

1 **UNUSED SICK LEAVE AT RETIREMENT**

2 **AMENDMENTS**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David Clark**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah State Personnel Management Act by amending unused sick
10 leave at retirement provisions.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that no additional converted sick leave can be added after January 1, 2014;
14 ▶ provides that after December 31, 2005, new sick leave hours may not be
15 accumulated for future use under the current Unused Sick Leave Retirement Option

16 Program;

17 ▶ provides a five-year phase out of:

18 • the guaranteed continuing medical and life insurance benefits for retiring
19 employees; and

20 • the 480 hour reduction of unused sick leave;

21 ▶ changes the name of the current program to Unused Sick Leave Retirement Option
22 Program I;

23 ▶ deletes the provision allowing “up to” 25% of unused sick leave under program I
24 which may be cashed out upon retirement to requiring 25% of unused sick leave
25 received as a contribution into a 401k defined contribution plan upon retirement;

26 ▶ creates the Unused Sick Leave Retirement Program II for sick leave hours
27 accumulated on or after January 1, 2006, which provides:



28 • 25% of unused sick leave, upon retirement, shall be received as a contribution
 29 into a 401k defined contribution plan; and
 30 • participation in a benefit plan that provides for reimbursement for medical
 31 expenses using the remainder of unused sick leave hours at the employee’s rate
 32 of pay at the time of retirement **H→ but not less than the average rate of pay as for employees**
 32a **who retired in the same state retirement system during the previous calendar year ←H** ;

- 33 ▶ allows employees to make a one-time election to transfer unused sick leave hours to
- 34 the new program beginning January 1, 2011;
- 35 ▶ the Division of Finance must develop and maintain a system of accounting for sick
- 36 leave as necessary to implement these programs;
- 37 ▶ the Utah State Retirement Systems must develop and maintain a program to provide
- 38 a benefit plan that provides for reimbursement for medical expenses; and
- 39 ▶ makes technical changes.

40 **Monies Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 **H→ [None] This bill takes effect on January 1, 2006. ←H**

44 **Utah Code Sections Affected:**

45 AMENDS:

- 46 **67-19-14**, as repealed and reenacted by Chapter 28, Laws of Utah 2004
- 47 **67-19-14.1**, as enacted by Chapter 28, Laws of Utah 2004
- 48 **67-19-14.2**, as enacted by Chapter 28, Laws of Utah 2004
- 49 **67-19-14.3**, as enacted by Chapter 28, Laws of Utah 2004

50 ENACTS:

51 **67-19-14.4**, Utah Code Annotated 1953

52 **Uncodified Material Affected:**

53 ENACTS UNCODIFIED MATERIAL



55 *Be it enacted by the Legislature of the state of Utah:*

56 Section 1. Section **67-19-14** is amended to read:

57 **67-19-14. Sick leave -- Definitions -- Unused sick days retirement programs --**

58 **Rulemaking.**

59 (1) As used in Sections 67-19-14 through [~~67-19-14.3~~] 67-19-14.4:

60 (a) "Continuing medical and life insurance benefits" means the state provided policy of
61 medical insurance and the state provided portion of a policy of life insurance, each offered at
62 the same:

63 (i) benefit level and the same proportion of state/member participation in the total
64 premium costs as an active member as defined in Section 49-11-102; and

65 (ii) coverage level for a member, two person, or family policy as provided to the
66 member at the time of retirement.

67 (b) "Converted sick leave" means leave that has been converted from unused sick leave
68 in accordance with [~~this section and~~] Section 67-19-14.1 which may be used by an employee in
69 the same manner as:

70 (i) annual leave;

71 (ii) sick leave; or

72 (iii) unused accumulated sick leave after the employee's retirement for the purchase of
73 continuing medical and life insurance benefits under Sections 67-19-14.2 [~~and~~], 67-19-14.3,
74 and 67-19-14.4.

75 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
76 director shall make rules for the procedures to implement the provisions of Sections 67-19-14
77 through [~~67-19-14.3~~] 67-19-14.4.

78 (3) For purposes of Sections 67-19-14 through 67-19-14.4 the most recently earned
79 converted sick leave or sick leave hours shall be used first when an employee uses converted
80 sick leave or sick leave hours.

81 (4) The Division of Finance shall develop and maintain a system of accounting for
82 employee sick leave and converted sick leave as necessary to implement the provisions of
83 Sections 67-19-14 through 67-19-14.4.

84 Section 2. Section **67-19-14.1** is amended to read:

85 **67-19-14.1. Converted sick leave.**

86 (1) [~~Am~~] Until January 1, 2014, an employee who has 144 hours of accumulated unused
87 sick leave immediately prior to the beginning of a calendar year, may elect to convert any
88 unused sick leave hours accumulated during that calendar year, in excess of 64 hours, to
89 converted sick leave.

90 (2) The conversion is made at the beginning of the next calendar year for unused sick
 91 leave hours earned during a calendar year under Subsection (1).

92 (3) Converted sick leave hours;

93 (a) are not subject to the reduction provided under Subsection 67-19-14.2(4)(a)(ii)[-];

94 (b) that are not used prior to an employee's retirement date shall be used under the:

95 (i) Unused Sick Leave Retirement Option Program I under Section 67-19-14.2 if
 96 earned prior to January 1, 2006, unless the transfer is made under Subsection 67-19-14.4(1)(c);
 97 or

98 (ii) Unused Sick Leave Retirement Option Program II under Section 67-19-14.4 if
 99 earned on or after January 1, 2006.

100 Section 3. Section **67-19-14.2** is amended to read:

101 **67-19-14.2. Unused Sick Leave Retirement Option Program -- Creation -- Payout**
 102 **at retirement -- Continuing medical and life insurance benefits after retirement.**

103 (1) (a) There is created the "Unused Sick Leave Retirement Option Program I."

104 (b) An agency may offer the Unused Sick Leave Retirement Option Program I to an
 105 employee who is eligible to receive retirement benefits in accordance with Title 49, Utah State
 106 Retirement and Insurance Benefit Act.

107 [~~(c) An employee's participation in any part of the Unused Sick Leave Retirement~~
 108 ~~Option Program is voluntary.]~~

109 (2) The Unused Sick Leave Retirement Option Program I provides that upon retirement
 110 an employee who was employed by the state prior to January 1, 2006:

111 (a) [~~is paid~~] receives a contribution under Subsection (3) for [up to] 25% of the
 112 employee's unused accumulated sick leave accrued prior to January 1, 2006, at the employee's
 113 rate of pay at the time of retirement;

114 (b) receives continuing medical and life insurance benefits until the earlier of:

115 (i) the date the employee reaches the age eligible for Medicare; or [~~for up to five years,~~
 116 ~~which ever occurs sooner; and]~~

117 (ii) up to the following number of years:

118 (A) five years if the employee retires during calendar year 2006;

119 (B) four years if the employee retires during calendar year 2007;

120 (C) three years if the employee retires during calendar year 2008;

- 121 (D) two years if the employee retires during calendar year 2009;
122 (E) one year if the employee retires during calendar year 2010; or
123 (F) zero years if the employee retires after calendar year 2010; and

124 (c) may purchase additional continuing medical and life insurance benefits in
125 accordance with Subsection (4).

126 (3) (a) [~~An employee may have monies from the pay out~~] Subject to federal
127 requirements and limitations, the contribution under Subsection (2)(a) shall be transferred
128 directly to the [~~deferred compensation~~] employee's defined contribution plan qualified under
129 Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement
130 Board.

131 (b) If the amount calculated under Subsection (2)(a) exceeds the federal contribution
132 limitations, the employee's unused accumulated sick leave hours representing the excess shall
133 be used for the purchase of continuing medical and life insurance benefits under Subsection
134 (4).

135 (4) (a) An employee may purchase continuing medical and life insurance benefits, at
136 the rate of one month's coverage per policy for eight hours of unused sick leave remaining
137 after:

- 138 (i) the [~~pay out~~] contribution of unused sick leave under Subsection (2)(a); and
139 (ii) an additional reduction [~~of 480 hours~~], at the time of retirement, of unused sick
140 leave[-] hours as follows:

- 141 (A) 480 hours if the employee retires during calendar year 2006;
142 (B) 384 hours if the employee retires during calendar year 2007;
143 (C) 288 hours if the employee retires during calendar year 2008;
144 (D) 192 hours if the employee retires during calendar year 2009;
145 (E) 96 hours if the employee retires during calendar year 2010; or
146 (F) 0 hours if the employee retires after calendar year 2010.

147 (b) The medical coverage level for member, two person, or family coverage that is
148 provided to the member at the time of retirement is the maximum coverage level available to
149 the member under this program.

150 (c) The purchase of continuing medical and life insurance benefits at the rate provided
151 under Subsection (4)(a) may be used by the employee to extend coverage:

152 (i) beyond the ~~[five]~~ number of years provided under Subsection (2) until the employee
153 reaches the age of eligibility for Medicare; or

154 (ii) if the employee has reached the age of eligibility for Medicare, continuing medical
155 benefits for the employee's spouse may be purchased until the employee's spouse reaches the
156 age of eligibility for Medicare.

157 (d) An employee and the employee's spouse who are or who later become eligible for
158 Medicare may purchase Medicare supplemental insurance at the rate of one month's coverage
159 for eight hours of the employee's unused sick leave per person.

160 Section 4. Section **67-19-14.3** is amended to read:

161 **67-19-14.3. Continuation of Medical and Dental Insurance Benefits Program --**
162 **Creation -- Coverage following death in the line of duty.**

163 (1) There is created the "Continuation of Medical and Dental Insurance Benefits
164 Program" to provide a continuation of medical and dental insurance to the surviving spouse and
165 family of any state employee whose death occurs in the line of duty.

166 (2) The insurance coverage shall continue for a period of five years or until the
167 surviving spouse becomes eligible for Medicare, whichever occurs first.

168 (3) The program provides that unused accumulated sick leave of a deceased employee
169 may be used for additional medical coverage in the same manner as provided under Section
170 67-19-14.2 or 67-19-14.4 as applicable.

171 Section 5. Section **67-19-14.4** is enacted to read:

172 **67-19-14.4. Unused Sick Leave Retirement Program II -- Creation --**
173 **Remuneration at retirement -- Medical expense account after retirement.**

174 (1) (a) There is created the "Unused Sick Leave Retirement Program II."

175 (b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an
176 employee who is eligible to receive retirement benefits in accordance with Title 49, Utah State
177 Retirement and Insurance Benefit Act.

178 (c) Beginning January 1, 2011, an employee who is participating in the Unused Sick
179 Leave Retirement Program I under Section 67-19-14.2 may make a one-time and irrevocable
180 election to transfer all unused sick leave hours which shall include all converted sick leave
181 hours under Section 67-19-14.1 for use under the Unused Sick Leave Retirement Program II
182 under this section.

183 (2) (a) The Unused Sick Leave Retirement Program II provides that upon retirement an
 184 employee who is employed by the state on or after January 1, 2006, shall receive remuneration
 185 for the employee's unused accumulated sick leave and converted sick leave accrued ~~H→~~ **beginning**
 185a **January 1, 2006** ~~←H~~ in
 186 accordance with this section as follows:

187 (i) subject to federal requirements and limitations, a contribution at the employee's rate
 188 of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and
 189 converted sick leave shall be transferred directly to the employee's defined contribution plan
 190 qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah
 191 State Retirement Board; and

192 (ii) participation in a benefit plan that provides for reimbursement for medical
 193 expenses using monies deposited at the employee's rate of pay at the time of retirement ~~H→~~ **from**
 193a **remaining unused accumulated sick leave and converted sick leave balances** ~~←H~~ .

194 (b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution
 195 limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).

195a ~~H→~~ **(c) An employee's rate of pay at the time of retirement for purposes of Subsection**
 195b **(2)(a) [(i)] (ii) may not be less than the average rate of pay of state employees who retired in the**
 195c **same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act,**
 195d **during the previous calendar year.** ~~←H~~

196 (3) The Utah State Retirement Office shall develop and maintain a program to provide
 197 a benefit plan that provides for reimbursement for medical expenses under Subsection
 198 (2)(a)(ii) ~~H→~~ **with:**

198a **(a) monies deposited under Subsection (2)(a)(ii); and**

198b **(b) accrued earnings** ~~←H~~ .

198a ~~H→~~ **Section 6. Effective date.**

198b **This bill takes effect on January 1, 2006.** ~~←H~~

Legislative Review Note

as of 1-17-05 11:00 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

AMENDED NOTE

State Impact

Passage of this bill will phase out a current employee benefit which allows accumulated sick leave to be converted to paid-up health coverage at the time of retirement. It is anticipated that in the short term, the discontinuance of this benefit may result in earlier retirements which will increase the projected amount to be withdrawn from the state termination pools. This will necessitate an increase in the labor additive rate charged to all state agencies to cover these types of pay outs. However, it is noted that replacing earlier retirees with lower salaried people could result in a savings to the state. Because it is unknown how many employees will elect to retire earlier, an accurate estimate of these costs or savings is not available. There may also be a short term acceleration in the use of sick leave. In addition, the Utah State Retirement System will expend \$200,000, of which \$50,000 would be on-going to establish and maintain the new programs. Because this program is exclusively for tracking state employees and would not impact other entities within the Utah Retirement System, a General Fund appropriation to cover these costs would be required.

In the long term, it is anticipated that passage of this will result in significantly lower personnel costs to the state. Absent an actuarial study, no reliable estimate of this savings is available. However, as an example, eight hours of sick leave is worth \$160 based on \$20 per hour. If the state were paying \$760 per month for double coverage health insurance, a savings of \$600 would be realized for each similar circumstance. The Division of Finance pays out approximately \$15,000,000 annually from all funding sources for this benefit.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$200,000	\$50,000	\$0	\$0
TOTAL	\$200,000	\$50,000	\$0	\$0

Individual and Business Impact

Current employees who have not used their sick leave in anticipation of using it to purchase health insurance upon retirement would experience a decrease in the value of those hours and would not be able to purchase coverage for as long as they otherwise would be eligible for.
