

BILL ANALYSIS

C.S.H.B. 2063
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2017, the City of El Paso established a shared parental leave policy under which city employees donate unused leave time into a pool to be used by new parents after exhausting their own personal leave balances. There have been calls for a similar policy to be adopted for state agencies since many state employees have family care needs that do not fall under the allowable uses for existing sick leave pools or the federal Family and Medical Leave Act of 1993. C.S.H.B. 2063 seeks to answer those calls by establishing a state employee family leave pool to provide eligible state employees more flexibility in bonding with and caring for children during a child's first year following birth, adoption, or foster placement and in caring for a seriously ill family member or the employee.

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 rulemaking authority is expressly granted to a governing body of an applicable state agency in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2063 amends the Government Code to provide for the establishment of state employee family leave pools to provide eligible state employees more flexibility in bonding with and caring for children during a child's first year following birth, adoption, or foster placement and in caring for a seriously ill family member or the employee, including pandemic-related illnesses or complications caused by a pandemic. The bill requires the governing body of each applicable state agency, through the establishment of such a program, to allow an agency employee to voluntarily transfer their sick or vacation leave to a family leave pool. The bill requires the agency's executive head or another individual appointed by the governing body to administer the pool and requires the governing body to adopt rules and prescribe procedures relating to the operation of the pool.

C.S.H.B. 2063 authorizes a state employee to contribute to the family leave pool one or more days of the employee's accrued sick or vacation leave. The bill requires the pool administrator to credit the pool with the amount of time contributed by an employee and deduct a corresponding amount of time from the employee's earned sick or vacation leave as if the employee had used the time for personal purposes. The bill authorizes a retiring state employee to designate the number of the employee's accrued sick or vacation leave hours to be used for retirement credit and the number to be donated on retirement to the employee sick leave pool or the family leave pool.

C.S.H.B. 2063 makes a state employee eligible to use time contributed to the family leave pool if the employee has exhausted their eligible compensatory, discretionary, sick, and vacation leave because of the following:

- the birth of a child;
- the placement of a foster child or adoption of a child under 18 years of age;
- the placement of any person 18 years of age or older requiring guardianship;
- a serious illness to an immediate family member or the employee, including a pandemic-related illness;
- an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member; or
- a previous donation to the pool.

An employee who applies to use the time to care for another person must submit certain documentation proving the employee's relationship to the other person.

C.S.H.B. 2063 authorizes a state employee to apply to the pool administrator for permission to withdraw time from the family leave pool. The bill provides the following:

- an employee must provide the administrator with a written statement from the licensed practitioner who is treating the employee or the employee's immediate family member under the following conditions:
 - if the employee is seeking permission to withdraw time because of a serious illness of an immediate family member or the employee; or
 - if the employee does not qualify for or has exhausted time available in the employee sick leave pool;
- an employee who is seeking permission to withdraw time because of an extenuating circumstance created by an ongoing pandemic must provide any applicable related documentation; and
- if the pool administrator determines the employee is eligible, the administrator must approve the transfer of time from the pool and credit the time to the employee.

C.S.H.B. 2063 sets certain limits on the amount of time a state employee may withdraw from the pool and requires the pool administrator to determine the amount of time that an employee may withdraw from the pool within the established limits. The bill authorizes an employee absent while using time withdrawn from the pool to use the time as earned sick leave and requires the employee to be treated for all purposes as if the employee is absent on earned sick leave. The bill establishes that the estate of a deceased state employee is not entitled to payment for unused time withdrawn by the employee from the pool.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2063 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the original's provisions making state employees eligible to use time contributed to the family leave pool if they have exhausted their compensatory, discretionary, sick, and vacation leave because of a previous donation to the pool or certain medical conditions, serious illnesses, and caretaking responsibilities. Instead of specifying that the employee must have exhausted the employee's compensatory, discretionary, sick, and vacation leave, the substitute specifies that those types of leave must be eligible leave.