

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 300

SPONSOR: Senator Clary and others

SUBJECT: Public School Employee Sick Leave Payments

DATE: April 5, 2004 REVISED: _____

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

I. Summary:

The bill removes the restriction that yearly accumulated sick leave may only be redeemed by instructional staff and educational support employees. All other employees would become eligible to participate in the yearly buyback of unused sick leave days.

The bill amends provisions relating to the terminal payment of accumulated sick leave to full-time employees other than instructional staff or educational support employees. Restrictions on the number of days of accumulated sick leave for which terminal payment may be made are removed. The bill specifies the rate at which terminal sick leave payments shall be calculated as no more than the employee's daily rate at the time the sick leave was earned. The bill provides a new definition of educational support employee for use in determining who is eligible for terminal payments for accumulated sick leave.

This bill substantially amends section 1012.61 of the Florida Statutes.

II. Present Situation:

Annual Payment for Sick Leave to Instructional Staff and Educational Support

Employees: Section 1012.61 (2) (a) (3), F.S., allows a district school board to pay instructional staff and educational support employees for accumulated sick leave which is unused at the end of the school year. This payment is limited to instructional staff and educational support employees and may not be made to all school board employees. If payment is made for unused sick leave, then the number of days of accumulated sick leave must be reduced by the number of days for which payment is received.

Instructional personnel are defined in s 1012.01 (2), F.S., as meaning any staff member whose function includes the provision of direct instructional services to students. Instructional personnel also include personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are:

(a) Classroom teachers.--Classroom teachers are staff members assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career and technical education, and adult education, including substitute teachers.

(b) Student personnel services.--Student personnel services include staff members responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; performing educational evaluations; and similar functions. Included in this classification are guidance counselors, social workers, occupational/placement specialists, and school psychologists.

(c) Librarians/media specialists.--Librarians/media specialists are staff members responsible for providing school library media services. These employees are responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems; facilitating access to information resources beyond the school; working with teachers to make resources available in the instructional programs; assisting teachers and students in media productions; and instructing students in the location and use of information resources.

(d) Other instructional staff.--Other instructional staff are staff members who are part of the instructional staff but are not classified in one of the categories specified in paragraphs (a)-(c). Included in this classification are primary specialists, learning resource specialists, instructional trainers, and adjunct educators certified pursuant to s. 1012.57, F.S., and similar positions.

(e) Education paraprofessionals.--Education paraprofessionals are individuals who are under the direct supervision of an instructional staff member, aiding the instructional process. Included in this classification are classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, physical education and playground paraprofessionals, and other school-level paraprofessionals.

Section 1012.40(1) (a), F.S., defines "educational support employee" as any person employed by a district school system who is employed as a teacher assistant, an education paraprofessional, a member of the transportation department, a member of the operations department, a member of the maintenance department, a member of food service, a secretary, or a clerical employee, or any other person who by virtue of his or her position of employment is not required to be certified by the Department of Education or district school board pursuant to s. 1012.39, F.S. This section does not apply to persons employed in confidential or management positions.

Terminal Pay for Accumulated Sick Leave to Instructional Staff and Educational Support Employees: Section 1012.61 (2) (a) 4., F.S., allows a district school board to establish policies to provide terminal pay for accumulated sick leave to instructional staff and educational support employees. Although the statutes place no limit on how many days of sick leave may be

accumulated by instructional staff and educational support employees, the statutes do limit how much a district may pay for terminal sick pay. Terminal sick leave payments may not exceed an amount determined as follows:

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

Terminal Pay for Accumulated Sick Leave to Other than Instructional Staff or Educational Support Employees: Section 1012.61 (2) (a) 5., F.S., allows a district school board to establish policies to provide terminal pay for accumulated sick leave to *any full-time employee of the district school board other than instructional staff or educational support employees.*

Terminal pay may not exceed one-fourth of all unused sick leave accumulated on or after July 1, 2001, and may not exceed a maximum of 60 days of actual payment. This limit does not impair any contractual agreement established before July 1, 2001; however, a previously established contract renewed on or after July 1, 2001, constitutes a new contract.

For unused sick leave accumulated before July 1, 2001, terminal payment shall be made pursuant to a district school board's policies, contracts, or rules that are in effect on June 30, 2001.

If an employee has an accumulated sick leave balance of 60 days of actual payment or more prior to July 1, 2001, sick leave earned after that date may not be accumulated for terminal pay purposes until the accumulated leave balance for leave earned before July 1, 2001, is less than 60 days.

III. **Effect of Proposed Changes:**

The bill would allow a district school board to annually pay any employee, including administrative employees, for accumulated sick leave at the end of the school year. Currently, this payment is limited to instructional staff and educational support employees and may not be made to all school board employees. The payment is calculated at 80 percent of the employee's daily rate of pay times the number of unused days of sick leave.

The bill deletes current statutory restrictions on the number of days of unused sick leave for which terminal pay may be received by employees other than instructional staff or educational

support employees. The bill also specifies how such terminal pay for accumulated sick leave is to be calculated.

Beginning July 1, 2004, terminal pay for unused sick leave will be paid at no more than the daily rate of the employee at the time the employee earned the sick leave. Depending on the policy adopted by a district school board, employees may be paid for an unlimited number of sick leave days. To calculate the payout value of unused sick days, the bill will require a district to track the employee's rate of pay on the date each day of sick leave is accumulated.

The bill defines the term "educational support employee" to mean 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; a secretary; or a clerical employee. This definition does not exclude persons employed in confidential or management positions as s. 1012.40(1) (a), F.S., does.

The bill will take effect on July 1, 2004.

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:

Newly eligible personnel who choose to participate in the annual buyback of unused sick leave will receive additional income for that year which may not otherwise have been received until the employee was eligible to receive a terminal leave payment.

Employees who are not instructional staff or educational support employees who are included in the broadened sick leave payout provisions of the bill potentially may receive additional income because of the greater amount of unused sick leave for which an employee may be paid. This possibility is dependent upon the terminal pay policies adopted by the local board.

Because school boards must have a balanced budget and have a finite amount of money to spend, funds for the terminal sick leave payout must come from district reserves, future increases in revenue, or be redirected from other sectors of the school district’s budget. Such payments will result in fewer dollars for other types of expenditure.

C. Government Sector Impact:

The bill has the potential to increase the cost of both annual and terminal payouts for unused sick leave made by a school district.

School districts may have to reserve additional funds to meet the sick leave payouts that could occur as a result of the changes in this bill. To some degree this will require the district to change its spending pattern. School districts must have a balanced budget. To increase the payout for annual or terminal sick leave, additional funds will have to be received, placed in reserve or redirected from other current expenditures. Otherwise, when a large payout for unused sick leave occurs, the district may have insufficient resources to meet other contractual obligations.

The Department of Education’s October 2002 staff survey indicated there were 10,795 administrative and non-instructional staff employees statewide. The average hourly salary for this group was \$31.73. If a termination rate for employees of 5 percent and the current statutory maximum sick leave balance of 480 hours were assumed (60 days times 8 hours) the statewide terminal sick leave payout would be \$8.8 million. By removing the cap of 480 hours, there is the potential for the accumulation of more sick leave time.

If the same termination rate for employees of 5 per cent yearly and an average sick leave balance of 750 hours were assumed, the estimated additional annual statewide cost to school districts would be \$4.97 million dollars or \$13.77 million in total. To afford the terminal payments, the district would have to receive additional revenue, hold sufficient funds in reserve or redirect the funds from other current uses.

Average hourly rate of pay	\$31.73
X Number of terminations at 5% annually	539
X Numbers of additional hours (750-480)	270
X Payroll taxes - FICA	1.0765
Estimated annual costs of proposed legislation	\$4.97 million

If the calculations were changed to assume an average sick leave balance of 1,000 hours, the estimated additional statewide cost would be \$9.57 million or \$18.37 million in total.

Average hourly rate of pay	\$31.73
X Number of terminations at 5% annually	539
X Numbers of additional hours (1,000-480)	520
X Payroll taxes - FICA	1.0765
Estimated annual costs of proposed legislation	\$9.57 million

If a small district or a district in financial distress were to have one or more highly paid administrators with large balances of accumulated sick leave terminate in a single year, the effect could jeopardize the stability of the district.

Under certain conditions terminal pay for sick leave may be included in the calculation of an employee's final compensation for retirement purposes. To the extent that occurs, the increase in terminal pay would have an impact on the Florida Retirement System due to the increased retirement compensation afforded the employee.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The definition of educational support employee in the proposed bill is not consistent with the definition in s. 1012.40(1) (a), F.S. That language specifically excludes employees in confidential or management positions, which are defined in s. 447.203(4) and (5), F.S. The proposed language does not contain this exclusion.

VIII. Amendments:

None.

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