

BILL ANALYSIS

C.S.H.B. 2757
By: Turner
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that recent legislation authorizing certain state employees to donate sick leave to a specific employee within the same agency lacked sufficient clarity regarding the intended use of the donated leave, possibly subjecting the recipient of such a donation to federal income taxation. C.S.H.B. 2757 seeks to clarify that such authorization is for the benefit of an employee experiencing a medical emergency or caring for a member of the employee's immediate family who is experiencing a medical emergency.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2757 amends the Government Code to require a state agency's governing body to allow an agency employee other than a state officer to voluntarily transfer to a sick leave pool sick leave donated to the employee. The bill conditions a state employee's eligibility to receive donated sick leave on that employee's exhaustion of all paid leave available to the employee, including any time the employee is eligible to withdraw from a sick leave pool, as a result of the employee experiencing a medical emergency or having to care for a member of the employee's immediate family who is experiencing a medical emergency. The bill requires an employee who requests donated sick leave to provide the employing state agency with a written statement from the licensed practitioner who is treating the employee or a member of the employee's immediate family. The bill requires the statement to provide sufficient information regarding the condition of the employee or the employee's family member to enable the agency to determine whether the employee or the employee's family member is experiencing a medical emergency. The bill removes certain restrictions on the use of donated sick leave and specifies that, for purposes of donated sick leave, a person is a member of an employee's immediate family if the person would be considered as such for purposes of taking sick leave with pay.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2757 may differ from the original in minor or nonsubstantive ways, the

following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 661.002(a), Government Code, is amended.

SECTION 2. Section 661.003(a), Government Code, is amended.

SECTION 3. Section 661.207, Government Code, is amended to read as follows:

Sec. 661.207. DONATION OF SICK LEAVE. (a) An employee may donate any amount of the employee's accrued sick leave to another employee who is:

(1) ~~is~~ employed in the same state agency as the donor employee; and

(2) eligible to receive donated sick leave under Subsection (b) [has exhausted the employee's sick leave, including any time the individual may be eligible to withdraw from a sick leave pool].

(b) An employee is eligible to receive donated sick leave under this section if:

(1) the employee complies with Subsection (c); and

(2) the administrative head of the employee's employing agency determines that:

(A) the employee is experiencing a medical emergency or is caring for a member of the employee's immediate family who is experiencing a medical emergency; and

(B) as a result of the medical emergency, the employee has exhausted all paid leave available to the employee, including any time the employee is eligible to withdraw from a sick leave pool.

(c) An employee who requests donated sick leave under this section must provide the administrative head of the employing agency with a written statement from the licensed practitioner who is treating the employee or a member of the employee's immediate family. The statement must provide sufficient information regarding the condition of the employee or the employee's family member to enable the administrative head to determine whether the employee or the employee's family member is experiencing a medical emergency.

(d) An employee may not provide or receive remuneration or a gift in exchange

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Section 661.207, Government Code, is amended to read as follows:

Sec. 661.207. DONATION OF SICK LEAVE. (a) An employee may donate any amount of the employee's accrued sick leave to another employee who is:

(1) ~~is~~ employed in the same state agency as the donor employee; and

(2) eligible to receive donated sick leave under Subsection (b) [has exhausted the employee's sick leave, including any time the individual may be eligible to withdraw from a sick leave pool].

(b) An employee is eligible to receive donated sick leave under this section if:

(1) the employee complies with Subsection (c);

(2) the employee is experiencing a medical emergency or is caring for a member of the employee's immediate family who is experiencing a medical emergency; and

(3) as a result of the medical emergency, the employee has exhausted all paid leave available to the employee, including any time the employee is eligible to withdraw from a sick leave pool.

(c) An employee who requests donated sick leave under this section must provide the employing state agency with a written statement from the licensed practitioner who is treating the employee or a member of the employee's immediate family. The statement must provide sufficient information regarding the condition of the employee or the employee's family member to enable the agency to determine whether the employee or the employee's family member is experiencing a medical emergency.

(d) An employee may not provide or receive remuneration or a gift in exchange

for a sick leave donation under this section.

(e) Notwithstanding any other law, an ~~[(e) A#]~~ employee who receives donated sick leave under this section may not[~~:~~

~~[(1) use sick leave donated to the employee under this section except as provided by Sections 661.202(d) and (e); or~~

~~[(2) notwithstanding any other law,]~~ receive service credit in the Employees Retirement System of Texas for any sick leave donated to the employee under this section that is unused on the last day of that employee's employment.

(f) For purposes of this section, a person is a member of an employee's immediate family if the person would be considered a member of the employee's immediate family under Section 661.202(d).

(g) ~~[(d)]~~ In this section:

(1) "Employee" [~~,"employee"~~] and "state agency" have the meanings assigned by Section 661.001.

(2) "Medical emergency" means a severe medical condition that:

(A) affects the mental or physical health of an employee or a member of the employee's immediate family;

(B) requires treatment by a licensed practitioner; and

(C) requires the employee's prolonged absence from work.

SECTION 4. The change in law made by this Act applies only to a donation of sick leave that is made on or after the effective date of this Act. A donation of sick leave made before the effective date of this Act is governed by the law in effect when the sick leave was donated, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2017.

for a sick leave donation under this section.

(e) Notwithstanding any other law, an ~~[(e) A#]~~ employee who receives donated sick leave under this section may not[~~:~~

~~[(1) use sick leave donated to the employee under this section except as provided by Sections 661.202(d) and (e); or~~

~~[(2) notwithstanding any other law,]~~ receive service credit in the Employees Retirement System of Texas for any sick leave donated to the employee under this section that is unused on the last day of that employee's employment.

(f) For purposes of this section, a person is a member of an employee's immediate family if the person would be considered a member of the employee's immediate family under Section 661.202(d).

(g) ~~[(d)]~~ In this section:

(1) "Employee" [~~,"employee"~~] and "state agency" have the meanings assigned by Section 661.001.

(2) "Medical emergency" means a severe medical condition that:

(A) affects the mental or physical health of an employee or a member of the employee's immediate family;

(B) requires treatment by a licensed practitioner; and

(C) requires the employee's prolonged absence from work.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.