



SENATE BILL 123: Portability of Leave/Charter Schools.

2019-2020 General Assembly

Committee:	Senate Education/Higher Education.	If Date:	May 2, 2019
	favorable, re-refer to Rules and Operations of the Senate		
Introduced by:	Sen. Sanderson	Prepared by:	Brian Gwyn*
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: Senate Bill 123 requires the State Board of Education to adopt rules allowing the transfer of sick leave between a charter school and local school administrative unit.

BILL ANALYSIS: SB 123 amends the State Board of Education's powers and duties [G.S. 115C-12] to require that rules providing for sick leave must allow for the transfer of sick leave between a charter school and a local school administrative unit. It further requires that leave accepted by a local school administrative unit must not result in leave being accrued at a greater rate than the rate set by the Board.

The bill also makes a conforming change by amending the law [G.S.115-218.90] pertaining to charter school employment requirements to require charter school employees to be eligible for the transfer of sick leave.

EFFECTIVE DATE: The bill would become effective when it becomes law and apply to individuals employed by a local school administrative unit or charter school on or after that date.

CURRENT POLICY: Below are sick leave policy excerpts from the [NC Public Schools Benefits and Employment Policy Manual](#), which generally applies to local school administrative units. Policy 4.1.9(c) currently provides, "There is no provision for public school employees to transfer leave to or from charter schools." Policy 4.1.8(c) outlines the impact of accumulated sick leave on creditable service toward retirement if the employer participates in the Teachers' and State Employees' Retirement System. G.S. 135-4(e) provides greater specificity as it relates to creditable service at retirement.

4.1.1 Eligibility and Rate of Earning

(a) **Full-time employees:** All permanent, full-time employees working or on paid leave (including paid holidays and workers' compensation) for one-half or more of the workdays in any monthly pay period earn one sick day per month or the number of hours worked daily by a full-time employee in that class of work up to a maximum of eight hours.

(b) **Part-time employees:** All permanent, part-time employees working or on paid leave (including paid holidays and workers' compensation) for one-half or more of the workdays in any monthly pay period earn sick leave computed on a pro rata basis of the amount earned by a full-time employee in that class of work. Permanent, part-time employees previously employed in a full-time position retain the balance of sick leave earned in the prior position upon transferring to a part-time position.

(c) **Units:** Sick leave must be used in one-half days, whole days, or hours as determined for earning purposes by the local board. Only sick leave taken on an employee's workday shall be deducted from the employee's sick leave balance.

(d) **Accumulation:** Sick leave may be accumulated indefinitely

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4.1.8 Sick Leave Upon Separation

(a) In the event an employee separates from service before earning sick leave which has been advanced, a deduction will be made from the final salary check for the total unearned sick leave used.

(b) Pay for unused sick leave is not permitted, except when an employee has been approved for long-term disability.

(c) Accumulated sick leave counts as creditable service towards retirement. One month of credit is allowed for each 20 days of unused sick leave upon retirement. One more month is allowed for any part of 20 days left over. Sick leave converted from excess annual vacation leave is also creditable.

(d) From the date an employee resigns or moves to a temporary position, the sick leave balance is retained for 60 or 63 months. (In order to have 63 months, the individual must have separated under a 10 months contract and returned to employment under a 10 months contract.) If the person is re-employed in a full-time or part-time permanent position, or retires within this 60 or 63 months, the sick leave balance is reinstated. After this point, the sick leave balance cannot be reinstated.

4.1.9 Transfer of Sick Leave

(a) **Between school systems:** Unused sick leave must be transferred between local school administrative units. Leave to be accepted by a school system must not result in leave being accrued at a greater rate than the rate set forth in Section 4.1.1 of this manual.

(b) **To and from other state agencies:** Sick leave may be transferred in whole or in part to and from a state agency, institution, community college, technical institute, or position covered by the State Personnel Act in county agencies of mental health, public health, social services or emergency management if the receiving agency is willing to accept the leave. Leave to be accepted by a school system must not result in leave being accrued at a greater rate than the rate set forth in Section 4.1.1 of this manual. If the government agency refuses to accept sick leave earned by a school system employee, there is no lump-sum payout to the employee.

(c) **Charter Schools:** There is no provision for public school employees to transfer leave to or from charter schools. **

**Theresa Matula, Legislative Analyst with the Legislative Analysis Division, substantially contributed to this summary.*

** NOTE: Upon Separation from employment with an LEA to work in a charter school, any vacation leave balance (up to 30 days) is paid by the LEA, and the sick leave balance is retained by the LEA for 60 months (63 months for 10 month employees). See Section 4.1.8.