

BILL ANALYSIS

Senate Research Center
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H.B. 2757
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2015, the 84th Legislature passed H.B. 1771 to allow state employees to donate any amount of sick leave to a specific employee in the same agency. An employee can receive donated sick leave if they have exhausted their sick leave, including any time that is eligible to be withdrawn from the sick leave pool. Under general tax law, the leave that an employee receives from another employee's donated paid time off will be taxable to the donor as well as the coworker who receives the donation. However, Internal Revenue Service (IRS) Ruling 90-29 provides a medical emergency exception that does not tax an employee's donation to another employee who is suffering a medical emergency.

Because current law does not explicitly state that donated sick leave should be used for severe or catastrophic illness, it is inconsistent with the legislative intent of the original bill. Without this classification, the IRS could view the "gift" of sick leave to be taxable for income tax purposes. Moreover, the program is open to potential abuse because the law does not specify that an employee must exhaust all available paid leave before being eligible to receive a donation.

H.B. 2757 seeks to clarify in statute that the legislative intent of the donated sick leave program is for the purpose of a severe or catastrophic illness.

H.B. 2757 amends current law relating to the donation of sick leave by state employees.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 661.002(a), Government Code, to require the governing body of a state agency to, through the establishment of a program, allow an agency employee to voluntarily transfer to a sick leave pool sick leave donated to the employee under Section 661.207.

SECTION 2. Amends Section 661.003(a), Government Code, to authorize an employee to contribute to the sick leave pool sick leave donated to the employee under Section 661.207.

SECTION 3. Amends Section 661.207, Government Code, as follows:

Sec. 661.207. DONATION OF SICK LEAVE. (a) Authorizes an employee to donate any amount of the employee's accrued sick leave to a certain employee, including an employee who is eligible to receive donated sick leave under Subsection (b), rather than who has exhausted the employee's sick leave, including any time the individual may be eligible to withdraw from a sick leave pool. Makes a nonsubstantive change.

(b) Provides that an employee is eligible to receive donated sick leave under this section if certain conditions are met.

(c) Requires an employee who requests donated sick leave under this section 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. 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.

(d) Creates this subsection from existing text and makes no further changes.

(e) Prohibits an employee who receives sick leave, notwithstanding any other law, from receiving 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. Deletes existing text prohibiting an employee who receives donated sick leave under his section from using sick leave donated to the employee under this section except as provided by Sections 661.202(d) (relating to sick leave under certain circumstances, including to care for an immediate family member who is sick) and (e) (relating to limiting the time to provide care for certain family members).

(f) Provides that, 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) Redesignates existing Subsection (d) as Subsection (g). Defines "medical emergency" and makes a nonsubstantive change.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2017.