

## BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number/Version Date
<b>Franchise Tax Board</b>	<b>Perea</b>	<b>AB 2271</b>

### SUBJECT

FTB To Allow Seasonal Clerks The Option To Retain Leave Balances While On Unpaid Leave Due To A Lack Of Work

### SUMMARY

This bill would amend the Government Code to allow Franchise Tax Board (FTB) Seasonal Clerks to maintain leave balances while on unpaid leave due to a lack of work.

On March 10, 2011, the three-member Franchise Tax Board directed staff to seek legislation to resolve a pending lawsuit with language substantially identical to the language in this bill.

### REASON FOR THE BILL

The reason for this Franchise Tax Board-sponsored bill is to resolve an inconsistency between the Labor Code and the State Employee International Union (SEIU) Local 1000 Bargaining Unit 4 contract that represents the FTB's Seasonal Clerks.

### EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2013, and would apply to Seasonal Clerks placed on unpaid leave status due to a lack of work on or after that date.

### ANALYSIS

#### STATE LAW

Current state law provides that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.<sup>1</sup>

#### Program Background

Depending on need and budget constraints, state departments may hire seasonal employees due to seasonal or cyclical increases in workloads. The FTB hires Seasonal Clerks, a type of seasonal employee, during tax filing season primarily to receive, open, and sort mail.

Historically, Seasonal Clerks have not been permanently separated from state employment at the end of each season and are called back the next tax season. This practice provides a relatively stable seasonal workforce and avoids the administration and costs associated with permanent separation and rehiring each tax season.

<sup>1</sup> California Labor Code Section 201.

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## THIS BILL

This bill would amend the Government Code to allow FTB Seasonal Clerks the option to do the following when placed on unpaid leave status due to lack of work:

- Receive a lump-sum payment for accumulated vacation or annual leave balances;
- Utilize vacation or annual leave balances to cover some or all of the time off, upon approval by FTB management;
- Retain the vacation or annual leave balances for use upon returning to work; or
- Utilize a combination of any or all of the actions described above.

These options would be available to Seasonal Clerks put on unpaid leave status due to lack of work, but without permanent separation from state service.

This bill would specify that if the provisions of this section are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling.

## **OTHER STATES' INFORMATION**

A review of other states income tax laws is not relevant to this bill's provision concerning the conflicting California Labor Code and the State Employees bargaining contract.

## **FISCAL IMPACT**

This bill would not impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **APPOINTMENTS**

None.

## **SUPPORT/OPPOSITION**

Support: Franchise Tax Board - sponsor.

Opposition: None provided

**VOTES**

Concurrence	08/30/12	Y: 56	N: 22
Assembly Floor	05/10/12	Y: 73	N: 0
Senate Floor	08/27/12	Y: 34	N: 4

**LEGISLATIVE STAFF CONTACT**

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