

(The House considered SB 522 by Averitt, the Senate companion bill, in lieu of HB 462, the House version of the bill, which had been set on the daily calendar and was analyzed by the House Research Organization. The bill subsequently was enacted as SB 522.)

HOUSE
RESEARCH

ORGANIZATION bill analysis

4/27/2009

HB 462

Eissler

SUBJECT: Order of usage of personal and sick leave by teachers

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Eissler, Hochberg, Allen, Aycock, Farias, Olivo, Patrick,
Shelton, Weber

0 nays — none

2 absent — Dutton, Jackson

WITNESSES: For — Lindsay Gustafson, Texas Classroom Teachers Association;
(*Registered, but did not testify:* Portia Bosse, Texas State Teachers
Association; Monty Exter, Association of Texas Professional Educators;
Dwight Harris, Texas American Federation of Teachers)

Against — Alejandra Martin, Texas Association of School Personnel
Administrators

BACKGROUND: Education Code, section 22.003(a) requires a school district to provide at least five personal leave days per year, to be used for any purpose, that may be accrued and transferred between districts. School districts may provide additional local leave days. The board of trustees of a school district may adopt a policy governing an employee's use of personal leave as long as it does not restrict the purposes for which state personal leave may be used.

A district may limit the reasons for which additional personal days may be used. A district may determine whether the local or state days are used first.

In 1995, the 74th Legislature enacted SB 1 by Ratliff, which made comprehensive changes to the state's public education system. Among its many provisions, SB 1 repealed Education Code, sec. 13.904, which formerly governed public school employee sick leave. Employees who had accumulated sick leave under sec. 13.904 were allowed to retain it. As

a result, some teachers today have sick leave in addition to personal leave.

Current law does not specify the order in which teachers may use the various types of leave they have accumulated over their careers. At the time of retirement, eligible members of the Teacher Retirement System who accumulate a certain number of state sick or personal leave days may use them as credit to purchase one year of TRS membership.

A survey, conducted by the Texas Association of School Personnel Administrators in which 26 percent of school districts belonging to the organization participated, found that 48 percent of those school districts required the use of local leave first, 14 percent required state leave be used first, and 28 percent gave employees discretion over the order leave use. Twenty-three percent of school districts required local personal leave days be used for sick days or emergencies only.

DIGEST: HB 462 would prohibit school district boards of trustees from restricting the order in which an employee used state minimum personal leave, any additional personal leave days provided by the school district, and state sick leave accumulated before 1995.

HB 462 would apply beginning with the 2009-10 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY: HB 462 would allow an employee to designate the order in which personal leave was used, ensuring that employees who have a preference regarding whether they are using state or local leave would have the ability to choose. Employees have varying needs: to preserve state leave to purchase a year of retirement credit, to preserve state leave for transferability purposes, or to preserve local leave because of a district policy that pays employees for accumulated local days.

HB 462 would add value to leave days without an additional cost to the state because districts already are required to record the types of leave being used.

HB 462 would not ban or impede district incentive policies used to

discourage absenteeism, such as a school district's purchasing unused personal leave from teachers. This bill would maintain a school district's

ability to manage when employees use their leave, such as holidays or standardized test days.

**OPPONENTS
SAY:**

This bill would limit school board authority. State law does not require school districts to provide additional personal leave days, and the local school districts should have control over local personal leave should they provide it.

The policy change in this bill could encourage a change in behavior resulting in increased absenteeism. If teacher absences were to increase, school districts might then take away local personal leave days.

NOTES:

The companion bill, SB 522 by Averitt, passed the Senate by 31-0 on the Local and Uncontested Calendar on April 9, and was reported favorably, without amendment, by the House Public Education Committee on April 21.

During the 2007 regular session, the 80th Legislature considered an identical bill, SB 817 by Averitt, which passed the Senate and was placed on the House General State Calendar, but was not brought to a vote.