

STORAGE NAME: h0083.edk

DATE: November 22, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
ANALYSIS**

BILL #: HB 83

RELATING TO: Education Employees/Leave

SPONSOR(S): Representative Harrington

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION K-12
 - (2) COMMUNITY COLLEGES & CAREER PREP
 - (3) GOVERNMENTAL OPERATIONS
 - (4) GENERAL APPROPRIATIONS
 - (5)
-

I. SUMMARY:

Currently, school boards and community college boards of trustees are not authorized to offer administrative staff the option of receiving annual payments of unused, accumulated sick leave.

HB 83 authorizes school boards to offer full-time administrative staff the option of an annual payment for earned but unused sick leave based on a rate of up to 80 percent of the employee's daily pay. These employees may choose to receive an annual cash payment or an annual contribution into an approved pretax retirement account.

HB 83 authorizes community college boards of trustees to offer administrators annual payment of earned and unused sick leave days into an approved pretax retirement account. The payment may not exceed an amount equal to 80 percent of the accumulated sick leave times the administrator's average daily pay rate.

HB 83 changes the date after which school boards and community college boards of trustees must limit the amount of accumulated sick leave that full-time administrative staff can apply toward terminal pay from July 1, 1995 to July 1, 2000, unless pre-existing contract terms provide otherwise.

HB 83 changes the date after which school districts must limit, to a maximum of 60 days of actual payment, terminal pay for accrued vacation leave for *all* full-time school board employees from July 1, 1995 to July 1, 2000.

This bill provides for an effective date of July 1, 2000.

There is no fiscal impact to the State. There are future savings to school districts and community colleges as a result of changes in the terminal vacation leave pay policy and terminal sick leave pay policy, respectively. A specific projection of savings is not available. However, there are current year costs to school districts and community colleges that choose to offer administrators an annual disbursement of unused, accumulated sick leave.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

As used in this analysis the term "teachers" refers to instructional staff as defined by section 231.40(1)(b), F.S., which includes teachers, librarians, and other comparable members engaged in an instructional capacity. The term "support staff" refers to employees as defined by section 231.40(1)(a), F.S., which includes education paraprofessionals, secretaries and other clerical workers, as well as transportation, food service, operations and maintenance workers. The term "administrators" refers to any other full-time non-instructional, non-educational support employee.

State's Unfunded Liability

According to Senate Interim Project Report 00-34, on June 30, 1999, the combined total liability incurred by local education agencies and the state was over \$2 billion for compensated absences payable in future years to employees of the state, school districts, and community colleges. The report specifically identified current liability amounts of \$1.43 billion for the 67 school districts and \$120.38 million for the 28 community colleges.

Annual pay for accumulated sick leave

School Districts

Section 231.40(3)(a)3., F.S., authorizes school districts to offer teachers and support staff an annual cash payment for unused, accumulated sick leave. These annual payments must be based on the number of accumulated sick leave days multiplied by up to 80 percent of the employee's average daily pay rate. Days for which annual payment is made must be deducted from the employee's accumulated sick leave balance.

School districts are not authorized to offer annual cash payments to administrators for their unused, accumulated sick leave.

Community Colleges

There is no provision in the law authorizing community college boards of trustees to offer teachers or administrators annual cash payments for their accumulated sick leave.

Terminal pay for accumulated sick leave

School Districts

Section 231.40(3)(a)5., F.S., authorizes school districts to establish policies which offer terminal pay to administrators for their unused, accumulated sick leave. Terminal pay for any sick leave accumulated by school district administrators hired on, or after, July 1, 1995, is capped at one-fourth its actual value, not to exceed a maximum of 60 days of actual pay. In other words, for school district administrators hired after July 1, 1995, the maximum amount that can be obtained upon termination of employment or retirement for accumulated sick leave is 60 days (480 hours) worth of regular pay. Since only 25% of sick leave accumulated after July 1, 1995 applies toward terminal pay, administrators must accumulate a total of 240 unused sick leave days (1,920 hours) to receive the maximum terminal pay benefit for accumulated sick leave. School district administrators hired before July 1, 1995, are subject to their district's terminal pay policies in effect on that date.

Community Colleges

Section 240.343(2)(e), F.S., authorizes community college boards of trustees to establish policies which offer terminal pay to administrators for their unused, accumulated sick leave. Terminal pay for any sick leave accumulated by community college administrators hired on, or after, July 1, 1995, is capped at one-fourth its actual value, not to exceed a maximum of 60 days of actual pay. In other words, for community college administrators hired after July 1, 1995, the maximum amount that can be obtained upon termination of employment or retirement for accumulated sick leave is 60 days (480 hours) worth of regular pay. Since only 25% of sick leave accumulated after July 1, 1995 applies toward terminal pay, administrators must accumulate a total of 240 unused sick leave days (1,920 hours) to receive the maximum terminal pay benefit for accumulated sick leave. Community college administrators hired before July 1, 1995, are subject to the board of trustee's terminal pay policies in effect on that date.

Terminal pay for accumulated vacation leave

School Districts

Section 231.481, F.S., authorizes school boards to establish policies that provide lump-sum payment for unused, accrued vacation leave to *any* employee upon termination of employment or retirement. For employees hired on, or after, July 1, 1995, such policies must limit the amount of terminal pay offered for accrued vacation leave to a maximum of 60 days of actual payment. In other words, school district employees hired on, or after, July 1, 1995, can receive no more than 60 days of their regular rate of pay for accrued vacation leave upon termination of employment.

EFFECT OF PROPOSED CHANGES:

Annual pay for accumulated sick leave

School Districts

HB 83 expands the current annual accumulated sick leave pay out options by authorizing district school boards to include administrators in any end-of-the-school-year payment for accumulated sick leave at 80 percent of the administrator's daily rate of pay.

HB 83 provides that school district administrators may request that any annual payment for accumulated sick leave be either paid out in cash as one lump sum, or deposited by the school board into an approved pretax retirement account in the name of the employee.

Community Colleges

HB 83 authorizes community college boards of trustees to offer administrators annual payment of earned and unused sick leave days into an approved pretax retirement account. The payment may not exceed an amount equal to 80 percent of the accumulated sick leave times the administrator's average daily pay rate.

Terminal pay for accumulated sick leave

School Districts

HB 83 changes the date after which school districts must limit the amount of accumulated sick leave that may qualify as terminal pay for administrators. Terminal pay for administrators still cannot exceed a maximum of 60 days of actual payment. The bill requires that, for purposes of terminal pay, school districts must cap any sick leave accumulated by administrators on or after July 1, 2000, to one-fourth its actual value, not to exceed 60 days of actual payment, **in addition to** any end of the year disbursements, *regardless of when the administrator was hired.*

[There appears to be a conflict with regards to the limitations outlined in this section of the bill. Since administrators' terminal pay is capped at 60 days, the language which allows end of the year disbursements to be "in addition to" the cap seems contrary to the bill's intent].

The terminal pay changes provided by HB 83 for school district administrators do not apply to any unused sick leave accumulated by administrators before July 1, 2000. The bill does not impair any contracts established before July 1, 2000. The district school board policies, contracts, or rules in effect on June 30, 2000 apply to all unused sick leave accumulated by school districts' administrators before July 1, 2000. Furthermore, HB 83 provides that renewal of any previous employment contracts on, or after, July 1, 2000, shall be considered a new contract and will incorporate the new terminal pay limitations.

Community Colleges

HB 83 changes the date after which community college boards of trustees must limit unused, accumulated sick leave for terminal pay for administrators. Terminal pay for administrators still cannot exceed a maximum of 60 days of actual payment. The bill requires that, for purposes of terminal pay, community colleges must cap any sick leave accumulated by administrators on, or after, July 1, 2000, to one-fourth its actual value, or 60 days of actual payment, **whichever is less**, *regardless of when the administrator was hired.*

HB 83 provides that terminal pay for unused sick leave accumulated before July 1, 2000, must be made pursuant to the terminal pay rules and policies in effect on June 30, 2000.

Terminal pay for accumulated vacation leave

HB 83 changes the date after which school districts must limit, to a maximum of 60 days of actual payment, any terminal pay offered for accrued vacation leave to *all* full-time school board employees *regardless of when they were hired.* This terminal pay limit affects only vacation leave accumulated on, or after, July 1, 2000. Terminal pay for unused vacation leave accumulated before July 1, 2000, must comply with district school board policies, contracts, or rules in effect on June 30, 2000.

C. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 231.40, F.S., to allow annual payment of accumulated sick leave to full-time school district administrators, either by cash payment or deposit into an approved pretax retirement account, at no more than 80 percent of actual value. It changes the date after which school districts must limit the amount of accumulated sick leave that can be applied to terminal pay for full-time administrators.

Section 2: Modifies section 231.481, F.S., to change the date after which school districts must limit the amount of accumulated unused vacation leave that can be applied to terminal pay for all school district employees.

Section 3: Modifies section 240.343, F.S., to allow annual payment of accumulated sick leave to full-time community college administrators by deposit into an approved pretax retirement account at no more than 80 percent of actual value. It changes the date after which community college boards of trustees must limit the amount of accumulated sick leave that can be applied to terminal pay for full-time administrators.

Section 4: Specifies an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Annual Pay for Accumulated Sick Leave - School districts

According to DOE, *if* all 67 school districts adopt the *maximum* annual payout percentage of 80% and *if* all administrators choose to participate, the fiscal impact to school districts for the first 3 years of the program will be:

2000-2001
\$23,364,422

2001-2002
\$24,766,287

2002-2003
\$26,252,264

In addition, school districts will incur initial filing fees for the establishment of approved pretax retirement accounts.

Terminal Sick Leave Pay - School Districts

There will be a future savings to school districts from changes to the terminal sick leave pay policy for administrators hired prior to July 1, 1995. When these employees renew their contracts after July 1, 2000, their sick leave accumulated after that date will be capped at the 60 day max. However, there will be an additional cost to school districts because regardless of the hire date, administrators will be able to choose an annual disbursement of unused sick leave, **in addition to** the 60 day cap.

Terminal Vacation Leave Pay - School Districts

There will a future savings to school districts on terminal pay for vacation leave, because regardless of the hire date, after July 1, 2000, all employees' vacation leave accrued after July 1, 2000 will be capped at the 60 day maximum. A specific projection of savings is not available.

Annual Pay for Accumulated Sick Leave - Community Colleges

If community college boards of trustees adopt policies to provide annual disbursements to pretax retirement accounts for administrators for accumulated sick leave, there will be a fiscal impact to the community colleges. Specific cost information is not available.

In addition, community colleges will incur initial filing fees for the establishment of approved pretax retirement accounts.

Terminal Sick Leave Pay - Community Colleges

There will be a future savings to community colleges for administrators' terminal sick leave pay because for sick leave accrued after July 1, 2000, the terminal payment is capped at 1/4 of all unused sick leave or 60 days, **whichever is less**. However, there could be an additional cost to community colleges because the date for the start of the terminal sick leave cap has been extended from July 1, 1995 to July 1, 2000.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If school districts and community colleges choose to offer their administrators annual sick leave disbursements into pretax retirement accounts, there will be an increase in business to companies which offer pretax retirement accounts.

D. FISCAL COMMENTS:

There will be ongoing administrative expenses associated with the administration of the pretax retirement accounts that will either be passed on to the participating employees or paid by the school districts and community colleges.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage or a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

A technical amendment is required to correct terminology in the title of the bill. The term "annuities" should be changed to "retirement accounts".

There appears to be a conflict with regards to the limitations on school district administrators' terminal sick leave pay. The bill caps this pay at 60 days, while allowing end of the year disbursements to be "in addition to" the cap.

Representative Harrington will be filing a strike all amendment to address these two concerns.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:

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