

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 452

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO THE TRANSFER OF SICK LEAVE AND STATE EDUCATIONAL AGENCIES;
2 AMENDING SECTION 67-5302, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECH-
3 NICAL CORRECTIONS; AMENDING SECTION 67-5333A, IDAHO CODE, TO REVISE
4 PROVISIONS REGARDING THE TRANSFER OF ACCRUED SICK LEAVE FOR EMPLOY-
5 EES OF A STATE EDUCATIONAL AGENCY; AND AMENDING SECTION 33-1217, IDAHO
6 CODE, TO REVISE PROVISIONS REGARDING ACCRUED UNUSED SICK LEAVE.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 67-5302. DEFINITIONS. As used in this chapter, and other applicable
12 sections of the Idaho Code, each of the terms defined in this section shall
13 have the meaning given in this section unless a different meaning is clearly
14 required by the context. Such terms and their definitions are:

15 (1) "Administrative employee" means any person, nonclassified or clas-
16 sified appointed to a position which meets the criteria set forth in the fed-
17 eral fair labor standards act, 29 U.S.C. section 201, et seq. Final des-
18 ignation of a classified position as "administrative" within this defini-
19 tion shall be made by the administrator of the division of human resources.
20 Exceptions to this designation which do not violate the federal fair labor
21 standards act, 29 U.S.C. section 201, et seq., may be made by the administra-
22 tor.

23 (2) "Administrator" means the administrator of the division of human
24 resources in the governor's office.

25 (3) "Appointing authority" means the officer, board, commission, per-
26 son or group of persons authorized by statute or lawfully delegated author-
27 ity to make appointments to or employ personnel in any department.

28 (4) "Class" means a group of positions sufficiently similar as to the
29 duties performed, degree of supervision exercised or required, minimum
30 requirements of training, experience or skill, and other characteristics,
31 that the same title, the same tests of fitness and the same schedule of com-
32 pensation may be applied to each position in the group.

33 (5) "Classified officer or employee" means any person appointed to or
34 holding a position in any department of the state of Idaho, which position
35 is subject to the provisions of the merit examination, selection, retention,
36 promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

37 (6) "Commission" means the Idaho personnel commission.

38 (7) "Compensatory time" means approved time off from duty provided in
39 compensation for overtime hours worked.

40 (8) "Computer worker" means any person, nonclassified or classified,
41 appointed to a position which meets the criteria set forth in the federal
42 fair labor standards act, 29 U.S.C. section 201, et seq. Final designation

1 of a classified position as "computer worker" within this definition shall
2 be made by the administrator of the division of human resources. Exceptions
3 to this designation ~~which~~ that do not violate the federal fair labor stan-
4 dards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

5 (9) "Department" means any department, agency, institution or office
6 of the state of Idaho.

7 (10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

8 (11) "Eligible" means a person who has been determined to be qualified
9 for a classified position and whose name has been placed on the register of
10 eligibles.

11 (12) "Executive employee" means any person, nonclassified or classi-
12 fied, appointed to a position equivalent to a bureau chief or above as pro-
13 vided in section 67-2402, Idaho Code, or any employee meeting the following
14 criteria:

15 (a) An individual whose primary duty is management of a department, di-
16 vision or bureau; and

17 (b) Who customarily and regularly directs the work of at least two (2)
18 or more other employees therein; and

19 (c) Who has the authority to hire and fire, or to recommend hiring and
20 firing; or whose recommendation on these and other actions affecting
21 employees is given particular weight; and

22 (d) Who customarily and regularly exercises discretionary powers; and

23 (e) Who is classified to a position allocated to the pay grade equiva-
24 lent to two hundred sixty (260) points or higher pursuant to the rating
25 system established by rule.

26 (f) Final designation of a classified position as "executive" in this
27 definition shall be made by the administrator. Exceptions to this des-
28 ignation which do not violate the federal fair labor standards act, 29
29 U.S.C. section 201, et seq., may be made by the administrator.

30 (13) "Exempt employee" means any employee, classified or nonclassi-
31 fied, who is determined to be an executive, professional or administrative
32 employee as defined herein, or who qualifies for any other exemption from
33 cash compensation for overtime under applicable federal law. Final designa-
34 tion of a classified position as exempt shall be made by the administrator.

35 (14) "Full-time employee" means any employee working a forty (40) hour
36 work week.

37 (15) "Holiday" means the following:

38 January 1 (New Year's Day);

39 Third Monday in January (Martin Luther King, Jr.-Idaho Human
40 Rights Day);

41 Third Monday in February (Washington's Birthday);

42 Last Monday in May (Memorial Day);

43 July 4 (Independence Day);

44 First Monday in September (Labor Day);

45 Second Monday in October (Columbus Day);

46 November 11 (Veterans Day);

47 Fourth Thursday in November (Thanksgiving);

48 December 25 (Christmas).

1 In addition, the term "holiday" shall mean any day so designated by the
2 President of the United States or the governor of this state for a public
3 fast, thanksgiving or holiday.

4 In the event that a holiday occurs on a Saturday, the preceding Friday
5 shall be a holiday, and if the holiday falls on a Sunday, the following Monday
6 shall be a holiday.

7 A holiday is a day of exemption from work granted to nonexecutive em-
8 ployees during which said employees shall be compensated as if they actually
9 worked. Employees classified as executive exempt are entitled to ten (10)
10 paid holidays per year. If such an employee works on one (1) of the official
11 holidays listed in this subsection, then such employee may take an alterna-
12 tive day off but shall not receive additional compensation.

13 (16) "Hours worked" means those hours actually spent in the performance
14 of the employee's job on any day including holidays, and shall not include
15 vacation or sick leave or other approved leave of absence.

16 (17) "Nonclassified employee" means any person appointed to or holding
17 a position in any department of the state of Idaho, which position is ex-
18 empted from the provisions of chapter 53, title 67, Idaho Code, as provided
19 for in section 67-5303, Idaho Code.

20 (18) "Normal work week" means any forty (40) hours worked during a par-
21 ticular one hundred sixty-eight (168) hour period as previously established
22 by the employee's appointing authority.

23 (19) "Open competitive examination" means an examination which may be
24 taken by qualified applicants to compete on an equal basis for listing on the
25 register of eligibles.

26 (20) "Overtime work" means time worked on holidays and time worked in
27 excess of forty (40) hours in a period of one hundred sixty-eight (168) con-
28 secutive hours, except that in the case of those employees engaged in law
29 enforcement, correctional and fire protection activities characterized by
30 irregular shift work schedules, time worked in excess of one hundred sixty
31 (160) hours in a period of twenty-eight (28) consecutive days shall consti-
32 tute overtime work within the meaning of this chapter. Such employees may
33 also be paid overtime for specific hours worked in addition to their normal
34 schedules upon emergency declaration by the governor or with the approval of
35 the appointing authority and the board of examiners.

36 (21) "Participating department" means any department of the state of
37 Idaho which employs persons in classified positions subject to the merit
38 examination, selection, retention, promotion and dismissal requirements of
39 this chapter.

40 (22) "Part-time employee" means any employee whose usually scheduled
41 work is less than forty (40) hours in a period of one hundred sixty-eight
42 (168) consecutive hours, and who shall not be entitled to sick leave accruals
43 provided in section 67-5333, Idaho Code, vacation leave provided in section
44 67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this
45 section, unless contributions are being made to the public employee retire-
46 ment system in accordance with chapter 13, title 59, Idaho Code, and rules
47 promulgated by the public employee retirement system board.

48 (23) "Personnel system" means the procedure for administering employ-
49 ees in accordance with this chapter.

1 (24) "Political office" means a public office for which partisan poli-
2 tics is a basis for nomination, election or appointment.

3 (25) "Political organization" means a party ~~which~~ that sponsors candi-
4 dates for election to political office.

5 (26) "Position" means a group of duties and responsibilities legally
6 assigned or delegated by one (1) or more appointing authorities and requir-
7 ing the employment of one (1) person.

8 (27) "Professional employee" means any person, nonclassified or clas-
9 sified, appointed to a position ~~which~~ that meets the criteria set forth in
10 the federal fair labor standards act, 29 U.S.C. section 201, et seq. Fi-
11 nal designation of a classified position as "professional" within this defi-
12 nition shall be made by the administrator. Exceptions to this designation
13 ~~which~~ that do not violate the federal fair labor standards act, 29 U.S.C.
14 section 201, et seq., may be made by the administrator.

15 (28) "Provisional appointment" means appointment to a classified posi-
16 tion pending the establishment of a register for such position and employ-
17 ment shall not be continued in this status longer than thirty (30) days after
18 establishment of a register.

19 (29) "Qualifying examination" means an examination or evaluation given
20 to a selected person to determine eligibility for reclassification or ap-
21 pointment to a position in a classification.

22 (30) "Register" means a list of names of persons who have been deter-
23 mined to be eligible for employment in a classified position as determined on
24 the basis of examination and merit factors as established by the administra-
25 tor.

26 (31) "Seasonal appointment" means an appointment to a position ~~which~~
27 that is permanent in nature, but ~~which~~ that has intermittent work periods
28 throughout the year.

29 (32) "Service rating" means a recorded evaluation of work performance
30 and promotional potential of an employee by his supervisor.

31 (33) "State educational agency" means a state agency or department su-
32 pervised by the Idaho state board of education pursuant to section 33-107,
33 Idaho Code, including public higher education institutions, community col-
34 leges, public school districts, public charter schools and the Idaho digital
35 learning academy.

36 (34) "Temporary appointment" means appointment to a position ~~which~~ that
37 is not permanent in nature, and in which employment will not exceed one thou-
38 sand three hundred eighty-five (1,385) hours during any twelve (12) month
39 period. No person holding a temporary appointment may work in excess of one
40 thousand three hundred eighty-five (1,385) hours during a twelve (12) month
41 period of time for any one (1) department, except upon petition by the ap-
42 pointing authority of the department of lands that demonstrates good cause,
43 the administrator of the division of human resources may extend the one thou-
44 sand three hundred eighty-five (1,385) hour limit for employees of the de-
45 partment who are required to perform fire suppression activities.

46 (345) "Vacation leave" means a period of exemption from work granted to
47 employees during which time said employees shall be compensated. The term
48 shall not include compensatory time for overtime work.

49 (356) "Veteran" is as defined in section 65-502, Idaho Code.

1 SECTION 2. That Section 67-5333A, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 67-5333A. SICK LEAVE TRANSFERRED -- ~~COMMUNITY COLLEGES -- STATE EM-~~
4 ~~PLOYMENT STATE EDUCATIONAL AGENCY~~. Notwithstanding any other provision of
5 law to the contrary, any employee who has accrued sick leave while in the em-
6 ployment of one (1) of Idaho's ~~community colleges state educational agencies~~
7 and who, ~~on or after January 1, 2012, is transferred~~ transfers to or other-
8 wise becomes an eligible employee of a different state of Idaho educational
9 agency immediately following termination of employment with a ~~community~~
10 ~~college~~ the prior state educational agency shall be credited by the state of
11 Idaho with the amount of sick leave accrued and unused, ~~up to a maximum of~~
12 ~~ninety (90) days~~, upon commencement of state employment. After such trans-
13 fer, the use of sick leave shall be governed by the laws and rules applicable
14 to state employees and any applicable policies of the state educational
15 ~~or entity~~ thereafter employing such employee.

16 SECTION 3. That Section 33-1217, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 33-1217. ~~ACCUMULATION OF ACCRUED~~ UNUSED SICK LEAVE -- TRANSFER --
19 SICK LEAVE WHEN DISTRICTS DIVIDE OR CONSOLIDATE. Unused sick leave shall
20 be ~~accumulated~~ accrued from year to year as long as an employee remains
21 continuously in the service of the same school district, including char-
22 ter districts, ~~to ninety (90) days accumulation of leave~~. Termination of
23 employment in any district shall terminate sick leave rights, both cur-
24 rent and ~~accumulated~~ accrued, except when such employee is employed by
25 another district or another state educational agency, as defined in section
26 67-5302(33), Idaho Code, during the school year immediately following the
27 year of termination or within three (3) school years immediately following
28 the year of termination if termination of employment is due to a reduction in
29 force; and the ~~accumulated~~ accrued sick leave up to a maximum of ninety (90)-
30 ~~days~~ shall be secured for, and credited to, the employee by the district or
31 state educational agency thereafter employing such employee. Any employee
32 employed by a school district who was employed by a state educational agency
33 during the current or prior school year shall be credited any unused sick
34 leave ~~accumulated~~ accrued during state employment ~~up to a maximum of ninety~~
35 ~~(90) days~~. Whenever new school districts are formed by the consolidation or
36 by the division of existing districts, the ~~accumulated~~ accrued sick leave of
37 school district employees who continue in service in the new district or dis-
38 tricts created by such consolidation or division shall have such ~~accumulated~~
39 accrued sick leave secured for and credited to them in such newly created
40 district or districts.