



House of Representatives

General Assembly

File No. 286

January Session, 2001

Substitute House Bill No. 5860

House of Representatives, April 12, 2001

The Committee on Labor and Public Employees reported through REP. DONOVAN of the 84th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-247 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Each appointing authority shall grant [, on account of illness or
4 injury,] to each full-time employee in a permanent position in the state
5 service who has furnished satisfactory proof of [such] (1) illness or
6 injury to the employee or to a child, spouse or parent of the employee,
7 or (2) the birth or adoption of a child of the employee, such sick leave
8 with pay as has accrued to [his] the employee's credit at the rate of one
9 and one-quarter working days for each completed calendar month of
10 continuous full-time service which may be computed on an hourly
11 basis. Hourly computation of sick leave shall not diminish benefit
12 entitlement. On or before October 1, 1980, the Commissioner of
13 Administrative Services shall adopt regulations, in accordance with

14 chapter 54, concerning the accrual, prorating and granting of sick leave
15 with pay to other employees in the state service and extending sick
16 leave with pay or with part pay for longer periods to full-time
17 permanent employees disabled through illness or injury. Such
18 regulations shall specify that such other employees are entitled to use
19 any accumulated sick leave upon the birth or adoption of a child of
20 such employee, or upon the illness or injury of a child, spouse or
21 parent of such employee. Each such employee who retires under the
22 provisions of chapter 66 shall be compensated, effective as of the date
23 of [his] retirement, at the rate of one-fourth of such employee's salary
24 for sick leave accrued to [his] such employee's credit as of [his] such
25 employee's last day on the active payroll up to a maximum payment
26 equivalent to sixty days' pay. Such payment for accumulated sick leave
27 shall not be included in computing retirement income and shall be
28 charged by the State Comptroller to the department, agency or
29 institution in which the employee worked.

30 Sec. 2. Subsection (a) of section 5-248a of the general statutes is
31 repealed and the following is substituted in lieu thereof:

32 (a) Each permanent employee, as defined in subdivision (21) of
33 section 5-196, shall be entitled to the following: (1) A maximum of
34 twenty-four weeks of family leave of absence within any two-year
35 period upon the birth or adoption of a child of such employee, or upon
36 the serious illness of a child, spouse, [or] parent or grandparent of such
37 employee, provided in the case of a grandparent, the grandparent is
38 the employee's next of kin; and (2) a maximum of twenty-four weeks
39 of medical leave of absence within any two-year period upon the
40 serious illness of such employee. Any such leave of absence shall be
41 without pay. Upon the expiration of any such leave of absence, the
42 employee shall be entitled (A) to return to the employee's original job
43 from which the leave of absence was provided or, if not available, to an
44 equivalent position with equivalent pay, except that in the case of a
45 medical leave, if the employee is medically unable to perform the

46 employee's original job upon the expiration of such leave, the
47 Personnel Division of the Department of Administrative Services shall
48 endeavor to find other suitable work for such employee in state
49 service, and (B) to all accumulated seniority, retirement, fringe benefit
50 and other service credits the employee had at the commencement of
51 such leave. Such service credits shall not accrue during the period of
52 the leave of absence.

53 Sec. 3. Subsection (b) of section 5-248a of the general statutes is
54 repealed and the following is substituted in lieu thereof:

55 (b) The leave of absence benefits granted by this section shall be in
56 addition to any other paid leave benefits and benefits provided under
57 subdivision (7) of subsection (a) of section 46a-60 which are otherwise
58 available to the employee. Nothing in this subsection shall be
59 construed to prohibit a permanent employee from electing to
60 substitute any other accrued paid leave benefits for any part of the
61 twenty-four-week period of unpaid leave granted by this section.

62 Sec. 4. Subdivision (7) of section 31-51kk of the general statutes is
63 repealed and the following is substituted in lieu thereof:

64 (7) "Parent" means a biological parent, foster parent, adoptive
65 parent, stepparent, [or] legal guardian of an eligible employee or an
66 eligible employee's spouse, [or] an individual who stood in loco
67 parentis to an employee when the employee was a son or daughter or
68 a grandparent of an eligible employee, provided the grandparent is the
69 eligible employee's next of kin.

70 Sec. 5. Subparagraph (B) of subdivision (2) of subsection (e) of
71 section 31-51ll of the general statutes is repealed and the following is
72 substituted in lieu thereof:

73 (B) An eligible employee may elect, or an employer may require the
74 employee, to substitute any of the accrued paid vacation leave,

75 personal leave, or medical or sick leave of the employee for leave
76 provided under subdivision (3) or (4) of subsection (a) of this section
77 for any part of the sixteen-week period of such leave under said
78 subsection. [, except that nothing in section 5-248a or 31-51kk to 31-
79 51qq, inclusive, shall require an employer to provide paid sick leave or
80 paid medical leave in any situation in which such employer would not
81 normally provide any such paid leave.]

82 Sec. 6. This act shall take effect July 1, 2001.

LAB JOINT FAVORABLE SUBST.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Significant Cost

Affected Agencies: Department of Administrative Services, All State Agencies

Municipal Impact: None

Explanation

State Impact:

This bill would result in significant additional costs to the state that cannot be determined at this time. The bill allows state employees to use any accrued paid leave (sick, vacation or personal) while on family and medical leave (FML) and extends family leave to include grandparents who are next of kin. All permanent state employees are entitled to a maximum of 24 weeks of unpaid leave in every two-year period for FML. This will result in more state employees taking leave and will result in more leaves being taken for longer periods of time.

It should be noted that while it should be considered a cost, the taking of additional earned leave does not increase the payroll or the actual expenditures of the state. The only costs exceeding the existing budgeted amounts would be for the replacement of workers who are on leave, either through overtime or temporary workers. According to federal studies, most of the time employee's work is divided among co-workers.

LACK OF DATA

The difficulty in determining the additional costs to the state results from the lack of data for state employees on (1) the number currently taking FML, the reason for the leaves and their duration, (2) the demographics of the workforce, especially age and marital status, and (3) the amount of accrued leave time currently available. While DAS is responsible for administering the program and assisting agencies in making decisions on granting leave, per CGS Section 5-248a, they do not require agencies to provide statistics. In addition, there are numerous options for state employees to take leave which include federal FML, state FML, voluntary leaves of absence, workers' compensation, and short-term disability.

Data is lacking for the private sector as well. This resulted in the need to hire a consultant to study the issue, at a cost of \$70,000. Section 80 of PA 00-192, the OPM Implementer Bill, authorizes the Office of Policy and Management (OPM), in consultation with the Departments of Administrative Services and Labor, and the chairpersons and ranking members of the Labor committee to hire a consultant to conduct a study of the costs and benefits of providing wage replacement to employees who take family and medical leave in Connecticut. The consultant must report the findings to the Labor committee by July 1, 2001. The consultant was hired in March 2001.

SICK TIME

There are no limitations on the amount of sick time that state employees are allowed to accumulate. Most state employees earn sick time at the rate of 15 days per year (one and one-quarter days per month). This bill would benefit employees who have been in state service long enough to accumulate sick leave. It would take eight years to earn the 120 sick days that it would require to take the full 24

weeks of FML time.

Allowing state employees to use sick time now, rather than later or upon retirement, would have the time paid at a lower salary level and would reduce the payment of accrued time upon retirement. Upon retirement, state employees are paid for one-quarter of their accumulated sick time, up to a total of 60 days pay.

BACKGROUND

Any estimates produced at this time would be highly speculative. However, there are some facts about the current benefits and FML data that could be useful in determining the impact when state information is collected and provided.

While it is not known how many state employees take FML, the state Department of Labor has collected information that shows the length of FML for all employees, by type of leave. The average leave (1) for births and adoptions is 9.4 weeks, (2) for personal medical is 6.7 weeks, and (3) for family illness is about 4.2 weeks. Refer to the table below.

LENGTH OF LEAVE FOR ALL WORKERS (WEEKS)

Year	Birth	Self	Family	Average
1999	9.7	8.1	4.5	8.1
1998	8.2	6.4	4.3	6.8
1997	9.7	6.7	5.5	7.5
1996	9.8	6.3	4.8	7.2
1995	9.9	6.6	4.1	7.3
1994	9.1	5.9	1.7	6.0
Average	9.4	6.7	4.2	6.7

Two national surveys have indicated that between 10.8% of workers take leave for reasons that are covered by the Family and Medical Leave Act. The same studies have indicated that about 2.0% of workers are not able to take FML because they cannot afford to take the time off without pay. There are currently about 53,000 permanent full time state employees. Assuming the same percentages, about 5,700 state employees are currently taking leaves, while another 1,060 cannot afford to do so.

Based on state DOL statistics, about 64% of the leaves are for personal medical reasons, which average about 4.2 weeks. State employees already can utilize their accrued sick time for this type of leave.

About 26% of the leaves are for births and adoptions, which average 9.4 weeks. State employees can apply 6 weeks of sick time towards this type of leave. This will result in an increase in the length of birth and adoption leaves.

About 10% of the leaves are for family illness, which average 6.7 weeks. State employees can only use 3 days of sick time for family illness. The bill also expands the family members for leave eligibility to include grandparents who are next of kin. This is the area in which the greatest increase in the number of leaves and in the use of sick leave will occur.

OLR Bill Analysis

sHB 5860

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE.

Current law allows a private employee to use, or an employer to require him to use, accrued paid vacation leave, personal leave, or medical or sick leave when he is on state family and medical leave (FMLA) because of his own serious health condition or to care for a spouse, child, or parent with a serious health condition. But, current law does not require employers to provide paid sick or medical leave in any situation in which they would not normally provide such leave. For example, if an employer only provides sick leave for an employee's own illness, it does not have to allow him to use sick leave to care for a spouse with a serious health condition. This bill eliminates that exception. Thus, it allows private employees to use, or employers to require them to use, accrued paid sick or medical leave to care for a spouse, child, or parent with a serious health condition.

It also expands the definition of "parent" for FMLA purposes to include a grandparent, as long as the grandparent is the employee's next of kin.

It allows a state employee to use any accrued paid leave (vacation, sick, or personal) while on a family leave of absence. It also allows him to take a family leave of absence upon the serious illness of a grandparent, provided the grandparent is the employee's next of kin.

Finally, it allows a state employee to use his sick leave for the illness or injury of a spouse, child or parent, or the birth or adoption of a child. Current regulations allow a state employee to use three days of sick leave per calendar year for emergencies involving the critical illness or severe injury of a member of his immediate family.

EFFECTIVE DATE: July 1, 2001

BACKGROUND

Private Employees

Connecticut’s FMLA requires private-sector employers of 75 or more employees to grant up to 16 weeks of leave in any two-year period to an eligible employee in order to care for a newborn or newly placed foster child or for a spouse, child, or parent who has a serious health condition. Leave authorized under the FMLA is unpaid, but the employee may use, or the employer may require him to use, accrued paid leave in certain situations.

State Employees

All permanent state employees are entitled to a maximum of 24 weeks of unpaid leave in every two-year period upon the birth or adoption of a child; the employee’s own serious illness; or the serious illness of a child, spouse, or parent.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4