

**STORAGE NAME:** h0515p1.sa.doc

**DATE:** March 22, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
STATE ADMINISTRATION  
ANALYSIS**

**BILL #:** PCS/HB 515

**RELATING TO:** District School Personnel

**SPONSOR(S):** Committee on State Administration, Representative(s) Henriquez and others

**TIED BILL(S):**

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

- (1) STATE ADMINISTRATION
- (2) GENERAL EDUCATION
- (3) FISCAL POLICY & RESOURCES
- (4) COUNCIL FOR SMARTER GOVERNMENT
- (5)

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**I. SUMMARY:**

A district school board is required to provide sick leave for its employees. Sick leave must be granted to an employee who is unable to perform his or her duty, in the school, due to personal sickness, accident disability, or extended personal illness. A district school board may implement policy creating sick leave pools for employees of a district school system.

Currently, there is no statutory provision requiring a district school board to adopt a policy authorizing an employee to allow a family member to use his or her accrued sick leave, if the family member is also a district school board employee.

This proposed committee substitute requires each district school system to provide a policy to allow a district school board employee to authorize use of his or her accrued sick leave by a spouse, child, parent, or sibling who is also a district school board employee. In developing the policy, the district school board must provide that the recipient of the donated sick leave must first deplete his or her sick leave prior to using the donated sick leave. This does not include sick leave from a sick leave pool. This proposed committee substitute provides that donated sick leave has no terminal value. Except for these two requirements, the school boards are not restricted in the development of such a policy.

This proposed committee substitute does not appear to have a fiscal impact on local government. The fiscal impact on state government is indeterminant. Please see "Fiscal Comments."

This proposed committee substitute conforms this bill to the Senate version.

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

**School District Leaves of Absence**

Section 231.39, F.S., provides that

[a]ll leaves of absence for all district school board employees, except those leaves prescribed by law, shall be granted with or without compensation pursuant to rules adopted by the district school board.

This includes professional leave, extended professional leave, personal leave, military leave,<sup>1</sup> and maternity leave.<sup>2</sup>

**School District Sick Leave**

Section 231.40(3), F.S., contains the provisions governing sick leave. It requires a district school board to provide sick leave for its employees and sets a schedule for awarding sick leave hours.

Each full-time member of the instructional staff<sup>3</sup> must be granted four days of sick leave on the first day of employment of each contract year. All other full-time employees are credited with four days sick leave at the end of the first month of employment. From then on, all full-time employees earn one sick leave day at the end of each month. An employee may not earn more than one day for each calendar month employed during the year.<sup>4</sup> There is no statutory limit on the accumulation of sick leave.

Sick leave must be granted to an employee who is unable to perform his or her duty, in the school, due to personal sickness, accident disability, or extended personal illness.<sup>5</sup> In addition, leave must be granted to an employee who has to be absent from his or her work due to an illness or death of

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<sup>1</sup> This pertains to military leave granted pursuant to chapter 115, F.S.

<sup>2</sup> See s. 231.39, F.S.

<sup>3</sup> Section 231.40(1)(b), F.S., states that "instructional staff" shall be used synonymously with the word 'teacher' and includes teachers, librarians, and other comparable members engaged in an instructional capacity in the schools."

<sup>4</sup> See s. 231.40(3)(a)1., F.S.

<sup>5</sup> See s. 231.40(2), F.S.

his or her father, mother, brother, sister, husband, wife, child, other close relative, or member of his or her own household.<sup>6</sup>

District school boards may permit up to six absences for personal reasons to be deducted from accrued sick leave. Leave for personal reasons is non-cumulative.<sup>7</sup>

District school boards may adopt rules permitting the annual payment of accrued, unused sick leave. Payment is based on the daily rate of pay of the employee and is multiplied by up to 80 percent.<sup>8</sup>

Pursuant to s. 231.40(3)(a)4., F.S., district school boards may establish policies to “provide terminal pay for accumulated sick leave to instructional staff and educational support employees.”<sup>9</sup> Terminal pay for instructional staff and educational support employees must not exceed an amount determined as follows:

- During the first 3 years of service, the daily rate of pay multiplied by 35 percent times the number of days of accumulated sick leave.
- During the next 3 years of service, the daily rate of pay multiplied by 40 percent times the number of days of accumulated sick leave.
- During the next 3 years of service, the daily rate of pay multiplied by 45 percent times the number of days of accumulated sick leave.
- During the next 3 years of service, the daily rate of pay multiplied by 50 percent times the number of days of accumulated sick leave.
- During and after the 13th year of service, the daily rate of pay multiplied by 100 percent times the number of days of accumulated sick leave.<sup>10</sup>

### **Sick Leave Pools**

Section 231.40(4), F.S., sets forth the requirements related to sick leave pools for employees of a district school system. A district school board may, by rule or collective bargaining agreement, establish one or more plans to allow pooling of accrued sick leave by participating full-time employees and disbursing this leave to any participating employee who is in need of sick leave, in excess of the amount that he or she has personally accrued.<sup>11</sup> The rules or agreements must include specific provisions for eligibility criteria, conditions for use, and contributions. These rules or

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<sup>6</sup> See s. 231.40(2), F.S.

<sup>7</sup> See s. 231.40(3)(a)2., F.S.

<sup>8</sup> See s. 231.40(3)(a)3., F.S.

<sup>9</sup> Section 231.40(1)(a), F.S., defines “educational support employee” as “any person employed by a district school board as a teacher assistant; an education paraprofessional; a member of the transportation, operations, maintenance, or food service department; or a secretary or a clerical employee.”

<sup>10</sup> See s. 231.40(3)(a)4., F.S.

<sup>11</sup> See s. 231.40(4), F.S.

agreements may include:

- Participation in any sick leave pool must be voluntary on the part of employees.
- Any full-time employee is eligible to participate in any sick leave pool after one year of employment with the district school system, provided the employee has accrued the minimum amount of unused sick leave and there is a pool allowing participation by that particular employee.
- Pooled sick leave must be removed from the personally accumulated sick leave balance of the donor.
- Any sick leave time drawn from the pool, by a participating employee, must be used for that employee's personal illness, accident, or injury.<sup>12</sup>

Section 231.40(4)(i), F.S., provides for investigations, penalties, and sanctions for abusing the sick leave pool. Rules must provide for the "investigation of the use of sick leave utilized by the participating employee in the sick leave pool."<sup>13</sup>

### **Sharing of Sick Leave**

At present, there is no provision requiring a district school board to adopt a policy authorizing an employee to allow a family member to use his or her accrued sick leave, if the family member is also a district employee. In addition, there is no specific provision allowing for a "designated donor" sick leave pool. Pursuant to a 1999-2003 collective bargaining agreement with the United Teachers of Dade, on behalf of Miami-Dade County public schools, an employee may either contribute to the sick leave pool in general or direct the contribution to another member of the sick leave pool who has exhausted all hardship leave, dire emergency leave, and sick leave pool days.<sup>14</sup>

#### **C. EFFECT OF PROPOSED CHANGES:**

This proposed committee substitute requires each district school system to provide a policy to allow a district school board employee to authorize use of his or her accrued sick leave by a spouse, child, parent, or sibling who is also a district school board employee. In developing the policy, the district school board must provide that the recipient of the donated sick leave must first deplete his or her sick leave prior to using the donated sick leave. This does not include sick leave from a sick leave pool. This proposed committee substitute provides that donated sick leave has no terminal value. Except for these two requirements, the school boards are not restricted in the development of such a policy.

This proposed committee substitute conforms the House bill to the Senate bill.

#### **D. SECTION-BY-SECTION ANALYSIS:**

See "Effect of Proposed Changes."

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<sup>12</sup> *Id.*

<sup>13</sup> Section 231.40(4)(i), F.S.

<sup>14</sup> See Senate Staff Analysis and Economic Impact Statement by the Committee on Education, Revised March 6, 2001.

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:

The public schools receive approximately 60 percent of their funding from General Revenue and 40 percent from ad valorem taxes. The fiscal impact on the state and district school board is indeterminant because it is partially contingent upon the policy adopted by the district school board, and partially contingent upon the pay out value of the donor's unspent sick leave versus the payout value of the recipient's annual leave. A district school board may

- Adopt a policy that caps the number of sick leave days transferred between employees and the number of times a transfer can occur;
- Require that no less than a certain number of days be transferred between employees;
- Require that the recipient utilize all of his or her annual leave prior to receiving and using donated sick leave; and
- If a cap on sick leave payout has been established, then reduce the number of sick leave hours subject to payout by the number of hours transferred.

Because of the numerous iterations that such a policy could take, it is difficult to adequately discuss the possible fiscal ramifications.

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 an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties 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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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