

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2213

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2213
January 28, 2010
13604

Conference Committee

Committee Clerk Signature *Katrina Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to family medical leave for state employees

Minutes:

Testimony Attached

Chairman Dever opened the public hearing on SB 2213.

Senator Nething: Dave Nething, District 12. 2213 deals with Family Medical Leave Act that is granted to state employees, currently the employee can take 40 hours. This bill would give them up to 80 hours; the leave that we are talking about needs to be accumulated over time and can't be borrowed. There is no fiscal impact, the cost would fall on the employee using the time that they have already earned. It is amazing to me how many instances we are finding employees leaving their jobs for other job opportunities. This becomes one small perk that shows our state employees that there is a benefit to staying with the state.

Gary Feist: See testimony #1.

Senator Nelson: Can you explain donated annual leave?

Gary Feist: If an employee has used theirs then they can request donated leave from other state employees.

Vice Chairman Sorvaag: Does it vary or is there a maximum amount of sick leave?

Gary Feist: Each employee gets 8 hours a month and there is no cap on how much they can accrue.

Chairman Dever: How commonly is donated sick leave used?

Gary Feist: I am not sure.

Senator Nelson: Your 8 hours is capped? Does it roll over?

Stewart Savelkoul: Accumulation of sick leave. The reason was eluded because we have no long term disability it serves as that.

Senator Nelson: Does each division or agency have a line in their budget for payout when people retire.

Stewart Savelkoul: No they don't at present.

Wesley Matthews: See testimony #2.

Senator Nelson: If someone has 64 hours of sick leave and they have used up their 40, they now have 24. Do you have a minimum that they must keep?

Wesley Matthews: When they donate they can only donate 5% of their balance.

Troy Thinner: State employee with the office of the state tax commissioner for 18 years and father of 3 kids and using Family Medical Leave Act over the last 9 years. For the most part 40 hours has been fine. Last July my daughter had a brain tumor. Used all my sick leave, vacation and my wife was also using Family Medical Leave Act. The frustrating act of this situation is I could not use my accrued sick leave. The change to 80 hrs would have been helpful. My wife and I were forced to make the decision that would stay here and my wife would go to Rochester with my daughter. Family Medical Leave Act is a good system but it is not perfect, with the generosity of my co workers was helpful but I would have liked to use my own time.

Laurie Sterioti Hammeren: 26:00 for people who have been judicious in their leave the coworkers know

Senator Nelson: can a family member donate 5% of their own?

Senator Berry: A person that has 18 years of service, there is no provision that they could use in a situation like this.

Laurie Sterioti Hammeren: Beyond the 40 hours as currently written and 80 hours if passed. There is no provision for that, the donated leave program

Chairman Dever: Where is it workable is there opportunity for flex time?

Laurie Sterioti Hammeren: Yes, we allow people to telework as it fits with their job assignment.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2213
February 11, 2011
14433

Conference Committee

Committee Clerk Signature *Katrina Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to family medical leave for state employees

Minutes:

No testimony attached.

Chairman Dever opened the floor to discussion on SB 2213. A motion for a do pass was made by Senator Nelson with a second by Senator Schaible.

Chairman Dever: We were told that there is no fiscal impact because it is time that they have already accrued.

Senator Nelson: We have gotten a lot of emails asking why they can't use the same amount that they can give away. I am not sure if we ever got a good answer and it is something that might come up next time. But for now I think that this is good.

Senator Schaible: I understand how the leave works and if we expand that to the 80 hours. But there has to be an affect where if they have to pay for a sub or for someone else so I would imagine that there is an effect on the employer.

There was no further discussion, roll was taken and the motion passed 7-0 with Senator Schaible carrying the bill to the floor.

Date: 2-11-11
Roll Call Vote #: 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2213

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Nelson Seconded By Schaible

Senator	Yes	No	Senator	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Schaible

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2213: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2213 was placed on the Eleventh order on the calendar.

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2213

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2213
March 17, 2011
15633

Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to family medical leave for state employees

Minutes:

Chairman Bette Grande opened the hearing on SB 2213.

Rep. Karen Karls, District 35, appeared as a cosponsor of the bill. I have many hundreds of state employees in my district. I was asked to cosponsor to help state employees that need some sick leave time to help care for a sick child or spouse and this would allow them to take up to 80 hours of leave in any 12 month period as part of their leave. I believe there will be some testimony to the fact that when a situation arises where there is a critically ill member of the family a lot of other state employees will donate some of their leave time. This just allows them to use a little bit more of their own leave time.

Rep. Karen Rohr: Is this Family Medical Leave Act mandated through that or is this something that is just an institutional policy change?

Rep. Karen Karls: I believe it is a state policy change.

Wesley Matthews, Human Resources Director, Minot State University, appeared in support. **Attachment 1.**

Chairman Bette Grande: Can you run through for me when I come on as a new employee, do I have to accrue a certain number of time that I am working before I get to the 40 hours or do I have 40 hours up front?

Wesley Matthews: Yes. State employment involves a six month probationary period. While on probation I can accrue and use my accrued leave. However, I cannot participate in the donated leave program, either donating my leave or receiving any donated leave until after I finish that probationary period.

Chairman Bette Grande: Do we have a limit on our donated time and how we use that?

Wesley Matthews: Yes. When it comes to donated leave in the case of a member of the employee's family is sick, other employees can donate annual leave only. They cannot

donate their sick leave. The total leave donation is four months worth, approximately 173 hours times 4.

Chairman Bette Grande: I could get some time from him and her and then I can accrue up to four months' worth of time?

Wesley Matthews: I can use four months combined if everyone donated to me.

Chairman Bette Grande: How many annual leave hours do I get once I am past my probation period? How much time do I have for sick leave?

Wesley Matthews: When it comes to earning leave, an employee, depending on their circumstance and how long they have been there, generally is earning 8 hours of annual leave and 8 hours of sick leave per month. With longevity the annual leave accrual increases. It would not be more than 16 hours in a month. The 8 hours a month for sick leave never changes.

Chairman Bette Grande: Can I accumulate this for my whole tenure of employment?

Wesley Matthews: The annual leave has a use or lose component to it. On December 31 an employee cannot forward more than 240 hours into the next calendar year and they must use 40 hours of annual leave per year. When it comes to sick leave, an employee can accumulate that indefinitely.

Chairman Bette Grande: When I retire, do I get that payout kind of package?

Wesley Matthews: The entire balance of annual leave that has accrued at resignation or retirement is payable at the current rate of pay. Sick leave, however, is only payable if I have been employed ten years or longer and at that point, I would receive a payout of 10% of my unused sick leave.

Rep. Karen Rohr: In your testimony you referred to this particular proposal as an alignment with the federal family sick leave. If an individual would be eligible for the FMLA, would they have to take that first and then they would dip into the second 40?

Wesley Matthews: Employers have different approaches. The state board sees things in series or parallel. I am not sure how things are done from the state HR office on the state side. FMLA is a federal act that allows for an employee of a company of a certain size to request medical leave for the birth or the addition of a child to their family or for serious medical condition. The federal act does not pre suppose that there is a paid leave program at that employer. In state employment we have paid leave. From the federal standpoint on FMLA when that employee requests medical leave, the employer has two significant things they need to do. Hold the job for up to 12 weeks and continue health insurance in the same manner it was continued before the medical event. What is happening here with paid leave is if we run that 12 week clock on FMLA then our employees have the benefit of having a paid leave program so that while they are off for 12 weeks, a portion or all of that could actually be paid as they spend their sick leave or annual leave. Case by case, agency to agency, it could be an employee uses their paid leave and then they start the

clock on 12 weeks of FMLA where it is all unpaid or it could be that they run those two concepts in parallel where the 12 weeks starts at the beginning and part of it is paid and then part of it goes unpaid.

Rep. Lisa Meier: At Minot State University how many additional hours were actually donated last year if you know that and how many employees had the opportunity to use those hours?

Wesley Matthews: I don't have those numbers prepared. I would say we have about a half dozen events per year on average where people need donated leave. That could be 16 hours to a couple months depending on the case.

Rep. Gary Paur: In the present situation without using donated time, can they take 80 hours off for sick leave? I imagine they can if they are sick.

Wesley Matthews: Sure.

Rep. Gary Paur: You would have 40 hours paid and then you would have 40 hours unpaid?

Wesley Matthews: You would have 40 hours if a person had the leave balance. Let's say they only had 40 hours of sick leave and they were zeroed out of their annual leave. They would take that 40 hours of sick leave for their family member. If they still needed to be off for that purpose, then it would be unpaid leave because they would have no annual and no sick leave balance available. If that situation qualified as a serious medical condition by state law, they would be eligible for donated leave. Then people could donate annual leave for the family member to cover that extra 40 hours that would otherwise go unpaid.

Gary Feist, President, North Dakota Public Employees Association, appeared.
Attachment 2.

Chairman Bette Grande: You said you can't use your hours. You have accumulated them but you can't use them.

Gary Feist: I have used my 40 hours. That is all I am allowed to use for my daughter.

Chairman Bette Grande: Per year? What happens with the accumulated then?

Gary Feist: I can't use it because I am not sick. It is my daughter who is sick so I need to use my family leave. I have to continue to return to Minneapolis to take care of her on my vacation and once I run out, I will have to ask other employees to give to me.

Chairman Bette Grande: If we move this to the 80, that will give you just the 80.

Gary Feist: I would be able to use 40 additional more of my 1,400 balance.

Rep. Bill Amerman: Do you know the history of the 40 hours? How long it has been there and why the limitations?

Gary Feist: I don't know how long it has been there. I know the history partly is that sick leave is employees' short term and long term disability for themselves.

Rep. Lisa Meier: I had asked Mr. Matthews about how many additional hours employees had been able to have donated hours this last year. Do you know how many the state actually utilized and how many individuals actually utilized those hours?

Gary Feist: I don't know. I know that HRMS sends out a request for donated leave. There are quite a few people on that list. In my instance if I run out of my own leave, they have to give annual leave.

Rep. Karen Rohr: As the former individual testified, under FMLA they are still required to hold your job. With these additional 40 hours taken or depleted, would they still hold your job?

Gary Feist: It depends on the agency's policy if they are going to run them concurrently or consecutively.

Rep. Karen Rohr: If this bill would pass, what would be the next step? How would you get that addressed?

Gary Feist: Most people are just looking to be able to use their own leave. For my example to use my own leave instead of having to go and beg my coworkers to give me their annual leave that they have earned. Most state employees or all state employees want to be back to work. I am here this week because I am trying to finish audits that I have that are worth millions of dollars that I need to have done by the 31st. I would not necessarily be here if I could be in Minneapolis this week. I am a dedicated employee to this state and trying to make sure that I can do that and I expect the state to treat me as the same.

Troy Thinnis, Tax Commissioner's Office Employee, appeared. I have been using the family medical leave consistently over the last nine years. For the most part 40 hours has been a sufficient amount of time for colds, doctor appointments, etc. Unfortunately last July my youngest daughter developed a cancerous brain tumor requiring much more family medical leave time than is currently allowed. My wife and I exhausted all of our family medical leave from each of our jobs. Then I used all of my vacation time to care for our daughter as did my wife, Julie. My human resource manager had a discussion with me and presented two options. First was the Family Medical Leave Act which is a federally mandated law that protects an employee's position and health care benefits for 12 weeks and a second option was 80 hours of donated leave we would request from my fellow state employees. These 80 hours had to be annual leave because of the current rules for family medical leave. It was very difficult to ask anybody to donate their vacation time even in the situation which I found myself in last summer. I received 80 hours but only used a little over 20 of them because I did not feel comfortable accepting people's vacation time. My daughter, Mya, had a couple weeks of recuperation after surgery and then had to go back to Rochester for 7 weeks of radiation treatment. Julie had already gone on FMLA from her job at Coventry Health Care and we were forced to make a decision between me going on FMLA and being together as a family or me staying home and working so that the family

would have some income in which to pay our bills. We chose to split up our family so we could keep our home. If I would have been able to access my own sick leave time, I could have been with my wife and daughter during the incredibly difficult time. I regret the decisions we made sometimes because my wife and daughter really needed me. The frustrating part of this whole process for me was that I have enough sick leave of my own earned over the years and I wouldn't have needed to ask for the donation. I just couldn't access the hours because of the current guidelines for family medical leave. Ideally my special circumstances would require more than the 80 hours discussed today because Mya will need medical care for the next five years before she can be considered cancer free. I have already used 28 hours of my family medical leave this year. My wife and I truly appreciate these considerations in moving family leave to 80 hours from 40. We hope you share the opinions of the senate who passed the amendment with an overwhelming majority. The additional family leave time would really help us out not only this year but in the next several.

Stuart Savelkoul, NDPEA, appeared. He presented testimony from **Becky Kendall, Behavior Modification Specialist II, Northeast Human Service Center, Grand Forks. Attachment 3**. I want to run down the gist of this bill and the process by which the time is used. This bill does nothing to change the amount of sick leave that has accrued by any state employee in North Dakota. The problem is that you are only allowed to use 40 hours of your sick leave to take care of a family member. This bill only seeks to expand the number of hours of your sick leave that you can use to take care of somebody other than yourself. That is why we speak to the flexibility of the bill rather than increasing or expanding any particular benefit. After you have used that 40 hours assuming you have a family member that is still ill, then your next recourse is to go into annual leave and employees like Gary and Troy will use all of their annual leave to handle these situations. After they have exhausted all of their annual leave, that is when the request for donated annual leave goes out. Gary and Troy are sitting on significant sums of personal sick leave that they would really rather use than asking anybody else for assistance. Rep. Rohr I wanted to try to address your question regarding FMLA. As long as you are dealing with approved leave time be it sick or vacation, an employee does not really need to worry about losing his or her job or them keeping it for any particular length of time open for them. There should be minimal association if any at all between the Family Medical Leave Act and this portion of century code. The FMLA is to look out for the interest of full time employees that simply might not have a leave time as part of the benefits of their present job.

Rep. Karen Rohr: I know that their job would be held during the FMLA portion of their request but once that is exhausted and they go into their own, they wouldn't have to worry about their job being available for them? Say they use the whole 40 hours if you are going to be in Minneapolis. They could still come back to their job and not worry about losing it?

Stuart Savelkoul: In speaking with HRMS and with the HR representative from the university system, we have not had any indication that should be a concern that an employee should have.

Chairman Bette Grande: Would you give me the number for the federal? How many hours were they talking? The answer was 104 total.

Vice Chairman Randy Boehning: A lot of businesses in the private sector are going to the paid time off system. Have you ever thought about looking at that option a little more closely?

Stuart Savelkoul: The concept of PTO is not something that our organization is fundamentally opposed to especially if you are talking about a similar number of benefit hours. The chief concern that you will hear from HRMS would be that our personal sick leave functions as the state's only short term and long term disability that exists for employees. If you switched to a PTO system, you would have to look at adding some kind of long term disability insurance for employees.

Vice Chairman Randy Boehning: Something to look at would be you couldn't exhaust anymore than what you currently receive under current year. Say you have 120 hours of sick leave and vacation time, you could use that basically for whatever you wanted to.

Stuart Savelkoul: I will be happy to take you to coffee in Fargo anytime to learn more about any plan that wants to increase flexibility for state employees to be able to take care of their family.

There was no one opposed or neutral to this bill.

The hearing was closed.

Discussion followed later on.

Chairman Bette Grande opened the discussion on SB 2213. I found it interesting that people are accruing these hours and not having access to their own hours. I was looking at amending for a little bit of flexibility.

Rep. Mark Sanford: I was thinking to amend this with the 80 and then adding wording to the effect that up to an additional 80 hours could be allowed working with your supervisor to be able to manage kind of the duration of the spouse's or a child's illness. The first stage would be 80 hours done like it is done right now. The second stage the 80 hours would be there for the type of circumstances we heard this morning. You would work with your supervisor. Like the gentleman whose child has up to five years of these kinds of activities so what you would do is you would be able to manage that with your supervisor. The reason I was thinking that is I thought I heard this morning that the definition of this kind of a qualifying illness was codified.

Chairman Bette Grande: Something that goes up to 180 hours managed by the agency head, something to that effect?

Rep. Mark Sanford: Yes, 160.

Rep. Bill Amerman: Maybe if we said starting on Line 9 an employee may take more than 80 hours of leave under this section with the approval of a supervisor.

Chairman Bette Grande: Say it to me again. An employee may take so eliminate the word not, more than 80 hours of leave under this section. We could leave in any twelve-month period.

Rep. Roscoe Streyle: Would we need something to the effect to make sure they have the hours banked? You have to have the 80 hours to use it.

Chairman Bette Grande: Accrued hours?

Rep. Roscoe Streyle: You wouldn't want to allow them to just keep going in the deficit. If they have accrued it, fine let them use it.

Chairman Bette Grande: If they don't have it accrued, then they go into the donated leave. I am wondering if that is not a little bit too open ended.

Rep. Lonny Winrich: In response to Rep. Streyle, I think this section is just dealing with those accrued sick leave hours. It says an employer, in this case the state agency, that provides leave for its employees for illnesses or other medical reasons, that is the sick leave, shall grant the employee's request to use that leave to care for the employee's child, etc. I think it has to be banked or it is not eligible for this anyway.

Chairman Bette Grande: May take more than the 80 hours with the approval. Once they hit 80, then they go to the approval of the supervisor. Am I reading that correctly?

Vice Chairman Randy Boehning: I like the language that Rep. Amerman brought up. I am a little concerned when we have the one employee up here that has 1,400 hours accrued. If he is going to be gone that long, are they going to need to bring in a replacement? I would like to see maybe 20 or 25% of the accrued sick leave.

Chairman Bette Grande: I think that is addressed when it has to be approved by the supervisor. The supervisor is not going to give him anymore than that if he is going to run into jeopardy of keeping the seat filled.

Rep. Mark Sanford: The 80 additional hours would be a month.

Rep. Lonny Winrich: I wonder if in addition to saying with the approval of the supervisor or whatever term is appropriate there and the OMB to look at the extenuating circumstances. There is some consistency in there.

Chairman Bette Grande: That is a good idea.

Rep. Karen Karls: Could we put the emergency clause on it?

Chairman Bette Grande: There you go. HRMS or OMB. HRMS falls under OMB so I would assume if we say OMB, they will say here is your job.

Rep. Gary Paur: I would like to make a motion we adopt those amendments.

Chairman Bette Grande: Let us read those amendments so that the intern can write them down. On Line 9 an employee may take, then overstrike the word not, more than, then we will leave the 80 like that, hours of leave under this section with the approval of the supervisor and OMB in a twelve-month period. I think I need a comma in there after the word section and after the word budget. Would you also add an emergency clause to this?

Rep. Karen Karls seconded the motion.

Rep. Ron Guggisberg: I am wondering why we need the supervisor's approval for this? To me if you have a sick child at home and his physician says he needs care and the human resource department says yes, this is legitimate, and you are busy, should your boss be able to tell you no, you can't stay home with your sick child?

Chairman Bette Grande: I think the supervisor has to be involved just because they are the only ones who are going to be able to replace you or do whatever needs to be done. I don't think we want to jump over the supervisors.

Rep. Ron Guggisberg: I agree the supervisor needs to know this but I just don't know that they need to approve it.

Chairman Bette Grande: They are the employer. You don't just all of a sudden call your employer and say I am not showing up for a month and so what. By the way keep my job for me. There has to be some check or balance in that.

Vice Chairman Randy Boehning: Rep. Guggisberg, Mr. Feist said he knows that he had things coming up in the city. That way he can tell his employer he is going to be gone for this section of time. This allows him to make plans ahead of time.

Chairman Bette Grande: This isn't saying that the supervisor has to approve tomorrow's day of sickness. It is saying that the supervisor is going to have to approve a month. When you are asking for that much extension, a supervisor is going to have to be involved.

Rep. Mark Sanford: We were not going to have a limit on the second stage of this?

Chairman Bette Grande: I thought we were talking up to 160 hours. Right now you can take 80 hours of annual leave, 80 hours of sick leave, and now we are telling them to even add on more?

Rep. Lonny Winrich: I think they can take whatever annual leave they have accrued. There is no limit on how much annual leave they can take. This allows them to take 80 hours of their own sick leave to care for someone in the family.

Chairman Bette Grande: We go to 80 with the approval. You were thinking somehow putting a second 80 hours in there?

Rep. Mark Sanford: My thinking was that the third stage of this then became your annual. If you go 80 and 80, you have a month of sick leave that you are able to take. Then you have annual leave. I had several of these over the years and we used a month and there

was no wisdom behind that. That month seemed to just about cover some really tough circumstances.

Rep. Bill Amerman: I am not so sure now we might not just want to leave well enough alone and get this 80.

Rep. Gary Paur: I agree. I don't think I would support going any further than we already have.

Chairman Bette Grande: Just do an emergency clause instead of expanding out this. I am going to resist this amendment without some kind of an endpoint and right now it is wide open ended. Either we further amend this down that you can only go an extra 80 or you could have somebody requesting using the 1,400 hours.

Rep. Gary Paur: Oh, I see where you are headed. If they go past 80 hours and they request it from the office of the superior and OMB, they can get another 80 hours maximum?

Chairman Bette Grande: That is what I was asking if we should put in that 80. I think I am going to have to think on this one again. We will just leave this one.

Rep. Gary Paur withdrew his motion.

Rep. Karen Karls withdrew her second.

Discussion ended.

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2213
March 18, 2011
15695

Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to family medical leave for state employees

Minutes:

Chairman Bette Grande opened the discussion on SB 2213.

Rep. Lonny Winrich: Rep. Boehning, Sanford, and I had a conversation yesterday afternoon about the changes. My understanding was that Rep. Boehning would have amendments to propose which would essentially leave the language on Line 10 as it is now but cross out the not—may take more than 80 hours of leave and up to 10% of the person's accumulated sick leave. Somehow that has...

Chairman Bette Grande: Up to 10% sick leave with the approval of the supervisor and OMB.

Rep. Lonny Winrich: Yes. The idea was that sort of modeled on the payout procedure at retirement where they can get paid for 10% of their accumulated sick leave.

Chairman Bette Grande: Steve, did you understand what we just said? Do you want us to walk through that one more time?

Steven Podoll: Yes.

Chairman Bette Grande: An employee may take more than 80 hours of leave and up to 10%.

Rep. Gary Paur: Wouldn't you have to take out also more than?

Chairman Bette Grande: May take 80 hours of leave and up to 10% with the approval of the supervisor and OMB under this section in the twelve month period.

Rep. Bill Amerman: I think when you say the 10% you would have to put of his accrued sick leave.

Chairman Bette Grande: Yes, 10% of...Is it called sick leave?

Rep. Lonny Winrich: It is in addition to the 80 hours for people who have accrued sick leave.

Chairman Bette Grande: We have to make sure there is an and up to 10% of the accrued sick leave under this section with the approval of...

Rep. Gary Paur: With that wording are we requiring that the 80 hours also have approval?

Chairman Bette Grande: No. They get the 80. Then they can ask their supervisor to use up to 10% more of their accrued leave. I am under the assumption that under this section that will draw in that they are going to end up using their annual leave time too. They get annual leave. They get their sick 80 and then they get the 10%.

Rep. Lonny Winrich: Current policy is that they can take up to 40 hours of their sick leave and then beyond that they have to take annual leave. The policy is they can take up to 80 hours of their sick leave for family sick time. Then in addition to that, up to 10% of their accrued leave and then beyond that they would have to take annual leave.

Chairman Bette Grande: There you go. I just had them flipped.

Rep. Bill Amerman: I mentioned this to some of the senators in the senate Government and Veteran Affairs about this model. They didn't think they had any problem with it if it would come to concurring or not concurring if we can get it through the house.

Stuart Savelkoul stated that he would do a nice write up.

Rep. Glen Froseth: I am looking forward to a nice write up. That would be one in a row.

Rep. Gary Paur: Can I try again today to adopt the amendment?

Steven Podoll: An employee may take 80 hours of leave and up to 10% of their accrued sick leave under this section with the approval of the employee's supervisor and the office of management and budget in any twelve month period.

Rep. Lonny Winrich: That applies that you need to have the approval for the whole thing. I think it should be may take 80 hours of leave under this section and in addition up to 10% of their accrued sick leave with the approval of supervisor and OMB.

Chairman Bette Grande: Just move it over about four more words.

Rep. Karen Karls: And the emergency clause.

Chairman Bette Grande: Do you have it? The emergency clause is a part of that wording. Rep. Paur is that your motion?

Rep. Gary Paur: I think so, yes.

Rep. Lisa Meier seconded the motion.

A voice vote was taken to adopt the amendment. Motion carried.

Rep. Lonny Winrich moved a Do pass as amended.

Rep. Karen Karls seconded the motion.

Chairman Bette Grande: The amended bill in front of us then will read an employee may take 80 hours of leave under this section and up to 10% of accrued sick leave with approval from the supervisor and OMB in any twelve month period. Then we will have at the very end the emergency clause language. OMB is going to require a policy. We all know that will happen.

DO PASS AS AMENDED, 13 YEAS, 0 NAYS. Chairman Bette Grande is the carrier of this bill.

Date: 3-17-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2213

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Paur Seconded By Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

later withdrew motion on amendment

March 21, 2011

VR
3/21/11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2213

Page 1, line 2, after "employees" insert "; and to declare an emergency"

Page 1, line 10, overstrike "not more than"

Page 1, line 11, after "period" insert "and upon approval of the employee's supervisor and the director of the office of management and budget, the employee may take, in any twelve-month period, up to an additional ten percent of the employee's accrued sick leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition"

Page 1, after line 13, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3-18-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2213

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Paur Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*voice vote
adopt
amendment
motion
carried*

Date: 3-18-11
 Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO: 2213

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Winrich Seconded By Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	✓		Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Ron Guggisberg	✓	
Glen Froseth	✓		Lonny Winrich	✓	
Karen Karls	✓				
Lisa Meier	✓				
Gary Paur	✓				
Karen Rohr	✓				
Mark Sanford	✓				
Vicky Steiner	✓				
Roscoe Streyle	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Grande

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2213: Government and Veterans Affairs Committee (Rep. Grande, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2213 was placed on the Sixth order on the calendar.

Page 1, line 2, after "employees" insert "; and to declare an emergency"

Page 1, line 10, overstrike "not more than"

Page 1, line 11, after "period" insert "and upon approval of the employee's supervisor and the director of the office of management and budget, the employee may take, in any twelve-month period, up to an additional ten percent of the employee's accrued sick leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition"

Page 1, after line 13, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

CONFERENCE COMMITTEE

SB 2213

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2213
April 7, 2011
16417

Conference Committee

Committee Clerk Signature *Kathy Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to family medical leave for state employees

Minutes:

No testimony attached.

Senator Schaible opened the conference committee on SB 2213, roll was taken and all members were present.

Senator Schaible: Please explain the amendments and the reasoning for the changes.

Representative Karls: We added the emergency clause frankly we heard some testimony on our side that you did not hear. One of our state employees testified in favor of the bill on your side and when he had come to our committee his daughter had had a terrible sickness and he had something like 1,400 hours of sick leave saved up. The other thing that we did was to say that a state employee can take 80 hours of sick leave plus up to 10% of accrued sick leave with the approval of their supervisor and OMB in any 12 month period.

Senator Nelson: I don't have a problem with the amendments beyond having the head of OMB approve. To take it to another level I have a problem with that.

Senator Dever: I think that we are ok with the bill otherwise but it was brought to my attention that the OMB doesn't need to be involved, the employee's supervisor knows the situation.

Representative Grande: The reason behind this is that we would have the opportunity to have consistency. OMB would set up guidelines across the board for all agencies. We are looking for some form of consistency but something that states here is how the policy will be implemented.

Senator Nelson: If we said, upon approval of the employees' supervisor, the way it is written now it is 2 tiered. What you are saying that you want rules set but that is not what it says right now.

Representative Grande: Correct in knowing that it would be the issue I asked council to come down and help with language.

Senator Dever: I wonder if they don't already do this.

Laurie Sterioti Hammeren: Director of HRMS. I guess my opinion was that we didn't need OMB to approve it. Even if we had administrative rules with using this 10% it doesn't guarantee uniformity because agencies look at individual employee issues and will make that determination or not. Generally when something is in the statute we don't always write a rule about it to give more clarity to issues. OMB has an HR manual online for agencies to use as reference.

Senator Dever: Do you have policies and guidelines that agencies follow.

Laurie Sterioti Hammeren: Yes we write rules around statute that work with code. OMB has an HR manual online so they can tweak it to make sure that the it fits their needs.

Senator Dever: Typically employees have 600-2200 hours of sick leave

Laurie Sterioti Hammeren: We did just an average overall with employees. We have found an average of 600-2000 hours.

Senator Schaible: Is the potential use of this policy for a younger or older employee?

Laurie Sterioti Hammeren: I think that it is correct. I think that the average age of people 46 and aging. I think that because it is child, spouse or parent you might see employees taking care of their parents as well.

John Bjornson: Legislative Council staff. I think that it goes along with what was just discussed here. Because the amendment would change the House would need to recede from their amendments and then further amend the bill. If you get the reference to policy in there it might address the concern that you may have.

A motion was then made by Representative Grande that the House recede and amend with a second Senator Nelson

Chairman Schaible: The question is on your amendment; if you are happy with your amendment we will proceed if not we will work on it.

Representative Grande: As the bill is written, the 80 days goes into effect, and then it is the next portion that is set up by rule. Are you seeing the separation that I am? The 80 hours is the give in and the 10% is something that they are asking for separate.

There was no further discussion, roll was taken, and the motion passed 6-0 with Senator Schaible and Representative Grande carrying the bill to the floor.

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Government + Veterans Affairs

Bill/Resolution No. 2213 as (re) engrossed

Date: 4-7-11

Roll Call Vote #: 1

Action Taken

- SENATE accede to House amendments
- SENATE accede to House amendments and further amend
- HOUSE recede from House amendments
- HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) _____

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: Rep Grande Seconded by: Sen Nelson

Senators				Yes	No		Representatives			Yes	No
Schaible	✓			X			Karls	✓		X	
Neven	✓			X			Grande	✓		X	
Nelson	✓			✓			Guggisberg	✓		X	

Vote Count: Yes _____ No _____ Absent _____

Senate Carrier Schaible House Carrier Grande

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2213: Your conference committee (Sens. Schaible, Dever, Nelson and Reps. Karls, Grande, Guggisberg) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 878, adopt amendments as follows, and place SB 2213 on the Seventh order:

That the House recede from its amendments as printed on page 878 of the Senate Journal and page 1052 of the House Journal and that Senate Bill No. 2213 be amended as follows:

Page 1, line 2, after "employees" insert "; and to declare an emergency"

Page 1, line 10, overstrike "not more than"

Page 1, line 11, after "period" insert "and, upon approval of the employee's supervisor and pursuant to rules adopted by the director of the office of management and budget, the employee may take, in any twelve-month period, up to an additional ten percent of the employee's accrued sick leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition"

Page 1, after line 13, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

SB 2213 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2213



NORTH DAKOTA
PUBLIC EMPLOYEES ASSOCIATION

AMERICAN FEDERATION
OF TEACHERS LOCAL 4660 AFL-CIO



3333 EAST BROADWAY AVE, SUITE 1220
BISMARCK, NORTH DAKOTA 58501-3396

701-223-1964
1-800-472-2698

EMAIL: comments@ndpea.org
WEBSITE: www.ndpea.org

Testimony Regarding Senate Bill 2213
Before the Senate Government and Veterans Affairs Committee
Gary Feist, President, NDPEA
January 28, 2011

Good Morning Chairmen Dever and members of the Senate Government and Veterans Affairs Committee. My name is Gary Feist and I am president of the North Dakota Public Employees Association. I am here today representing the interests of public employees across the state of North Dakota including the 2,300 members of NDPEA. We fully support the passage of this bill to help those employees who are taking care of a sick parent, spouse, or child. Coincidentally, the membership of NDPEA passed a resolution supporting this very idea at our Delegate Assembly in October. This bill would increase the amount of sick leave employees could use to take care of an immediate family member from 40 to 80 hours. Many state employees have to take care of an elderly parent, their spouse or children when they become ill and, in such situations, quickly run out of family sick leave.

This bill, if passed would help the state to set an example by being a family-friendly employer by increasing the amount of family sick leave an employee has access to each year. Other employers, including the city of Bismarck, have increased the amount of family sick their employees can use to take care of a family member. The sick leave the employee would be using is leave that they have already earned. This bill does not increase the amount of leave earned by the employee; it merely adds flexibility to a pre-existing benefit. An NDPEA member and a coworker of mine will tell you his story of how he had to ask other employees for donated annual leave after using his family sick leave and all of his annual leave to take care of his ill daughter. I urge you to give this bill a do pass recommendation and support the passage of this bill.

Quality Services from Quality People

Testimony

SB2213 Testimony

Wesley Matthews
Minot State University
State Board of Higher Education
January 27, 2010

Mr. Chairman and members of the committee,

Good morning.

My name is Wesley Matthews. I am the Human Resources Director for Minot State University and I am here this morning on behalf of the State Board of Higher Education to speak in favor of SB2213.

Three points I would like to mention include the family friendly employer aspect, alignment with the federal family sick leave policy, and the connection between family sick leave and our current donated leave program.

Family Friendly Employer

As an employer in the American labor market it is important to be a family friendly employer. This is seen by such things as the federal Family Medical Leave Act and the desire of employers to add daycare facilities to their list of benefits. We are fortunate to already have family sick leave in the amount of 40 hours per year. Increasing that amount to 80 hours per year would enhance our current program.

I've acknowledged that we already have a family sick leave program in place, so the next question might be, "What number of hours is appropriate?" Why 40? Why 80? This brings me to my second point of alignment with the federal family sick leave policy

Alignment with Federal Family Sick Leave

Comparing our family sick leave program to the federal program is not quite "apples to apples." The approaches are similar but not the same. The federal family sick leave program allows 104 hours of sick leave to care for eligible family members and this also includes leave for bereavement. Our policies currently allow for 24 hours of funeral leave that is *not* charged to the sick leave balance and 40 hours of family sick leave.

Assuming only one funeral in a year, our employee would have leave for 64 hours compared to the 104 hours of the federal employee. If the limit for family sick leave is changed to 80 hours then both approaches would be equal at 104 hours.

Fortunately, all family sick leave is not related to funerals, but sometimes family sick leave does share a connection with our donated leave program.

Connection with Donated Leave Program

Our donated leave program allows for state employees to donate leave to one another under certain circumstances. We are allowed to donate leave to another employee when the employee or employee's eligible family members are experiencing a "serious, extreme, or life threatening" medical condition. For leave donations to be allowed the recipient must otherwise be entering a "leave without pay" status. This means they will have exhausted their usable sick leave balance and their annual leave balance. I say usable because in the case of a family member the employee may only use 40 hours of their sick leave.

There are cases when an employee has a sick leave balance remaining after using 40 hours of family sick leave and after exhausting the annual leave balance. At this point they are in need of leave donations while they continue to carry a sick leave balance that could otherwise be used with the passage of this bill.

Conclusion

Thank you for considering our desire to enhance the family friendly aspect of state employment, the alignment of our program with that of federal employees, and how this program relates to our donated leave program.

Naturally, we would hope that none of our employees would experience serious medical situations that would require the use extended sick leave. However, as an employer it is valuable to be able to offer our employees our understanding and support during such an experience. It demonstrates our respect for their commitment to us and, hopefully, produces the same respect from them in return.

I've been rather succinct this morning for the sake of time, but I will attempt to answer any questions you may have for me.

Wesley Matthews
Minot State University
State Board of Higher Education
March 17, 2011

Madam Chair and members of the committee,

Good morning.

My name is Wesley Matthews. I am the Human Resources Director for Minot State University and I am here this morning on behalf of the State Board of Higher Education to speak in favor of SB2213.

Three points I would like to mention include the family friendly employer aspect, alignment with the federal family sick leave policy, and the connection between family sick leave and our current donated leave program.

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Attachment 2
2/2/13

Testimony Regarding Senate Bill 2213
Before the House Government and Veterans Affairs Committee
Gary Feist, President, NDPEA
March 17, 2011

Good Morning Chairman Grande and members of the House Government and Veterans Affairs Committee. My name is Gary Feist; I am president of the North Dakota Public Employees Association. I am here today representing the interest of public employees across the state of North Dakota including the 2,300 members of NDPEA. We fully support the passage of this bill to help those employees who are taking care of a sick parent, spouse or child. Coincidentally, the membership of NDPEA passed a resolution supporting this very idea at our Delegate Assembly in October. This bill would increase the amount of sick leave employees could use to take care of an immediate family member from 40 to 80 hours. Many state employees have to take care of an elderly parent, their spouse or children when they become ill and are quickly running out of family sick leave.

This bill, if passed would help the state set an example by being family-friendly employer by increasing the amount of family sick leave an employee has access to each year. Other employers, including the city of Bismarck, have increased the amount of family sick leave their employees can use to take care of a family member. The sick leave the employee would be using is leave that they have already earned. This bill does not increase the amount of leave earned by the employee; it merely adds flexibility to a pre-existing benefit.

I have been a state employee for 18 ½ years and prior to last week I had never used my 40 hours of family sick leave, even in the years my three children were born. But, we never know when things will change in our lives. On March 1, while I was out of state on state business, my 3 ½ year old daughter became very ill with Guillain-Barre Syndrome, which is a disorder in which the body's immune system attacks part of the peripheral nervous system. I returned to Bismarck to see my daughter on a vent and paralyzed from her chest down to her toes. Shortly after arriving at the hospital I was told she needed to be airlifted to Minneapolis where she could receive the treatment she needed.

I spent the next 13 days at her bed side in Minneapolis seeing my little girl become completely paralyzed from the top of her head down to her toes. There were many scary moments of high heart rates, high blood pressure, and incredibly high fevers, but I am very happy that it appears that she is on her way to recovery. She will need extensive therapy to learn to swallow again, feed herself, regain her reflexes, and to be able to walk. I have been told that it may take weeks, months, or even up to a year until she has regained her strength and is herself again.

I have already exhausted my family sick leave and now will continue to use my vacation to help my wife care for our daughter through her recovery. I am hopeful that for the remainder of this year my parents, my wife, and my other two daughters don't become ill and require me to take time off from work. I find it disheartening to know that while I have earned and saved more than 1,400 hours of sick leave, I cannot use it to take care of my family when they need me. This bill will not provide enough leave for those employees that have a family member diagnosed with very serious illnesses, but it would allow employees to use some additional sick leave they have earned to be with their loved ones in their time of need.

I assure you I am only one of many who have experienced this situation. My co-worker and an NDPEA member, Troy Thines will tell you his story of how he had to ask other employees for donated annual leave after using all his family sick leave and all of his vacation to take care of his ill daughter. I urge you to give this bill a do pass recommendation and support the passage of this bill.

Quality Services from Quality People

Testimony

Attachment 3
2213

Testimony Regarding Support of SB 2213
Before the House Government and Veterans Affairs Committee
Remarks written by Becky Kendall
March 17, 2011

My name is Becky Kendall and I am a Behavior Modification Specialist II at Northeast Human Service Center in Grand Forks. I am also a parent of two children. One of the major reasons why I accepted a position here at Northeast is the excellent benefits. The availability of family sick leave hours made this position even more appealing. This agency is family- oriented and supportive of parents. I am asking that members of the House support SB 2213 - which increases the number of hours of family sick leave from 40 hours per year to 80 hours per year. In 2010, I used all of my family sick leave hours plus 48 hours of annual leave to provide care for my daughter when she was ill. I have already used 24 hours of family sick leave in 2011 to, again, provide care for my daughter. That leaves 2 days of family sick leave for the remainder of the year!!! I work with and support individuals with developmental disabilities who have behavioral challenges. My work is rewarding and can be emotionally draining. I would prefer to use my annual leave hours to spend vacation time with my family. Increasing the number of hours of family sick leave available would make this possible!!

Thank you for your consideration on this matter.

Respectfully - Becky Kendall