

BILL NUMBER: [AB 2134](#) (Muratsuchi) as amended April 8, 2024

SUMMARY

AB 2134 requires employing entities of certificated and classified employees to honor an employee's request to transfer leave of absence for illness or injury at any time during the employee's employment with the subsequent employing entity. The bill also removes the requirement that employees who have terminated employment must accept a new covered position within the next school year to qualify for sick leave transfer. The bill requires unused sick leave to be transferred between employers in days, not hours, and specifies information that must be shared with the transfer. Finally, the bill specifies these provisions apply to charter schools, county offices of education and state special schools.

BOARD POSITION

Neutral. It is the board's policy to adopt a neutral position on legislation that does not significantly or adversely impact the benefits or services provided through the funds administered by CalSTRS. While increased reporting of unused sick leave to the system at retirement could increase CalSTRS' liabilities, it is difficult to estimate how much sick leave will be retained by members and converted to service credit at retirement.

REASON FOR THE BILL

According to the author, this bill will strengthen existing statute to protect earned sick leave after a job change within the education system by explicitly stating that there is no time frame during which unused sick leave must be transferred between employers, requiring unused sick leave to be transferred between employers in days and not hours, and requiring charter schools, county offices of education and state special schools to accept transfer of unused sick leave from prior employers.

ANALYSIS

Existing Law:

California preK-12 certificated and classified employees are typically granted leave to accommodate personal or family illnesses that arise in the course of their employment as governed by state and federal laws as well as individual collective bargaining agreements. Education Code section 44978 provides various rights and requirements related to sick leave accrual for preK-12 certificated employees, including.

- Every certificated employee employed five days a week by a school district being entitled to at least 10 days leave of absence for illness or injury with full pay for a school year of service.
- Certificated employees working less than full time receiving a proportional amount of sick leave.
- Pay for any day of absence being the same as the pay that would have been received had the employee served during the day. (The Teachers' Retirement Law stipulates that pay for the use of sick leave, vacation leave or an employer-approved compensated leave of absence is creditable compensation.)
- Any unused leave accumulating from year to year with additional days as the governing board may allow.

Education Code section 44979 provides the right for preK-12 certificated employees who have worked for at least one school year to have their total accumulated sick leave balance transferred from one school district to a second district after accepting employment with the second district. PreK-12 employees who have been terminated are required to accept another position within the school year succeeding their termination to qualify for leave transfer. Education Code sections 44980 and 44982 provide that these rights are also applicable to certificated employees of various school employers when transferring to appropriate certificated positions with other covered employers.

Education Code section 22717 grants a CalSTRS member service credit for each day of accumulated and unused sick leave that the member was entitled on their final day of employment with each employer during the last school term in which the member earned creditable compensation. Employers must certify to CalSTRS the number of unused sick leave days for the member, and CalSTRS is required to utilize specific factors to convert unused sick leave to service credit, including the base days for the member's position.

Education Code section 47610 specifies the laws governing school districts that charter schools are not exempt from, including those related to CalSTRS if the charter school elects to provide the State Teachers' Retirement Plan to its employees.

This Bill:

Specifically, this bill:

- Explicitly states employing entities, including school districts, county offices of education, charter schools or state special schools, must honor a transfer request from a previous district made at any time during the employee's employment with the subsequent district.
- Removes the requirement that an employee whose employment was terminated must accept a new covered position in the following school year to qualify for sick leave transfer.
- Requires unused sick leave to be transferred between school employers in days, not hours.
- Mandates that the former employer provide the following information in response to a request for transfer from the subsequent employer:
 - The name and identification number for the employee requesting transfer.
 - The contact information of the former and subsequent employers.
 - The time period of service, including start and end date.
 - The number of days of leave of absence to be transferred, including fractions.
 - The signature of the person completing and verifying accuracy, including their name, title and contact information.
- Provides that these changes are applicable for employees moving between different types of employers, including school and community college districts, charter schools, state special schools, county offices of education, the Commission on Teacher Credentialing for certificated employees and the Department of Education for professional education positions.
- Stipulates that charter schools are not exempt from these provisions.

Discussion:

CalSTRS employers vary greatly in terms of the amount of sick leave granted, the frequency with which it may be earned, and the amount that may be redeemed. For instance, some employers may grant sick leave in terms of days, while others may grant leave in terms of hours. Some employers may allow sick leave to be redeemed only in full days, while others may allow redemption in half days, hours or even fractions of an hour. When transferring sick leave from one employer to the next, employers may use different hourly bases to determine what constitutes a full day. For

instance, one employer using six hours as the basis for a full day might interpret 10 days of sick leave to be equivalent to 60 hours, while another employer using seven hours as the basis for a full day might see the same 10 days as equivalent to 70 hours. Because of this, some members may experience a windfall and others a loss when transferring sick leave between districts.

AB 2134 seeks to tackle these inconsistencies by requiring all transfers of leave between employers to be measured in number of days. While this bill does not directly address the wide variance in sick leave standards and application in the current world, such a change could mitigate future inconsistencies and encourage future negotiated leave policies to conform to this standard, potentially reducing future imbalances.

This bill does not directly alter CalSTRS' programs or processes, but it is likely that changes that enable members to retain larger sick leave balances throughout their careers will have downstream effects on the system. CalSTRS does not have visibility of the number of members who lose their unused sick leave because of current transfer requirements. However, if a significant portion of members are able to convert additional unused sick leave to service credit at retirement, it could create an increase in the normal cost of benefits for the system over time.

LEGISLATIVE HISTORY

AB 706 (Low, Chapter 100, Statutes of 2019) removed the three-year limit within which an academic employee of a community college district must transfer unused sick leave to another employer.

AB 1102 (Knox, Chapter 1006, Statutes of 1998) permitted members who retire on or after January 1, 1999, to convert unused accumulated sick leave to service credit at retirement.

PROGRAM BACKGROUND

Within 30 days of the effective date of a member's service retirement date or the date their service retirement application is received by CalSTRS, whichever is later, the member's last employer or employers are required to certify to CalSTRS the number of days of unused sick leave for the retiring member. CalSTRS converts unused sick leave into service credit by dividing the number of unused sick leave days by the number of base days required for full-time service for the member's class of employees during a school year. For the fiscal years ending on June 30, 2019, through June 30, 2023, CalSTRS has seen an average of 58.49% of members convert sick leave to service credit at retirement for an average of 0.561 additional service credit.

CalSTRS does not have visibility of the number of members who lose their unused sick leave due to current transfer requirements. Therefore, it is difficult to estimate how many additional sick leave days will be converted into service credit as a result of this bill.

FISCAL IMPACT

Program Costs/Savings – Increase in the normal cost of the average member's benefit of 0.004% of pay, or \$4 per year, for each additional day of unused sick leave that is converted to service credit. If the bill results in a large number of members retaining more sick leave during their careers and converting that leave to service credit at retirement beyond the amount that is currently expected in the actuarial assumptions, this change may result in an increase in the unfunded actuarial obligation, which could eventually impact contribution rates.

Administrative Costs/Savings –Potential minor and absorbable costs associated with increased workload for CalSTRS staff to convert additional sick leave days to service credit or workload associated with audits of sick leave.

SUPPORT

California Federation of Teachers
California Retired Teachers Association
California School Employees Association
California Teachers Association

OPPOSITION

None known.

ARGUMENTS

Pro: May support members' ability to move between employers without risk of abandoning an earned benefit.

By maintaining sick leave balances throughout a career, may give members additional financial security should they experience illness or disability later in their careers, which may incentivize members to remain in CalSTRS-covered positions.

Con: Could create a cost impact for hiring employers.

May increase the unfunded liability if a large portion of members retain additional unused sick leave beyond the amount that is currently expected in the actuarial assumptions and convert it to service credit at retirement.

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