

STORAGE NAME: h1205.sgc.doc
DATE: April 5, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS**

BILL #: HB 1205
RELATING TO: Education
SPONSOR(S): Representative(s) Diaz-Balart
TIED BILL(S): None

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

- (1) STATE ADMINISTRATION YEAS 3 NAYS 2
 - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 7 NAYS 4
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

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. There were concerns regarding existing policies related to terminal benefits, and recommendations were made to the Legislature to provide more consistency, to encourage conformity with state-level policy, and to reduce the potential fiscal burden to the educational agencies and the state. Currently, district 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.

This bill changes the date, from July 1, 1995, to July 1, 2001, 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. The provisions do not impair contracts established prior to July 1, 2001; however, a previously established contract renewed on or after July 1, 2001, is considered a new contract.

This bill also changes the date, from July 1, 1995, to July 1, 2001, 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, which includes administrative staff.

This bill limits the amount of unused sick leave that could be accumulated for terminal pay purposes after July 1, 2001. In addition, this bill removes all references to a hire date as it relates to sick leave payout for school district and community college administrators.

This bill appears to create indeterminate cost savings for the state, as well as, school districts and community colleges. See "Fiscal Comments" section of this analysis for further detail.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

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 liability amounts of \$1.43 billion for the 67 school districts and \$120.38 million for the 28 community colleges. In addition, the Senate interim project findings show that the school districts and colleges are 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 Report raises concerns regarding existing policies related to terminal benefits and recommends action by the Legislature to provide more consistency, to encourage conformity with state-level policy, and to reduce the potential fiscal burden to the educational agencies and the state.

School Districts

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.

Section 231.40(3)(a)5., F.S., authorizes school districts to establish policies which offer terminal pay to any district school board employee **other than** instructional personnel or educational support employee for their unused, accumulated sick leave. This language refers to administrators employed by the district school board. Terminal pay for any sick leave accumulated by administrators hired on, or after, July 1, 1995, is capped at one-fourth of all unused sick leave accumulated on or after July 1, 1995, which cannot exceed 60 days (480 hours) worth of regular pay.

Since only 25 percent of sick leave accumulated by administrators after July 1, 1995, applies toward terminal pay, they must accumulate a total of 240 unused sick leave days (1,920 hours) to receive the maximum terminal pay benefit for accumulated sick leave. Section 231.40(3)(a)5.b., F.S., provides that unused sick leave accumulated *prior* to July 1, 1995, is paid to the administrators according to the district school board policies governing terminal payments that were in effect on July 1, 1995.

A question arises as to how an administrator hired *on or after* July 1, 1995, could have accumulated unused sick leave *before* that date. One possible scenario is if a teacher is employed by a school board before July 1, 1995, is then hired as an administrator on or after July 1, 1995, and has accumulated unused sick leave which traveled with the teacher from his or her teacher classification to the administrator classification.

Additionally, there is apparent confusion caused by using July 1, 1995, as the effective date for new terminal pay policies, and the provision that terminal pay policies in effect on that date would govern sick leave payout for unused leave accumulated prior to July 1, 1995.¹ It may be that the terminal pay policy in place on June 30, 1995, may be the more appropriate governing date.²

Annual Leave

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.

Community Colleges

Sick Leave

Section 240.343(2)(d), F.S., provides that each college board of trustees may establish rules regarding whether to provide terminal pay for accumulated sick leave when *full-time instructional or educational support* employees retire. If the board approves terminal pay for such employees, the payments must follow the statutory schedule that increases as the years of service increase.

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 of its actual value. Essentially, for community college administrators hired on, or after July 1, 1995, terminal pay allowable for accumulated sick leave is a maximum of 60 days (480 hours) of actual payment. Unused sick leave accumulated prior to July 1, 1995, paid according to the board of trustee's policies governing terminal payments that were in effect on July 1, 1995.

According to the Division of Community Colleges, the local terminal pay policies vary across colleges, with many colleges restricting terminal sick leave payout to employees who meet certain criteria (retiring or deceased-beneficiary). Also, in many colleges, the statutory provisions (or variations thereof) regarding sick leave payout for instructional staff have been applied to all employees.

¹ Bill analysis on SB 910, Senate Committee on Education, January 31, 2000.

² *Id.*

As above in the school board employee discussion, there is apparent confusion caused by using July 1, 1995, as the effective date for new terminal pay policies for community college administrators, and the provision that terminal pay policies in effect on that date would govern sick leave payout for unused leave accumulated prior to July 1, 1995.³ It would appear that the terminal pay policy in place on June 30, 1995, may be the more appropriate governing date.⁴

Annual Leave

Section 240.319(3), F.S., authorizes each community college board of trustees to adopt rules and policies governing the employment of personnel. Each board determines employee compensation, including salaries and fringe benefits. Although the State Board of Community Colleges may adopt guidelines for personnel issues, it is not authorized to adopt rules setting uniform statewide procedures.⁵ Accordingly, the 28 community colleges vary widely in leave policies.⁶

C. EFFECT OF PROPOSED CHANGES:

School Districts

Sick Leave/School Administrators

This bill amends s. 231.40(3)(a)5., F.S., to provide that terminal pay for sick leave accumulated by *administrators* before July 1, 2001, be made in accordance with policies, contracts, or rules in effect on June 30, 2001.

This bill also limits the ceiling for terminal payments of sick leave for *administrators* by requiring that terminal pay for sick leave accumulated on or after July 1, 2001, be capped at one-fourth of all unused sick leave, not to exceed a maximum of 60 days of actual payment, in addition to any annual disbursements.

This bill provides that no contractual agreements established prior to July 1, 2001, should be limited by these provisions. However, an existing contract that is renewed on or after July 1, 2001, will be considered a NEW contract.

This bill clarifies current ambiguities concerning the effect of the date of an administrator's employment on terminal pay benefits by removing all references to a hire date as it relates to sick leave payout.

This bill requires that if an administrator has an accumulated sick leave balance of 60 days or more prior to July 1, 2001, no more sick leave may be accumulated for terminal sick leave payout until such a balance is less than 60 days.

Annual Leave/School Board Employees

This bill amends s. 231.481, F.S., to change the date, from July 1, 1995, to July 1, 2001, after which school districts must limit, to a maximum of 60 days of actual pay, any terminal pay offered for accrued vacation leave to *all full-time school board employees*. This terminal pay limit affects only vacation leave accumulated on or after July 1, 2001.

³ *Id.*

⁴ *Id.*

⁵ Senate Interim Project Report 00-34, Leave and Terminal Pay Provisions for Education Employees (September 1999).

⁶ *Id.*

For unused vacation leave accumulated prior to July 1, 2001, terminal payment will be made in accordance with the district school board's policies in effect on June 30, 2001. This bill does not limit any contractual agreements established prior to July 1, 2001.

Community Colleges

This bill amends s. 240.343(2)(e), F.S., to provide that terminal pay for *sick leave* accumulated by *administrators* before July 1, 2001, be made in accordance with policies and rules in effect on June 30, 2001.

This bill also limits the ceiling for terminal payments of sick leave by requiring that terminal pay for sick leave accumulated on or after July 1, 2001, be capped at one-fourth of all unused sick leave or 60 days of actual pay, whichever is less.

This bill clarifies current ambiguities concerning the effect of the date of an administrator's employment on terminal pay benefits by removing all references to a hire date as it relates to sick leave payout.

This bill requires that if an administrator has an accumulated sick leave balance of 60 days or more prior to July 1, 2001, no more sick leave may be accumulated for terminal sick leave payout until such a balance is less than 60 days.

This bill **does not** change existing law regarding community college annual leave terminal pay.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

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 for administrators, and, in the case of school boards, annual leave.⁷

The proposed changes will bring leave provisions available to certain school board and community college employees more in line with those currently enjoyed by State Career Service personnel.⁸

The public schools receive about 60 percent of their funding from General Revenue and 40 percent from ad valorem taxes. Accordingly, any long term cost savings afforded by this bill could result in the state experiencing cost savings, in addition to the school districts and community colleges.

The Department of Education states that the district school boards and the community colleges have indicated that the sick leave accrual limitations will result in affected employees using more sick leave than before.⁹ However, unlike instructional staff, when school administrators are absent, no substitute is hired.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

A similar bill, HB 2005, was filed last year. This bill passed in its first committee of reference, Community Colleges and Career Prep, with a vote of 9 to 4, and was withdrawn from the remainder

⁷ Bill Analysis of SB 708, Senate Appropriations Sub-Committee on Education, March 12, 2001.

⁸ *Id.*

⁹ 2000 Program Bill Analysis on HB 2005, Department of Education, March 29, 2000.

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of its references, which included Education/K-12, Governmental Operations, and Education Appropriations. HB 2005 died on the calendar.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 29, 2001, the Committee on State Administration heard HB 1205, and adopted one amendment. This amendment is a technical amendment. This bill, as amended, was reported favorably.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Jennifer D. Krell, J.D.

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

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