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COMMITTEE REPORT

April 5, 2022

**H. 4982**

Introduced by Rep. Rose

S. Printed 4/5/22--H.

Read the first time February 16, 2022.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4982) to amend Section 8‑11‑40, Code of Laws of South Carolina, 1976, relating to sick leave of state officers and employees, so as to provide an, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill allows employees who earn sick leave annually to use an additional sixty days of accrued sick leave to care for an immediate family member with a serious health condition as recognized by the Family Medical Leave Act (FMLA). Serious health conditions under the FMLA include conditions which require overnight hospitalization or continuing treatment, as well as Alzheimer’s disease, cancer, diabetes, severe depression, pregnancy, and so forth.

Currently, employees can use up to ten days of accrued sick leave annually to care for ill members of their immediate families, which include an employee’s spouse, children, mother, father, brother, sister, grandparent, legal guardian, and grandchildren. After those ten days, the employee may use accrued annual leave to cover any additional days needed. If the employee does not have sufficient annual leave to cover all days needed, the additional leave is unpaid. However, this bill allows sixty days of accrued sick leave to be taken in addition to the ten days of accrued sick leave allowed under current law.

Because funds are already appropriated to State agencies to cover the salaries of employees, and because these funds would be expended for salaries whether the employee is at work or on paid leave, Admin reports that generating a fiscal impact for this legislation is imprecise. However, the agencies could incur additional costs under two scenarios: either when an employee is paid sick leave when they otherwise would have been on leave without pay, or when the agency, upon the employee’s separation from employment, is required to pay out accrued annual leave that otherwise would have been exhausted. Under either scenario, the actual fiscal impact would depend on an individual employee’s salary and the number of additional days of leave that are paid when the leave would have otherwise been unpaid or paid out of the employee’s separation when the leave would have otherwise been exhausted.

The average salary for a State employee is $45,396, which equates to approximately $174.60 per workday. For the average employee, an agency would incur a fiscal impact of $174.60 per day under either of the aforementioned scenarios. Admin reports that the annual average of State employees who took FMLA leave to care for a family member between 2017 and 2021 was 1,118. Admin additionally assumed that all employees have and take seventy days of sick leave and that all employees are able to retain forty-five days of annual leave, the maximum allowed for calculating employee payoff. Using these assumptions, the fiscal impact is equal to 1,118 employees multiplied by forty-five days of sick leave at the average daily salary rate of $174.60. Therefore, this bill could increase general fund, other funds, and federal funds expenditures under these assumptions by an amount up to $8,784,000 for FY 2022-23 and each year thereafter. However, the individual circumstances of each employee using leave would influence the final impact of this bill. These factors include the total amount of sick leave an employee has, the total amount of annual leave an employee has, the amount of FMLA leave the employee actually takes, and the length of time the employee remains in his or her position after returning from the use of sick leave. As an example, this bill would have no fiscal impact to agencies for employees having ten or fewer days of accrued sick leave at the time the employee engages FMLA to care for an ill family member. Further, there could be additional costs to agencies to temporarily fill certain positions. However, final impact of this bill will depend upon the individual circumstances of each employee using leave.

**Introduced on February 16, 2022**

**State Expenditure**

This bill allows employees who earn sick leave annually to use an additional sixty days of accrued sick leave to care for an immediate family member with a serious health condition as recognized by the Family Medical Leave Act (FMLA). Serious health conditions under the FMLA include conditions which require overnight hospitalization or continuing treatment, as well as Alzheimer’s disease, cancer, diabetes, severe depression, pregnancy, and so forth. Currently, employees can use up to ten days of accrued sick leave annually to care for ill members of their immediate families, which include an employee’s spouse, children, mother, father, brother, sister, grandparent, legal guardian, and grandchildren. This bill allows sixty days of accrued sick leave to be taken in addition to the ten days of accrued sick leave allowed under current law.

The expenditure impact of this bill is pending, contingent upon a response from Admin.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 8‑11‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SICK LEAVE OF STATE OFFICERS AND EMPLOYEES, SO AS TO PROVIDE AN ADDITIONAL SIXTY DAYS OF LEAVE FOR AN EMPLOYEE WHO HAS BEEN APPROVED FOR CERTAIN FAMILY MEDICAL LEAVE ACT LEAVE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 8‑11‑40(C) of the 1976 Code is amended to read:

“(C) Employees earning sick leave as provided in this section may use not more than ten days of sick leave annually to care for ill members of their immediate families, except in the event of a serious health condition of an immediate family member as recognized by the Family Medical Leave Act (FMLA). An employee who has been approved for FMLA leave based on the serious health condition of a family member may use no more than sixty days of his accrued sick leave annually to care for an immediate family member with a serious health condition. The use of up to sixty days of sick leave annually for an approved FMLA illness of a family member is in addition to the ten days of family sick leave annually. For purposes of this section, the employee’s ‘immediate family’ means the employee’s spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren.”

SECTION 2. This act takes effect upon approval by the Governor.

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