

HOUSE BILL NO. 289

INTRODUCED BY HIBBARD, J. RICE,
COCCHIARELLA, BARTLETT, WATERMAN

IN THE HOUSE

JANUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
FEBRUARY 3, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 4, 1993	PRINTING REPORT.
FEBRUARY 5, 1993	SECOND READING, DO PASS.
FEBRUARY 6, 1993	ENGROSSING REPORT.
FEBRUARY 8, 1993	THIRD READING, PASSED. AYES, 93; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 9, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 3, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1993	SECOND READING, CONCURRED IN.
MARCH 5, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 6, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 289
 2 INTRODUCED BY Jeffrey P. Cechin
 3 Barrett W. T. more
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC AGENCY
 5 HEADS TO ACTIVELY MANAGE VACATION LEAVE FOR AGENCY
 6 EMPLOYEES; PROVIDING THAT A PUBLIC EMPLOYEE MUST RECEIVE
 7 CASH COMPENSATION FOR UNUSED, EXCESS VACATION LEAVE IF THE
 8 EMPLOYEE IS DENIED REASONABLE OPPORTUNITY TO USE EXCESS
 9 LEAVE; AND AMENDING SECTION 2-18-617, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 2-18-617, MCA, is amended to read:

13 "2-18-617. Accumulation of leave -- cash for unused --
 14 transfer. (1) Annual vacation leave may be accumulated to a
 15 total not to exceed two times the maximum number of days
 16 earned annually as of the end of the first pay period of the
 17 next calendar year. Excess vacation time is not forfeited if
 18 taken within 90 calendar days from the last day of the
 19 calendar year in which the excess was accrued. It is the
 20 responsibility of the head of an employing agency to provide
 21 reasonable opportunity for an employee to use rather than
 22 forfeit accumulated vacation leave. If an employee makes a
 23 written request to use excess vacation leave before the
 24 excess vacation leave must be forfeited and the employing
 25 agency denies the employee the use of the excess vacation

1 leave, the employee is entitled to cash compensation for the
 2 unused, excess vacation leave. The cash compensation must be
 3 credited on the date the unused, excess vacation leave is
 4 forfeited under the provisions of this section.

5 (2) An employee who terminates his employment for a
 6 reason not reflecting discredit on himself--~~shall--be~~ the
 7 employee is entitled upon the date of such termination to
 8 cash compensation for unused vacation leave, assuming that
 9 the employee has worked the qualifying period set forth in
 10 2-18-611.

11 (3) However, if an employee transfers between agencies
 12 of the same jurisdiction, ~~there--shall--be--no~~ cash
 13 compensation may not be paid for unused vacation leave. In
 14 such a transfer, the receiving agency assumes the liability
 15 for the accrued vacation credits transferred with the
 16 employee."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0289, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring public agency heads to actively manage vacation leave for agency employees; providing that a public employee must receive cash compensation for unused, excess vacation leave if the employee is denied reasonable opportunity to use excess leave; and amending section 2-18-617, MCA.

ASSUMPTIONS:


1. Annual vacation leave is an unfunded liability. Cash compensation for unused vacation leave is not currently budgeted.
2. In the pay period in April, 1992 in which leave balances were adjusted to forfeit unused excess credits, 19,000 hours of leave were affected. An estimated 2000 hours represent other technical adjustments, leaving a balance of 17,000 hours of leave forfeited.
3. The average hourly wage for a state employee was \$11.62 as of October, 1992. Employees who typically forfeit leave earn above the state average hourly wage, assumed to be \$15 per hour.
5. Excess leave would be forfeited without cash compensation whenever reasonable opportunity has been provided. Agency heads would provide reasonable opportunity for employees to use excess leave insofar as agency priorities are not compromised. The extent to which agency heads would not provide reasonable opportunity for employees to use excess leave is anticipated to be infrequent and only under exceptional circumstances.
6. Cash compensation for forfeited leave would generally be paid out of current level budgets by holding positions vacant.
7. Agencies are assumed to have adequate staffing for high priority functions.
8. Local governments are governed by the requirements of 2-18-617, MCA, and its leave forfeiture provision.


FISCAL IMPACT:

If all forfeited leave in FY92 were compensated, total cash compensation would have been \$255,000. Insufficient information exists to determine which state accounts would have been affected. If affected agencies are not adequately staffed for high priority functions, HB0289 may tend to marginally increase supplemental requests.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The fiscal impact on local governments would be similar to the impact on the state. Insufficient data exists to characterize the impact on local governments.


DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/26/93
CHASE HIBBARD, PRIMARY SPONSOR DATE

Fiscal Note for HB0289, as introduced

HB 289

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0289, ^{second reading} as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring public agency heads to actively manage vacation leave for agency employees; providing that a public employee is entitled to use excess vacation leave if the employee is denied reasonable opportunity to use excess leave; and amending section 2-18-617, MCA.

ASSUMPTIONS:

1. Annual vacation leave is accounted for as a liability in the state's financial report.
2. In the pay period in April, 1992 in which leave balances were adjusted to forfeit unused excess credits, 19,000 hours of leave were affected. An estimated 2000 hours represent other technical adjustments, leaving a balance of 17,000 hours of leave forfeited.
3. Excess leave would be forfeited whenever reasonable opportunity has been provided. It is assumed that agency heads would provide reasonable opportunity for employees to use excess leave insofar as agency priorities are not compromised. The extent to which agency heads would not provide reasonable opportunity for employees to use excess leave is anticipated to be infrequent and only under exceptional circumstances.
4. It is assumed that excess leave not forfeited in one year would be subject to excess leave restrictions in subsequent years.
5. Local governments are governed by the requirements of 2-18-617, MCA, and its leave forfeiture provision.

FISCAL IMPACT:

To the extent that reasonable opportunity to use excess leave is not provided, recorded liabilities may tend to increase by negligible amounts.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The fiscal impact on local governments would be similar to the impact on the state. Insufficient data exists to characterize the impact on local governments.

Dave Lewis 2-8-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chase Hibbard 2/10/93
CHASE HIBBARD, PRIMARY SPONSOR DATE
Fiscal Note for HB0289, ^{second reading} as introduced
Rev. **HB 289** - #2

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

HOUSE BILL NO. 289

INTRODUCED BY HIBBARD, J. RICE,

COCCHIARELLA, BARTLETT, WATERMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC AGENCY HEADS TO ACTIVELY MANAGE VACATION LEAVE FOR AGENCY EMPLOYEES; PROVIDING THAT A PUBLIC EMPLOYEE MUST RECEIVE CASH COMPENSATION FOR UNUSED, IS ENTITLED TO USE EXCESS VACATION LEAVE IF THE EMPLOYEE IS DENIED REASONABLE OPPORTUNITY TO USE EXCESS LEAVE; AND AMENDING SECTION 2-18-617, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-18-617, MCA, is amended to read:

"2-18-617. Accumulation of leave -- cash for unused -- transfer. (1) Annual (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(B), ANNUAL vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.

(B) It is the responsibility of the head of an employing agency to provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation

leave. If an employee makes a REASONABLE written request to use excess vacation leave before the excess vacation leave must be forfeited UNDER SUBSECTION (1)(A) and the employing agency denies the employee the use of the excess vacation leave, the employee is entitled to cash compensation for the unused, excess vacation leave. The cash compensation must be credited on the date the unused, excess vacation leave is forfeited under the provisions of this section. REQUEST, THE EXCESS VACATION LEAVE IS NOT FORFEITED AND THE EMPLOYING AGENCY SHALL ENSURE THAT THE EMPLOYEE MAY USE THE EXCESS VACATION LEAVE BEFORE THE END OF THE CALENDAR YEAR IN WHICH THE LEAVE WOULD HAVE BEEN FORFEITED UNDER SUBSECTION (1)(A).

(2) An employee who terminates his employment for a reason not reflecting discredit on himself shall be the employee is entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in 2-18-611.

(3) However, if an employee transfers between agencies of the same jurisdiction, there shall be no cash compensation may not be paid for unused vacation leave. In such a transfer, the receiving agency assumes the liability for the accrued vacation credits transferred with the employee."

NEW SECTION. **SECTION 2.** EFFECTIVE DATE. [THIS ACT] IS

HB 0289/02

1 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

HOUSE BILL NO. 289

INTRODUCED BY HIBBARD, J. RICE,

COCCHIARELLA, BARTLETT, WATERMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC AGENCY HEADS TO ACTIVELY MANAGE VACATION LEAVE FOR AGENCY EMPLOYEES; PROVIDING THAT A PUBLIC EMPLOYEE MUST RECEIVE CASH-COMPENSATION-FOR-UNUSED, IS ENTITLED TO USE EXCESS VACATION LEAVE IF THE EMPLOYEE IS DENIED REASONABLE OPPORTUNITY TO USE EXCESS LEAVE; AND AMENDING SECTION 2-18-617, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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(B) It is the responsibility of the head of an employing agency to provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation

leave. If an employee makes a REASONABLE written request to use excess vacation leave before the excess vacation leave must be forfeited UNDER SUBSECTION (1)(A) and the employing agency denies the employee the use of the excess vacation leave, the employee is entitled to cash compensation for the unused excess vacation leave. The cash compensation must be credited on the date the unused excess vacation leave is forfeited--under the provisions of this section REQUEST, THE EXCESS VACATION LEAVE IS NOT FORFEITED AND THE EMPLOYING AGENCY SHALL ENSURE THAT THE EMPLOYEE MAY USE THE EXCESS VACATION LEAVE BEFORE THE END OF THE CALENDAR YEAR IN WHICH THE LEAVE WOULD HAVE BEEN FORFEITED UNDER SUBSECTION (1)(A).

(2) An employee who terminates his employment for a reason not reflecting discredit on himself--shall--be the employee is entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in 2-18-611.

(3) However, if an employee transfers between agencies of the same jurisdiction, there--shall--be--no cash compensation may not be paid for unused vacation leave. In such a transfer, the receiving agency assumes the liability for the accrued vacation credits transferred with the employee."

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HB 0289/02

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC AGENCY
6 HEADS TO ACTIVELY MANAGE VACATION LEAVE FOR AGENCY
7 EMPLOYEES; PROVIDING THAT A PUBLIC EMPLOYEE MUST RECEIVE
8 CASH COMPENSATION FOR UNUSED, IS ENTITLED TO USE EXCESS
9 VACATION LEAVE IF THE EMPLOYEE IS DENIED REASONABLE
10 OPPORTUNITY TO USE EXCESS LEAVE; AND AMENDING SECTION
11 2-18-617, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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17 (1)(B), ANNUAL vacation leave may be accumulated to a total
18 not to exceed two times the maximum number of days earned
19 annually as of the end of the first pay period of the next
20 calendar year. Excess vacation time is not forfeited if
21 taken within 90 calendar days from the last day of the
22 calendar year in which the excess was accrued.

23 (B) It is the responsibility of the head of an
24 employing agency to provide reasonable opportunity for an
25 employee to use rather than forfeit accumulated vacation

1 leave. If an employee makes a REASONABLE written request to
2 use excess vacation leave before the excess vacation leave
3 must be forfeited UNDER SUBSECTION (1)(A) and the employing
4 agency denies the employee-the-use-of-the-excess-vacation
5 leave-the-employee-is-entitled-to-cash-compensation-for-the
6 unused-excess-vacation-leave. The cash compensation must be
7 credited on the date the unused-excess-vacation-leave-is
8 forfeited--under-the-provisions-of-this-section REQUEST, THE
9 EXCESS VACATION LEAVE IS NOT FORFEITED AND THE EMPLOYING
10 AGENCY SHALL ENSURE THAT THE EMPLOYEE MAY USE THE EXCESS
11 VACATION LEAVE BEFORE THE END OF THE CALENDAR YEAR IN WHICH
12 THE LEAVE WOULD HAVE BEEN FORFEITED UNDER SUBSECTION (1)(A).

13 (2) An employee who terminates his employment for a
14 reason not reflecting discredit on himself--shall--be the
15 employee is entitled upon the date of such termination to
16 cash compensation for unused vacation leave, assuming that
17 the employee has worked the qualifying period set forth in
18 2-18-611.

19 (3) However, if an employee transfers between agencies
20 of the same jurisdiction, there--shall--be--no cash
21 compensation may not be paid for unused vacation leave. In
22 such a transfer, the receiving agency assumes the liability
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