

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 910

SPONSOR: Senator McKay

SUBJECT: Terminal Pay

DATE: January 31, 2000

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>O'Farrell</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The legislation limits the number of days of terminal pay for unused sick leave available to certain employees of school boards and community colleges, and limits the number of days of accumulated annual leave for which certain school board employees may receive terminal pay. The limits would be in effect for leave earned after a time certain; however, leave earned prior to such dates would have to be used when needed by employees before the leave subject to terminal pay limits could be used. Terminal pay for unused annual leave of school board employees could not be used in the computation of final compensation for retirement system purposes.

In addition, employees of school boards other than instructional personnel and educational support employees would be eligible for payment options for up to 80 percent of sick leave earned annually that remains unused at the end of the year.

This bill substantially amends sections 231.40, 231.481, and 240.343 of the Florida Statutes.

## II. Present Situation:

The staff of the Senate Education Committee conducted a 1999 interim study of leave and terminal pay provisions for employees of school boards and community college boards of trustees ( Interim Project Report 00-34). Findings from the study were consistent with those of a similar study conducted in 1993: policies on compensated absences were creating long term financial liabilities for local education agencies and the state. As of June 30, 1998, there was a combined total liability of more than \$2 billion for compensated absences payable in future years to employees of the state, school districts, and community colleges. A related finding indicated that the districts and colleges were continuing to extend to all employees the fairly generous sick leave policies that were originally intended to reduce absences of teachers and other instructional personnel. The wisdom of this practice has been questioned by state policy makers for the last several years.

**School District Sick Leave**

Section 231.40, F.S., requires district school boards to provide sick leave for their employees and sets a schedule for awarding sick leave hours. An employee may not earn more than one day of sick leave for each calendar month employed during the year. There is no statutory limit on the on the accumulation of sick leave.

Each school board may provide terminal pay for accumulated sick leave and may pay employees annually for up to 80 percent of unused sick leave. If a board provides terminal pay for sick leave accumulated by instructional staff and educational support employees, the payments must follow the statutory formula set forth in s. 231.40(3)(a)4, F.S. The formula progressively increases the percentage paid as the employee's years of service increase, and applies regardless of when the instructional or educational support employee was hired. District employees serving in other than an instructional or educational support position, and who were hired on or after July 1, 1995, may receive pay for one-fourth of all unused sick leave accrued on or after July 1, 1995, up to a maximum of 60 days. Board policies in effect on July 1, 1995, govern terminal pay for sick leave accumulated before that date.

**Community College Sick Leave**

Section 240.343, F.S., governs the accrual and payment of sick leave for community college employees. Each full-time community college employee earns one day of sick leave per month for each calendar month of service in each fiscal year, and the leave may be accumulated from year to year.

Each college board of trustees decides whether to provide terminal pay for accumulated sick leave when full-time instructional or educational support employees retire. If the board approves terminal pay, the payments must follow the statutory schedule that increases as the years of service increase.

The law caps terminal sick leave payments for full-time college employees who are not members of the instructional staff or support employees, and who were hired by a college on or after July 1, 1995. Upon termination, those employees may be paid for one-fourth of all unused sick leave accrued on or after July 1, 1995, up to a maximum of 60 days pay. Terminal pay for sick leave accumulated prior to July 1, 1995, will be made according to board policies in effect on July 1, 1995.

**School District Annual Leave**

District school boards may provide annual leave to 12 month employees, including educational support employees (s. 231.434, F.S.). There is a great deal of variance among the districts in terms of the accrual rate for annual leave. Generally speaking, the accrual rate increases with the length of an employee's service in the district. The law also places no limit on the amount of annual leave district employees may accumulate, and the districts vary in the caps they place on employee leave accumulation. School boards are authorized to provide a lump-sum payment for accumulated annual leave to an employee at retirement or termination. There is no statutory limit on terminal payments for annual leave accumulated by district employees hired prior to July 1, 1995; however, payment for accumulated leave for employees hired after that date is limited to no more than 60 days.

Generally, an employee is considered to have a property right to any annual or sick leave time he or she may have accrued, and is entitled to payment for the time if it is required to be relinquished. Because of this, changes in employee leave policies are usually prospective and are made effective on a date certain.

### **III. Effect of Proposed Changes:**

The legislation under consideration would make several changes in the laws authorizing school boards and community college boards of trustees to make payments for unused sick leave to full-time personnel other than instructional and educational support employees.

The bill would create a new provision authorizing boards to offer full-time non-instructional employees the option of having up to 80 percent of their annual unused sick leave paid into an approved pretax retirement account in the employee's name. The provision would be implemented pursuant to the local board's rules, and it must comply with federal tax laws and regulations. Once such payment was received for a sick leave day, the day would be considered used and could not be accumulated for terminal pay purposes.

The statutes authorizing the accumulation of and terminal pay for unused sick leave would be amended to clarify current ambiguities concerning the effect of the date of a person's employment on terminal pay benefits. Specifically, the apparent confusion caused by using July 1, 1995, as the effective date for new terminal pay policies, and the provision that board terminal pay policies in effect on that date would govern sick leave payouts for unused leave accumulated prior to July 1, 1995. The proposed changes would limit the amount of unused sick leave that could be accumulated for terminal pay purposes after July 1, 2000, to no more than 60 days for full-time personnel other than instructional and educational support employees. The 60 day limit would not affect employee contracts entered into prior to July 1, 2000; however, if such a contract were renewed after the July 1st date, it would be considered a new contract for accumulated leave purposes. Leave accumulated prior to July 1, 2000, would be governed by board policies in effect on June 30, 2000.

Other changes would require full-time non-instructional employees of school boards and community colleges to exhaust sick leave earned prior to July 1, 2000, before sick leave earned after that date could be used. Also, an employee would not be able to accumulate sick leave for terminal pay purposes after July 1, 2000, until his or her pre-July 1, 2000, accumulated sick leave total dips below 60 days.

The legislation would also modify s. 231.481, F.S., which authorizes school boards to provide terminal pay to employees for accrued vacation (annual) leave. After July 1, 2000, terminal pay for accumulated annual leave would be limited to 60 days. Any annual or vacation leave accumulated before July 1, 2000, would be governed by board policies in effect on June 30, 2000. Also, terminal payments for accrued annual leave would be prohibited from being considered as salary in determining an employee's average final compensation for state retirement purposes.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill could provide some new financial benefits to eligible school board and community college employees who took advantage of annual payments into pretax accounts for sick leave earned and unused during the work year.

School board employees who are not classified as instructional or education support personnel could experience some reduction in retirement benefits if terminal payment for accumulated annual leave is not considered salary for purposes of determining an employee's average final compensation for retirement purposes.

**C. Government Sector Impact:**

As the provisions of the bill are implemented, school boards and community college boards of trustees should experience a reduction in the unfunded liability associated with large terminal payments for unused sick leave and, in the case of school boards, annual leave.

The proposed changes would bring leave provisions available to certain school board and community college employees more in line with those currently enjoyed by State Career Service personnel.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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