

Date of Hearing: April 3, 2024

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
AB 2134 (Muratsuchi) – As Amended March 21, 2024

**[This bill was doubled referred to the Assembly Public Employment and Retirement Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]**

**SUBJECT:** School employees: transfer of leave of absence for illness or injury

**SUMMARY:** Requires a school district, county office of education (COE), or charter school to accept the transfer of sick leave days for a certificated or classified employee at any time during their employment. Specifically, **this bill:**

- 1) Requires a certificated employee of a school district who has been an employee of that district for a period of one school year or more and who accepts a position requiring certification qualifications with another school district or community college district at any time during the second or a subsequent school year of the employee's employment with the first school district, or who, within the school year immediately following the school year in which employment is terminated, signifies acceptance of the employee's election or employment in a position requiring certification qualifications in another school district or community college district, to have the total number of days of leave of absence for illness or injury that the employee accumulated with the first school district transferred to the second district. Requires the second employing district to honor a transfer request made at any time during the certificated employee's employment with that district.
- 2) Requires a classified employee of a school district, county superintendent of schools, or community college district who has been employed for a period of one calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with a school district or county superintendent of schools within one year of the termination of the employee's former employment to have the total number of days of earned leave of absence for illness or injury that the employee accumulated with the first district or county superintendent of schools transferred to the second school district or county superintendent of schools. Requires the second school district or county superintendent of schools to honor a transfer request made at any time during the classified employee's employment with that school district or county superintendent of schools.
- 3) Defines school district to include COE and charter school.

**EXISTING LAW:**

- 1) Requires any certificated employee of any school district who has been an employee of that district for a period of one school year or more and who accepts a position requiring certification qualifications in another school district or community college district at any time during the second or any succeeding school year of his or her employment with the first school district, or who, within the school year succeeding the school year in which employment is terminated, signifies acceptance of his or her election or employment in a

position requiring certification qualifications in another school district or community college district, to have transferred with him or her to the second district the total amount of leave of absence for illness or injury to which he or she is entitled. (Education Code (EC) 44979)

- 2) Requires the State Board of Education (SBE) to adopt rules and regulations prescribing the manner in which the first district certifies to the second district the total amount of leave of absence for illness or injury to be transferred. Prohibits a governing board from adopting any policy or rule, written or unwritten, which requires any certificated employee transferring to its district to waive any part or all of the leave of absence which he or she may be entitled to have transferred in accordance with this section. (EC 44979)
- 3) Requires any certificated employee of any school district who accepts a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of any county superintendent of schools who accepts a position requiring certification qualifications in a school district or office of another county superintendent of schools; or, any person employed by the state department in a position requiring certification qualifications or an employee of the office of the Chancellor of the California Community Colleges who accepts a position requiring certification qualifications in any school district or office of any county superintendent of schools; or, any certificated employee of the Commission on Teacher Credentialing (CTC) who accepts a position requiring certification qualifications in any school district or office of any county superintendent of schools; to have transferred with him or her to the second position his or her accumulated leave of absence for illness or injury. (EC 44980)
- 4) Authorizes any days of leave of absence for illness or injury to be used by the employee, at his or her election in cases of personal necessity. Requires the governing board of each school district and each office of county superintendent of schools to adopt rules and regulations requiring and prescribing the manner of proof of personal necessity. States that no accumulated leave in excess of seven days may be used in any school year for the purposes enumerated unless a maximum number of days in excess of seven is specified for that purpose in an agreement between the exclusive bargaining representative and the district. Prohibits the employee from being required to secure advance permission for leave taken for any of the following reasons:
  - a) Death or serious illness of a member of his or her immediate family; or
  - b) Accident, involving his or her person or property, or the person or property of a member of his or her immediate family. (EC 44981)
- 5) Requires any classified employee of any school district, county superintendent of schools, or community college district who has been employed for a period of one calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with a school district or county superintendent of schools within one year of the termination of his or her former employment, to have transferred with him or her to the school district or county superintendent of schools the total amount of earned leave of absence for illness or injury to which he or she is entitled. Requires this transfer to be in the same manner as is provided for certificated employees. States that in any case where an employee was terminated as a result of action initiated by the employer for cause, the transfer may be made if agreed to by the governing board of the school district or the county superintendent of schools newly employing the employee. Prohibits a governing board of a school district from adopting any

policy or rule, written or unwritten, which requires all classified employees, or any individual classification, or group of classifications of employees transferring to its district to waive any part or all benefits which they may be entitled to have transferred. (EC 45202)

- 6) Requires the accumulated sick leave transfer to be accomplished as follows:
  - a) The person who accumulated the leave, using a form furnished or prescribed by the California Department of Education (CDE), requests his former employing agency to send his new employing agency a written statement of his accumulated sick leave.
  - b) Upon receipt of the request, the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is charged with maintaining employee attendance records.
  - c) The new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the CDE is subject to the limitations specified by Education Code section 44982. (California Code of Regulations Title 5, Section 5601)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

***What does this bill do?*** This bill changes three things related to the transfer of sick leave for teachers and classified staff at public schools, as follows:

- 1) Clarifies that there is no time frame during which unused sick leave must be transferred between public school employers.
- 2) Requires unused sick leave to be transferred between school employers in days, not hours.
- 3) Requires charter schools to accept transfer of unused sick leave from prior public school employers.

***Need for the bill.*** According to the author, "School employees who change jobs within the state are having issues transferring earned sick time from one to the next, even though current law technically allows it. AB 2134 strengthens and clarifies existing statute to protect earned sick leave after a job change within the education system. This bill will allow teachers to keep their sick time to be used at their new job or converted to service credit on their pension upon retirement. By honoring the sick time that our teachers and school employees have earned, this bill affirms our state's commitment to taking care of the public servants in our education system."

***Transfer of days versus hours.*** When teachers and classified staff are able to transfer their leave, each employer currently determines if that leave is transferred in hours or days. This can create a problem. For example, a teacher leaves employer "A" with 650 hours and a contractual day of 7 hours, which equates to 92.86 days. When that member moves to employer "B," who has a contractual day of 8 hours, and the transfer is made in hours and not days, the value of that sick leave is now 81.25, a loss of 11.61 sick days. Due to the fact that CalSTRS accepts unused sick leave in days, AB 2134 requires public school employers to transfer unused sick leave only in days, and not in hours. This will eliminate the potential for a teacher to forfeit days of sick leave

that can be transferred to CalSTRS as service time at retirement. By transferring sick leave in days, instead of hours, the bill will eliminate the confusion, and create uniformity.

***Timeline Issues.*** Anecdotal evidence suggests that public school employers need clarification in the law regarding whether there is a timeline for when an employee can request sick leave to be transferred from a previous employer. Some teachers have experienced an inability to transfer unused sick leave to a new employer when more than a year has passed since leaving a school district.

***Arguments in support.*** The California Teachers Association states, “If a school employee changes jobs to a different education employer within the state, the Education Code currently allows them to transfer their accrued sick time to their new job. CTA believes that whenever an employee is required to serve on a school day, there should be no loss of sick leave, salary, or benefits. Unfortunately, many public-school employers have misinterpreted this section of the Education Code which has led many educators to lose sick time they have earned. Those who move to new school districts sometimes leave behind sick time that could be reflected in their benefits or be transferred to their pension as service credit. This is unfair and employers need to have a clear understanding of this area of law to stop the financial harm to our hardworking public servants, and to ensure we don’t unnecessarily expose our school communities to health risks. Those risks surface when an educator has exhausted their sick leave because some workers may choose to come to school when they are sick.”

***Recommended Committee Amendments. Staff recommends the bill be amended to:***

- 1) Include conforming changes to Section 44980 and 44982 regarding teachers transferring to COEs, community colleges and the CDE.
- 2) Clarify that an employee may transfer their days of sick leave to any subsequent public school employer.
- 3) Delete the requirement for the SBE to develop regulations and instead specify the information that must be shared among employers when transferring sick leave.
- 4) Require classified employees to transfer leave in terms of “amount” instead of days.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Federation of Teachers Afl-cio  
California School Employees Association  
California Teachers Association

### **Opposition**

None on file

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