

SUBJECT: Setting requirements for state employees to use donated sick leave

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Cook, Giddings, Craddick, Farrar, Geren, Guillen, K. King, Kuempel, Meyer, Paddie, E. Rodriguez, Smithee

0 nays

1 absent — Oliveira

WITNESSES: For — (*Registered, but did not testify:* Joe Hamill, American Federation of State, County and Municipal Employees)

Against — None

On — (*Registered, but did not testify:* Rob Coleman, Comptroller of Public Accounts)

BACKGROUND: Government Code, sec. 661.002 requires state agencies to establish programs allowing employees to voluntarily transfer sick leave earned by the employee to a sick leave pool. Sec. 661.004 allows employees to use time contributed to the sick leave pool if they have exhausted their own sick leave because of a catastrophic illness or injury or a previous donation of time to the pool.

Sec. 661.207 allows an employee to donate any amount of accrued sick leave to another employee at the same agency who has exhausted his or her own sick leave in addition to any time the individual may be eligible to withdraw from a sick leave pool.

Some have suggested the IRS could view sick leave donated from one employee to another as a taxable "gift" because current law on sick leave pools does not explicitly state that it should be used only for severe illness. Some say the current program also could be vulnerable to abuse, as it does not require an employee to have exhausted all available paid

leave, including time from a sick leave pool, before being eligible to receive employee donated sick leave.

DIGEST: CSHB 2757 would establish that employees of a state agency would be eligible to receive donated sick leave from another employee if they:

- were experiencing a medical emergency or caring for an immediate family member experiencing one;
- had exhausted all paid leave available to them because of the medical emergency, including time from a sick leave pool; and
- had provided their employer with a written statement from the licensed practitioner treating them or a family member that provided sufficient information for the state agency to determine whether employees or their family members were experiencing a medical emergency.

The bill would define "medical emergency" as a severe medical condition that affected the mental or physical health of an employee or the employee's immediate family, required treatment by a licensed practitioner, and required the employee's prolonged absence from work.

CSHB 2757 also would allow an employee of a state agency to return donated sick leave to a sick leave pool.

The bill would take effect September 1, 2017, and would apply only to donations of sick leave made on or after that date.

NOTES: The companion bill, SB 2018 by Creighton, was referred to the Senate Business and Commerce Committee on March 27.