12 days of paid leaves of absence to undergo medical treatment. Specifically, **this bill:**

- 1) Requires a certificated employee who is a member or veteran of the California National Guard or reserve component of the federal military returning from a federal 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 active duty recently completed, be entitled to leave of absence for illness or injury with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability.
- 2) Requires a classified employee who is a member or veteran of the California National Guard or reserve component of the federal military returning from a federal 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 active duty recently completed, shall be entitled to leave of absence for illness or injury with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability.
- 3) Specifies that credit for leave of absence for illness or injury granted shall be credited to a qualifying certificated or classified employee on the effective date of the employee's disability rating decision from the United States Department of Veterans Affairs, or on the first day the qualifying certificated or classified employee returns to employment after active duty, whichever is later, and shall remain available for use for the following 12 months of employment.

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 a 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. (Education Code 44978)
- 3) Provides a 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. (Education Code 45191)

FISCAL EFFECT: This bill is keyed non-fiscal.

COMMENTS: This bill grants existing school employees who are a member or veteran of the California National Guard or reserve component of the federal military with a disability rating of 30% or more, paid leave to undergo medical treatment (10 days for certificated and 12 days for classified) during the 12 months after the disability rating has been determined.

According to the author, in 2016 the Legislature enacted SB 1180 (Jackson). That law provides newly hired school employees, who also are military veterans with service-connected disabilities, with additional paid leaves of absence for illness or injury, for the purpose of undergoing medical treatment for those disabilities during their first year of employment. SB 1180's language overlooked a special subset of the veteran population – current school employees who also serve part-time as National Guard members or federal reservists and who acquire disabilities during subsequent military mobilizations and then return to school employment with those service-connected disabilities.

30% Disability. According to the Senate Committee on Veterans Affairs, the United States Department of Veterans Affairs (USDVA) 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 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% - to - 100% in 10% 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% rating is the lowest for which compensable income is awarded. A veteran with a 100% rating will have one or more disabilities that significantly interfere with normal life functions. A veteran with a 0% 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% - 30%. The committee should consider whether the benefits of this bill should be extended to all disabled veterans, regardless of their disability rating, especially in light of the fact that a majority of disabled veterans will be excluded from this leave policy.

Recent Deployment. This bill specifies that a disabled National Guard member or Reserve member may only qualify for this medical leave if their injury was incurred during their recent deployment. Under existing law, there is no similar requirement for new employees who are disabled to have incurred the injury on a recent deployment. As such, new employees with long standing military related disabilities would receive this additional medical leave, while existing employees with long standing military related disabilities would not receive this benefit. The committee should consider whether to extend the benefits of this bill to disabled members of the National Guard or Reserve regardless of when the disability was incurred. Additionally, the committee should consider whether to extend the benefits of this bill to all disabled former or current members of the US Armed Forces, as some groups of military personnel are not classified as veterans despite their active participation in the military.

Returning to the Classroom after an Injury. This bill specifies that the additional medical leave is available for the 12 months after the disability rating is received or when the employee returns to work, whichever is later. While the intent of this amendment was to accommodate the long wait times at the Department of Veterans Affairs in processing paperwork for disability ratings, it potentially creates a group of employees that won't have access to the medical leave while they are undergoing treatment at the beginning of their return to work, but before they receive their disability rating. The committee should consider also authorizing disabled current or former service members to receive this medical leave upon the submission of their disability application to the Department of Veterans Affairs. If the employee later receives their disability rating and it is below 30%, and they do not qualify for this medical leave, the employer would be authorized to move the used leave credits to alternative leave balances.

Related Legislation: SB 1180 (Jackson), Chapter 728, Statutes of 2016, provides newly hired school employees who are military veterans with service-connected disabilities paid leaves of absence for illness or injury for the purpose of undergoing medical treatment for those disabilities during their first year of employment.

Committee Amendments:

- 1) To correct a drafting error, amend the bill as follows: "Credit for leave of absence for illness or injury granted under this subdivision shall be credited to a qualifying certificated employee on the effective date of the employee's disability rating decision from the United States Department of Veterans Affairs or on the first day the qualifying employee ***begins, or returns to,*** employment after active duty, whichever is later, and shall remain available for use for the following 12 months of employment."
- 2) To clarify which types of military personnel are included in the bill, amend the bill to include all current and former members of the US Armed Forces, California National Guard or federal reserve components.

- 3) To give an employee access to medical leave while they are undergoing treatment at the beginning of their return to work, but before they receive their disability rating, amend the bill to authorize disabled current or former service members to receive this medical leave upon the submission of their disability application to the Department of Veterans Affairs. If the employee later receives their disability rating and they do not qualify for this medical leave, the employer would be authorized to move the used leave credits to alternative leave balances.

REGISTERED SUPPORT / OPPOSITION:

Support

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 on file.

Analysis Prepared by: Chelsea Kelley / ED. / (916) 319-2087