

HOUSE BILL NO. 804

INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

IN THE HOUSE

FEBRUARY 13, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

FEBRUARY 22, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 23, 1991 PRINTING REPORT.

MARCH 8, 1991 SECOND READING, DO PASS.

ON MOTION, REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

MARCH 27, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 28, 1991 PRINTING REPORT.

SECOND READING, DO PASS.

ENGROSSING REPORT.

ON MOTION, RULES SUSPENDED. BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 56; NOES, 44.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

APRIL 10, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 11, 1991 SECOND READING, CONCURRED IN.

APRIL 12, 1991

THIRD READING, CONCURRED IN.
AYES, 29; NOES, 21.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 16, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

APRIL 17, 1991

REPORTED CORRECTLY ENROLLED.

APRIL 18, 1991

SIGNED BY SPEAKER.

APRIL 19, 1991

SIGNED BY PRESIDENT.

DELIVERED TO GOVERNOR.

APRIL 24, 1991

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 25, 1991

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

APRIL 29, 1991

THIRD READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *804*
 2 INTRODUCED BY *McNair, Hargett, B. McCloskey*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A 100
 5 PERCENT LUMP-SUM PAYMENT OF ACCUMULATED SICK LEAVE,
 6 SEVERANCE PAY, AND A RETRAINING ALLOWANCE FOR AN EMPLOYEE
 7 TERMINATED TO ACHIEVE A REDUCTION IN FORCE; TO PROVIDE THAT
 8 CONTRIBUTIONS PAYABLE TO AN EMPLOYEE TERMINATED TO ACHIEVE A
 9 REDUCTION IN FORCE ARE SUBJECT TO NEGOTIATION; AMENDING
 10 SECTIONS 2-18-618 AND 2-18-703, MCA; AND PROVIDING AN
 11 EFFECTIVE DATE AND AN APPLICABILITY DATE."
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. **Section 1.** Reduction in force --
 15 severance pay and retraining allowance required. If a
 16 reduction in force is necessary, the state shall provide
 17 severance pay and a retraining allowance. Within a
 18 collective bargaining unit, severance pay and the retraining
 19 allowance are negotiable subjects under 39-31-305.

20 **Section 2.** Section 2-18-618, MCA, is amended to read:
 21 "2-18-618. Sick leave. (1) Each A permanent full-time
 22 employee ~~shall earn~~ earns sick leave credits from the first
 23 day of employment. For calculating sick leave credits, 2,080
 24 hours (52 weeks x 40 hours) ~~shall equal~~ equals 1 year. Sick
 25 leave credits ~~shall~~ must be credited at the end of each pay

1 period. Sick leave credits ~~shall be~~ are earned at the rate
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 3 restriction as to the number of working days that may be
 4 accumulated. Employees are not entitled to be paid sick
 5 leave until they have been continuously employed 90 days.

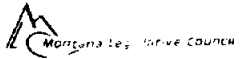
6 (2) An employee may not accrue sick leave credits while
 7 in a leave-without-pay status.

8 (3) Permanent part-time employees are entitled to
 9 prorated leave benefits if they have worked the qualifying
 10 period.

11 (4) Full-time temporary and seasonal employees are
 12 entitled to sick leave benefits provided they work the
 13 qualifying period.

14 (5) An employee who terminates employment with the
 15 agency is entitled to a lump-sum payment equal to one-fourth
 16 of the pay attributed to the accumulated sick leave. The pay
 17 attributed to the accumulated sick leave ~~shall~~ must be
 18 computed on the basis of the employee's salary or wage at
 19 the time he terminates his employment with the state,
 20 county, or city. Accrual of sick leave credits for
 21 calculating the lump-sum payment provided for in this
 22 subsection begins July 1, 1971. The payment ~~therefor--shall~~
 23 be is the responsibility of the agency wherein in which the
 24 sick leave accrues. However, no an employee ~~forfeits~~ does
 25 not forfeit any sick leave rights or benefits he had accrued

INTRODUCED BILL
 HB 804



1 prior to July 1, 1971. However, where when an employee
 2 transfers between agencies within the same jurisdiction, he
 3 is not entitled to a lump-sum payment. In a transfer between
 4 agencies, the receiving agency shall assume the liability
 5 for the accrued sick leave credits earned after July 1,
 6 1971, and transferred with the employee.

7 (6) An employee whose employment with an agency is
 8 terminated to achieve a reduction in force is entitled to a
 9 lump-sum payment equal to 100% of the pay attributed to the
 10 accumulated sick leave.

11 (6)(7) An employee who receives a lump-sum payment
 12 pursuant to this section and who is again employed by any
 13 agency may not be credited with any sick leave for which the
 14 employee has previously been compensated.

15 (7)(8) Abuse of sick leave is cause for dismissal and
 16 forfeiture of the lump-sum payments provided for in this
 17 section.

18 (8)(9) An employee may contribute any portion of his
 19 accumulated sick leave to a nonrefundable sick leave fund
 20 for state employees and ~~thereby-become~~ becomes eligible to
 21 draw upon the fund if an extensive illness or accident
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 23 administration shall, in consultation with the sick leave
 24 advisory council provided for in 2-15-216, administer the
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1 subsection.

2 ~~(9)~~(10) A local government may establish and administer
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7 "2-18-703. Contributions. (1) Each agency, as defined
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10 (2) For employees defined in 2-18-701, other than
 11 members of collective bargaining units, and for members of
 12 the legislature, the employer contribution for group
 13 benefits shall be \$130 per month for the fiscal year ending
 14 June 30, 1990, and \$150 per month for the fiscal year ending
 15 June 30, 1991, and for each fiscal year thereafter. When an
 16 employee is terminated to achieve a reduction in force, the
 17 continuation of contributions for group benefits beyond the
 18 termination date is subject to negotiation under 39-31-305.
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 22 contribution. An employee who elects not to be covered by a
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3 amended, if the state group benefit plan is the secondary
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5 (3) For employees of elementary and high school
6 districts and of local government units, the employer's
7 premium contributions may exceed but may not be less than
8 \$10 per month.

9 (4) Unused employer contributions for any state
10 employee must be transferred to an account established for
11 this purpose by the department of administration and upon
12 such transfer may be used to offset losses occurring to the
13 group of which the employee is eligible to be a member."

14 NEW SECTION. Section 4. Codification instruction.
15 [Section 1] is intended to be codified as an integral part
16 of Title 2, chapter 18, part 6, and the provisions of Title
17 2, chapter 18, part 6, apply to [section 1].

18 NEW SECTION. Section 5. Applicability. [This act]
19 applies to a reduction in force occurring on or after July
20 1, 1991.

21 NEW SECTION. Section 6. Effective date. [This act] is
22 effective July 1, 1991.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

1
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McNulty Thompson B. McCloskey

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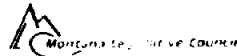
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APPROVED BY COMMITTEE
ON APPROPRIATIONS

AS AMENDED

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INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 10, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 804 (third reading copy -- blue), respectfully report that House Bill No. 804 be amended and as so amended be concurred in:

1. Page 3, line 7.
Strike: "An"
Insert: "A state"

Signed

Richard E. Manning
Richard E. Manning, ~~Chairman~~

4-10-91
Ad. Coord.

SB 4-10 11:50
Sec. of Senate

SENATE
HB 804

HOUSE BILL NO. 804

INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A 100 PERCENT LUMP-SUM PAYMENT OF ACCUMULATED SICK LEAVE, SEVERANCE PAY, AND A RETRAINING ALLOWANCE FOR AN A STATE EMPLOYEE TERMINATED TO ACHIEVE A REDUCTION IN FORCE; TO PROVIDE THAT CONTRIBUTIONS PAYABLE TO AN A STATE EMPLOYEE TERMINATED TO ACHIEVE A REDUCTION IN FORCE ARE SUBJECT TO NEGOTIATION; AMENDING SECTIONS 2-18-618 AND 2-18-703, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reduction in force -- severance pay and retraining allowance required. If a reduction in force is necessary, the state shall provide severance pay and a retraining allowance. Within a collective bargaining unit, severance pay and the retraining allowance are negotiable subjects under 39-31-305.

Section 2. Section 2-18-618, MCA, is amended to read:

"2-18-618. Sick leave. (1) Each A permanent full-time employee shall-earn earns sick leave credits from the first day of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) shall-equal equals 1 year. Sick leave credits shall must be credited at the end of each pay

period. Sick leave credits shall-be are earned at the rate of 12 working days for each year of service without restriction as to the number of working days that may be accumulated. Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

(2) An employee may not accrue sick leave credits while in a leave-without-pay status.

(3) Permanent part-time employees are entitled to prorated leave benefits if they have worked the qualifying period.

(4) Full-time temporary and seasonal employees are entitled to sick leave benefits provided they work the qualifying period.

(5) An employee who terminates employment with the agency is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall must be computed on the basis of the employee's salary or wage at the time he terminates his employment with the state, county, or city. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971. The payment therefor--shall be is the responsibility of the agency wherein in which the sick leave accrues. However, no an employee forfeits does not forfeit any sick leave rights or benefits he had accrued



1 prior to July 1, 1971. However, where when an employee
 2 transfers between agencies within the same jurisdiction, he
 3 is not entitled to a lump-sum payment. In a transfer between
 4 agencies, the receiving agency shall assume the liability
 5 for the accrued sick leave credits earned after July 1,
 6 1971, and transferred with the employee.

7 (6) An A STATE employee whose employment with an agency
 8 is terminated to achieve a reduction in force is entitled to
 9 a lump-sum payment equal to 100% of the pay attributed to
 10 the accumulated sick leave.

11 ~~(6)~~(7) An employee who receives a lump-sum payment
 12 pursuant to this section and who is again employed by any
 13 agency may not be credited with any sick leave for which the
 14 employee has previously been compensated.

15 ~~(7)~~(8) Abuse of sick leave is cause for dismissal and
 16 forfeiture of the lump-sum payments provided for in this
 17 section.

18 ~~(8)~~(9) An employee may contribute any portion of his
 19 accumulated sick leave to a nonrefundable sick leave fund
 20 for state employees and thereby-become becomes eligible to
 21 draw upon the fund if an extensive illness or accident
 22 exhausts his accumulated sick leave. The department of
 23 administration shall, in consultation with the sick leave
 24 advisory council provided for in 2-15-216, administer the
 25 sick leave fund and adopt rules to implement this

1 subsection.

2 ~~(9)~~(10) A local government may establish and administer
 3 through local rule a sick leave fund into which its
 4 employees may contribute a portion of their accumulated sick
 5 leave."

6 **Section 3.** Section 2-18-703, MCA, is amended to read:

7 **"2-18-703. Contributions.** (1) Each agency, as defined
 8 in 2-18-601, shall contribute the amount specified in this
 9 section towards the group benefits cost.

10 (2) For employees defined in 2-18-701, other than
 11 members of collective bargaining units, and for members of
 12 the legislature, the employer contribution for group
 13 benefits shall be \$130 per month for the fiscal year ending
 14 June 30, 1990, and \$150 per month for the fiscal year ending
 15 June 30, 1991, and for each fiscal year thereafter. When an
 16 A STATE employee is terminated to achieve a reduction in
 17 force, the continuation of contributions for group benefits
 18 beyond the termination date is subject to negotiation under
 19 39-31-305. Permanent part-time, seasonal part-time, and
 20 temporary part-time employees who are regularly scheduled to
 21 work less than 20 hours a week are not eligible for the
 22 group benefit contribution. An employee who elects not to be
 23 covered by a state-sponsored group benefit plan may not
 24 receive the state contribution as wages. A portion of the
 25 employer contribution for group benefits may be applied to

1 an employee's costs for participation in Part B of medicare
2 under Title XVIII of the Social Security Act of 1965, as
3 amended, if the state group benefit plan is the secondary
4 payer and medicare the primary payer.

5 (3) For employees of elementary and high school
6 districts and of local government units, the employer's
7 premium contributions may exceed but may not be less than
8 \$10 per month.

9 (4) Unused employer contributions for any state
10 employee must be transferred to an account established for
11 this purpose by the department of administration and upon
12 such transfer may be used to offset losses occurring to the
13 group of which the employee is eligible to be a member."

14 NEW SECTION. **Section 4.** Codification instruction.
15 [Section 1] is intended to be codified as an integral part
16 of Title 2, chapter 18, part 6, and the provisions of Title
17 2, chapter 18, part 6, apply to [section 1].

18 NEW SECTION. **Section 5.** Applicability. [This act]
19 applies to a reduction in force occurring on or after July
20 1, 1991.

21 NEW SECTION. **Section 6.** Effective date. [This act] is
22 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0804, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide a 100 percent lump-sum payment of accumulated sick leave, severance pay, and a retraining allowance for an employee terminated to achieve a reduction in force; to provide that contributions payable to an employee terminated to achieve a reduction in force are subject to negotiation; amending sections 2-18-618 and 2-18-703, MCA; and providing an effective date and an applicability date.

ASSUMPTIONS:


1. As of the end of August, 1990, the average accrued sick leave for state employees was 355 hours. Using the average state employee salary rate of \$10 per hour, the average accrued sick leave balance would be \$3,550 per state employee.
2. Currently state employees are entitled to 25% of their accrued sick leave balance upon the termination of their employment. The proposed legislation would increase their entitlement to 100% of their accrued balance.
3. The pay plan proposal submitted by the executive recommends an insurance contribution of \$165 per month with a 12 month payout during the 1993 biennium.
4. Current or potential reductions in force are unknown and/or unforeseen.

FISCAL IMPACT:


Unable to determine.

TECHNICAL NOTES:

The proposed legislation provides severance pay and a retraining allowance but does not specify duration or parameters of these proposed benefits.



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



WILLIAM T. "RED" MENAHAN, PRIMARY SPONSOR DATE
Fiscal Note for HB0804, as introduced HB 804

GOVERNOR'S AMENDMENTS TO
HOUSE BILL 804
(REFERENCE COPY, AS AMENDED)
April 24, 1991

1. Title, lines 4 through 6.

Following: "AN ACT TO"

Strike: "PROVIDE A 100 PERCENT LUMP-SUM PAYMENT OF ACCUMULATED
SICK LEAVE,"

Insert: "ALLOW THE STATE TO PROVIDE"

2. Page 1, line 16.

Following: "state"

Strike: "shall"

Insert: "may"

3. Page 3, lines 7 through 10.

Strike: subsection 6 in its entirety

Renumber: subsequent sections.

*Gov. Amend.
HB 804*

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2 INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

3
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6 THE STATE TO PROVIDE SEVERANCE PAY, AND A RETRAINING
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9 AN A STATE EMPLOYEE TERMINATED TO ACHIEVE A REDUCTION IN
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