



Senate

General Assembly

File No. 590

February Session, 2004

Substitute Senate Bill No. 336

Senate, April 15, 2004

The Committee on Education reported through SEN. GAFFEY of the 13th Dist., Chairperson of the Committee on the part of the Senate, 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. Subsection (a) of section 5-247 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

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

12 (2) Each appointing authority shall grant to each full-time employee
13 in a permanent position in the state service who has furnished

14 satisfactory proof of (A) the birth or adoption of a child of the
15 employee, or (B) a serious illness of a child, spouse or parent of the
16 employee, up to two weeks of such sick leave with pay as has accrued
17 to the employee's credit pursuant to subdivision (1) of this subsection.

18 (3) On or before [October 1, 1980] January 1, 2005, the Commissioner
19 of Administrative Services shall adopt regulations, in accordance with
20 the provisions of chapter 54, concerning the accrual, prorating and
21 granting of sick leave with pay to other employees in the state service
22 and extending sick leave with pay or with part pay for longer periods
23 to full-time permanent employees disabled through illness or injury.
24 Such regulations shall specify that such other employees are entitled to
25 use up to two weeks of accumulated sick leave upon the birth or
26 adoption of a child of such employee, or upon the serious illness of a
27 child, spouse or parent of such employee.

28 (4) Each such employee who retires under the provisions of chapter
29 66 shall be compensated, effective as of the date of [his] retirement, at
30 the rate of one-fourth of such employee's salary for sick leave accrued
31 to [his] such employee's credit as of [his] such employee's last day on
32 the active payroll up to a maximum payment equivalent to sixty days'
33 pay. Such payment for accumulated sick leave shall not be included in
34 computing retirement income and shall be charged by the State
35 Comptroller to the department, agency or institution in which the
36 employee worked.

37 (5) For purposes of this subsection, "serious illness" means an
38 illness, injury, impairment or physical or mental condition that
39 involves (A) inpatient care in a hospital, hospice or residential care
40 facility, or (B) continuing treatment or continuing supervision by a
41 health care provider.

42 Sec. 2. Subdivision (4) of section 31-51kk of the general statutes is
43 repealed and the following is substituted in lieu thereof (*Effective*
44 *October 1, 2004*):

45 (4) "Employer" means a person engaged in any activity, enterprise

46 or business who employs seventy-five or more employees, and
 47 includes any person who acts, directly or indirectly, in the interest of
 48 an employer to any of the employees of such employer and any
 49 successor in interest of an employer, but [shall] does not include the
 50 state or a parochial elementary or secondary school. [, a municipality, a
 51 local or regional board of education, or a private or parochial
 52 elementary or secondary school.] The number of employees of an
 53 employer shall be determined on October first annually.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

ED *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:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
All	All Appropriated Funds - Cost	Potential	Potential

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
All Municipalities	STATE MANDATE - Cost	Potential	Potential

Explanation

This bill may result in additional costs to the state that cannot be determined at this time. The bill allows state employees to use up to two weeks of accrued paid sick leave for the birth or adoption of a child or upon the serious illness of a child, spouse or parent of such state employee.

Allowing a state employee to use accrued sick leave may in some cases increase personnel costs to the state. Personnel costs exceeding the budgeted level may result due to overtime or temporary staffing costs. It should be noted that collective bargaining agreements provide paid sick leave for the provisions outlined in this bill, however, this use of paid sick leave is limited to no more than five days. As this bill allows state employees to take up to ten days of accrued sick leave, certain state agencies, such as the Department of Corrections and the Department of Public Safety may incur future overtime costs to cover shifts for those employees taking sick leave. For many state agencies the workload of employees taking accrued sick leave will be divided among co-workers.

The bill would impact collective bargaining agreements that are negotiated after the effective date (October 1, 2004) and would not preempt any collective bargaining agreements already in effect.

The bill brings municipal, public school and non-parochial private school employees under all provisions of the state's Family Medical Leave Act (FMLA). It is anticipated that 16 of the 17 regional school districts have over 75 employees and would be affected by this bill. These districts may incur additional costs for substitute teachers to cover for those teachers taking leave.

There are approximately 125 municipalities that have over 75 employees (including municipal school employees). Many of these municipal employees are covered by collective bargaining agreements. This bill would not preempt any collective bargaining agreements already in effect. Municipalities may incur future costs for the replacement of workers who are on leave, either through overtime costs or the hiring of temporary workers. Except for emergency services personnel like police and fire, it is anticipated that for most municipalities the workload of employees taking accrued sick leave will be divided among co-workers.

It is anticipated that the Department of Labor will not require additional resources as a result of any future workplace complaints due to the bill's provisions.

OLR BILL ANALYSIS

sSB 336

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE**SUMMARY:**

This bill allows full-time state employees and municipal, public school district, and non-religious private school employees to use up to two weeks of their accrued paid sick leave for (1) the birth or adoption of a child or (2) a serious illness of the employee's child, spouse, or parent (i.e. for State Family and Medical Leave Act (FMLA) purposes). Under the current state FMLA law, only private sector, non-school employers must allow their employees to use up to two weeks of paid sick time for such purposes.

The bill applies the state FMLA to most municipal, public school, and nonsectarian private school employees (the state FMLA does not apply to employers with fewer than 75 employees). The federal FMLA still applies to these employees, thus eligibility and leave time are determined by looking at the laws together and giving employees the most favorable terms provided under either law. Under the bill, religious schools remain exempt from the state FMLA.

The state FMLA gives eligible employees up to 16 weeks of unpaid leave during a 24-month period. The federal law gives employees up to 12 weeks of unpaid leave in 12 months. When both laws apply, an eligible employee can take 16 weeks of leave in one 12-month period under the state law and 12 weeks in the next 12 months under the federal law. This provides a total leave of 28 weeks over two years (See BACKGROUND).

EFFECTIVE DATE: October 1, 2004

EMPLOYEE GROUPS***Municipal, Public School, and Nonsectarian Private School Employees***

The bill applies to municipal, public school and nonsectarian (non-religious) private school employees all provisions of the state's FMLA,

including allowing employees to use up to two weeks of accrued sick time for the (1) the birth, adoption, or foster placement of a child or (2) a serious health condition of a child, spouse, or parent. Religious schools continue to be exempt from the state FMLA.

The state leave law applies to employers with 75 or more employees. In order to be eligible, employees must have worked for the employer for at least 12 months and worked at least 1,000 hours in the 12 months before the first day of the leave. Currently, these employees are covered by the federal FMLA, which affects all public agencies and all public and private elementary and secondary schools and requires employees to work 1,250 hours to be eligible for leave. The federal law does not require employers to allow employees to use paid sick leave as part of the FMLA leave time (although it does allow employers to require employees to use sick time as part of their leave).

State Employees

The bill requires state agencies, commissions, and other appointing authorities to allow each full-time state employee to use up to two weeks of accrued paid sick leave for FMLA purposes, provided the employee provides satisfactory proof of (1) the birth or adoption of a child or (2) a serious illness of the employee's child, spouse, or parent. The administrative services commissioner has until January 1, 2005 to adopt necessary regulations. This expanded use of sick time is done under the state employee sick leave statute, and it is not contingent upon the employee reaching the FMLA's work threshold before being eligible.

BACKGROUND

Family and Medical Leave Acts

Three separate FMLAs permit employees in Connecticut to take unpaid leave.

1. The federal FMLA applies to (1) all private employers with 50 or more employees in a 75-mile radius and (2) the federal government, states, municipalities, private schools, and public schools regardless of the number of employees.
2. The state private sector FMLA applies to all private sector

employees with 75 or more employees. It specifically excludes the state, municipalities, local and regional boards of education, and private and parochial schools.

3. The state employee FMLA is part of the state personnel act and covers only full-time state employees.

The three laws can make determining which law affects an employer somewhat complex. For example, a private employer with 50 to 74 employees is covered by the federal law, while a private employer with 75 or more employees is covered by the federal and state private sector laws and must interpret them together.

Collective Bargaining Agreements

The bill does not preempt any collective bargaining agreements already in effect, but it would have to be considered in collective bargaining agreements negotiated after it takes effect.

Legislative History

On March 31, the Senate referred the original bill (File 225) to the Education Committee. On April 7, Education reported out its version, which eliminates the provision that allows for employees of sectarian schools to use up to two weeks of paid sick leave for FMLA purposes.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 12 Nay 2

Education Committee

Joint Favorable Substitute
Yea 16 Nay 3