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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2142

02/08/2012 Authored by Drazkowski

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to public employment; specifying conditions for paid time off; amending
1.3 Minnesota Statutes 2010, sections 43A.17, subdivisions 8, 11; 43A.181;
1.4 43A.1815; 465.72; 465.722, subdivision 2; 471.66; proposing coding for new
1.5 law in Minnesota Statutes, chapters 43A; 471.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2010, section 43A.17, subdivision 8, is amended to read:

1.8 Subd. 8. **Accumulated ~~vacation leave~~**. The commissioner shall not agree to a
1.9 collective bargaining agreement or recommend a compensation plan pursuant to section
1.10 43A.18, subdivisions 1, 2, 3, and 4, nor shall an arbitrator issue an award under sections
1.11 179A.01 to 179A.25, if the compensation plan, agreement, or award permits an employee
1.12 to convert accumulated ~~vacation leave~~ paid time off into cash before separation from
1.13 state service.

1.14 This section does not prohibit the commissioner from negotiating a collective
1.15 bargaining agreement or recommending approval of a compensation plan which: (1)
1.16 permits an employee to receive payment for accumulated ~~vacation leave~~ paid time off
1.17 upon beginning an unpaid leave of absence approved for more than one year in duration if
1.18 the leave of absence is not for the purpose of accepting an unclassified position in state
1.19 civil service; (2) permits an employee to receive payment for accumulated ~~vacation leave~~
1.20 paid time off upon layoff; or (3) permits an employee to receive payment for accumulated
1.21 ~~vacation leave~~ paid time off if a change in employment results in the employee being
1.22 ineligible to accrue further ~~vacation leave~~ paid time off.

1.23 Sec. 2. Minnesota Statutes 2010, section 43A.17, subdivision 11, is amended to read:

2.1 Subd. 11. **Severance pay for certain employees.** (a) For purposes of this
 2.2 subdivision, "highly compensated employee" means an employee of the state whose
 2.3 estimated annual compensation is greater than 60 percent of the governor's annual salary,
 2.4 and who is not covered by a collective bargaining agreement negotiated under chapter
 2.5 179A.

2.6 (b) Severance pay for a highly compensated employee includes benefits or
 2.7 compensation with a quantifiable monetary value, that are provided for an employee upon
 2.8 termination of employment and are not part of the employee's annual wages and benefits
 2.9 and are not specifically excluded by this subdivision. Severance pay does not include
 2.10 payments for accumulated ~~vacation, accumulated sick leave, and accumulated sick leave~~
 2.11 paid time off liquidated to cover the cost of group term insurance. Severance pay for a
 2.12 highly compensated employee does not include payments of periodic contributions by
 2.13 an employer toward premiums for group insurance policies. The severance pay for a
 2.14 highly compensated employee must be excluded from retirement deductions and from any
 2.15 calculations of retirement benefits. Severance pay for a highly compensated employee
 2.16 must be paid in a manner mutually agreeable to the employee and the employee's
 2.17 appointing authority over a period not to exceed five years from retirement or termination
 2.18 of employment. If a retired or terminated employee dies before all or a portion of the
 2.19 severance pay has been disbursed, the balance due must be paid to a named beneficiary
 2.20 or, lacking one, to the deceased's estate. Except as provided in paragraph (c), severance
 2.21 pay provided for a highly compensated employee leaving employment may not exceed an
 2.22 amount equivalent to six months of pay.

2.23 (c) Severance pay for a highly compensated employee may exceed an amount
 2.24 equivalent to six months of pay if the severance pay is part of an early retirement incentive
 2.25 offer approved by the state and the same early retirement incentive offer is also made
 2.26 available to all other employees of the appointing authority who meet generally defined
 2.27 criteria relative to age or length of service.

2.28 Sec. 3. Minnesota Statutes 2010, section 43A.181, is amended to read:

2.29 **43A.181 UNREIMBURSED MEDICAL COSTS ~~VACATION~~ DONATION**
 2.30 **PROGRAM.**

2.31 Subdivision 1. **Donation of ~~vacation~~ time.** A state employee may donate up to 12
 2.32 hours of accrued ~~vacation time~~ paid time off in any fiscal year to the account established
 2.33 by subdivision 2 for the benefit of another state employee. The employee must notify the
 2.34 employee's agency head of the amount of accrued ~~vacation~~ time the employee wishes to
 2.35 donate and the name of the other state employee who is to benefit from the donation. The

3.1 agency head shall determine the monetary value of the donated time, using the gross salary
 3.2 of the employee making the donation. The agency head shall transfer that amount, less
 3.3 deductions for applicable taxes and retirement contributions, to the account established
 3.4 by subdivision 2. A donation of accrued ~~vacation~~ time is irrevocable once its monetary
 3.5 value has been transferred to the account.

3.6 Subd. 2. **Benefit account.** The ~~vacation~~ paid time off benefit account, consisting
 3.7 of money transferred under subdivision 1, is administered by the commissioner of
 3.8 management and budget. Money in the account is appropriated to the commissioner for
 3.9 purposes of this section.

3.10 Subd. 3. **Use of account assets.** Expenditures from the account established by
 3.11 subdivision 2 may be made to pay unreimbursed medical expenses when the total of those
 3.12 expenses is at least \$10,000 and the expenses are incurred because of the illness of or
 3.13 injury to a state employee or the employee's spouse or dependent. Up to 40 percent of
 3.14 the funds donated to an individual employee's account may be used to pay for housing
 3.15 and transportation accessibility costs required by the employee who suffered an injury.
 3.16 Any money remaining after all of the expenses incurred by the employee named to benefit
 3.17 from a donation have been paid may be transferred to a general pool. The commissioner
 3.18 may use the pool to pay unreimbursed medical expenses for another state employee
 3.19 named to benefit from donated ~~vacation~~ time but whose unreimbursed expenses exceed
 3.20 the monetary value of the donated time.

3.21 Sec. 4. **[43A.1812] PAID TIME OFF.**

3.22 A collective bargaining agreement or compensation plan covering a state employee
 3.23 may provide for paid time off, but may not separately provide for sick leave or vacation
 3.24 leave. An employee may not earn more than 160 hours of paid time off in a calendar year.
 3.25 At the end of each calendar year, an employee may not have a balance of more than 160
 3.26 hours of paid time off. For purposes of this section, paid time off does not include a
 3.27 holiday, as defined in section 645.44, subdivision 5.

3.28 Sec. 5. Minnesota Statutes 2010, section 43A.1815, is amended to read:

3.29 **43A.1815 ~~VACATION~~ PAID TIME OFF DONATION TO SICK LEAVE**
 3.30 **ACCOUNT.**

3.31 (a) In addition to donations under section 43A.181, a state employee may donate
 3.32 a total of up to 40 hours of accrued ~~vacation leave~~ paid time off each fiscal year to the
 3.33 ~~sick leave~~ paid time off account of one or more state employees. A state employee may
 3.34 not be paid for more than 80 hours in a payroll period during which the employee uses

4.1 ~~sick leave~~ paid time off credited to the employee's account as a result of a transfer from
 4.2 another state employee's ~~vacation~~ account.

4.3 (b) The recipient employee must receive donations, as available, for a life-threatening
 4.4 condition of the employee or spouse or dependent child that prevents the employee
 4.5 from working. A recipient may use program donations retroactively to when all forms
 4.6 of paid leave are exhausted if the employee has sufficient donations to cover the period
 4.7 of retroactivity.

4.8 (c) An applicant for benefits under this section who receives an unfavorable
 4.9 determination may select a designee to consult with the commissioner or commissioner's
 4.10 designee on the reasons for the determination.

4.11 (d) The commissioner shall establish procedures under section 43A.04, subdivision
 4.12 4, for eligibility, duration of need based on individual cases, monitoring and evaluation of
 4.13 individual eligibility status, and other topics related to administration of this program.

4.14 Sec. 6. Minnesota Statutes 2010, section 465.72, is amended to read:

4.15 **465.72 SEVERANCE PAY.**

4.16 Subdivision 1. **Payment; limits.** Except as may otherwise be provided in Laws
 4.17 1959, chapter 690, as amended, a county, city, township, school district or other
 4.18 governmental subdivision may pay severance pay to its employees and adopt rules for
 4.19 the payment of severance pay to an employee who leaves employment. Severance
 4.20 pay does not include compensation for accumulated ~~sick leave~~ paid time off or other
 4.21 payments in the form of periodic contributions by an employer toward premiums for
 4.22 group insurance policies for a former employee. The severance pay must be excluded
 4.23 from retirement deductions and from any calculations in retirement benefits. Severance
 4.24 pay must be paid in a manner mutually agreeable to the employee and employer over
 4.25 a period not to exceed five years from retirement or termination of employment. If a
 4.26 retired or terminated employee dies before all or a portion of the severance pay has been
 4.27 disbursed, that balance due must be paid to a named beneficiary or, lacking one, to the
 4.28 deceased's estate. Severance pay provided for an employee leaving employment may not
 4.29 exceed an amount equivalent to one year of pay.

4.30 Sec. 7. Minnesota Statutes 2010, section 465.722, subdivision 2, is amended to read:

4.31 Subd. 2. **Limits on severance pay.** Notwithstanding any contrary provision of
 4.32 section 465.72, subdivision 1, severance pay for a highly compensated employee includes
 4.33 benefits or compensation with a quantifiable monetary value, that are provided for an
 4.34 employee upon termination of employment and are not part of the employee's annual

5.1 wages and benefits and are not specifically excluded by this subdivision. Severance pay
 5.2 shall not include payments for accumulated ~~vacation, accumulated sick leave~~ paid time
 5.3 off, and accumulated ~~sick leave~~ paid time off liquidated to cover the cost of group term
 5.4 insurance provided under section 471.61 to retiring employees. Severance pay for a
 5.5 highly compensated employee does not include payments of periodic contributions by
 5.6 an employer toward premiums for group insurance policies. The severance pay for a
 5.7 highly compensated employee must be excluded from retirement deductions and from any
 5.8 calculations of retirement benefits. Severance pay for a highly compensated employee
 5.9 must be paid in a manner mutually agreeable to the employee and the governing body
 5.10 of the local unit of government over a period not to exceed five years from retirement
 5.11 or termination of employment. If a retired or terminated employee dies before all or a
 5.12 portion of the severance pay has been disbursed, the balance due must be paid to a named
 5.13 beneficiary or, lacking one, to the deceased's estate. Except as provided in subdivision 3,
 5.14 severance pay provided for a highly compensated employee leaving employment may
 5.15 not exceed an amount equivalent to six months of wages.

5.16 Sec. 8. **[471.657] PAID TIME OFF.**

5.17 A collective bargaining agreement or compensation plan covering an employee
 5.18 of a statutory or home rule charter city, county, town, school district, metropolitan or
 5.19 other regional agency, or other political subdivision may provide for paid time off, but
 5.20 may not separately provide for sick leave or vacation leave. An employee may not earn
 5.21 more than 160 hours of paid time off in a calendar year. At the end of each calendar
 5.22 year, an employee may not have a balance of more than 160 hours of paid time off. For
 5.23 purposes of this section, paid time off does not include a holiday, as defined in section
 5.24 645.44, subdivision 5.

5.25 Sec. 9. Minnesota Statutes 2010, section 471.66, is amended to read:

5.26 **471.66 VACATIONS.**

5.27 Subdivision 1. **With or without pay.** The governing body of each city and town in
 5.28 the state of Minnesota, however organized, may by resolution or ordinance provide for the
 5.29 granting of paid time off and for the granting of vacations, ~~with or without pay~~, to all its
 5.30 regularly employed employees or officers, upon such terms and under such conditions as
 5.31 said governing body may determine, and subject to section 471.657 and subject to such
 5.32 requirements as to length of service with such municipality as said governing body may
 5.33 require.

6.1 Subd. 2. **No retroactivity.** Nothing in subdivision 1 shall be construed as retroactive
6.2 in its purpose or intent so as to give the governing body of any such city or town the right
6.3 to grant ~~vacations~~ paid time off based on service of its employees or officers rendered prior
6.4 to the enactment of such ordinance or resolution.

6.5 Subd. 3. **Elected officials.** No elected official of a statutory or home rule charter
6.6 city, county, town, school district, metropolitan or regional agency, or other political
6.7 subdivision of this state, may receive monetary compensation for unused ~~vacation or~~
6.8 ~~sick leave~~ paid time off accruals. Nothing in this subdivision shall restrict an elected
6.9 official from taking ~~vacation or sick leave time~~ paid time off that may be provided for
6.10 by resolution or ordinance of the governing body of a statutory or home rule charter
6.11 city, county, town, school district, metropolitan or regional agency, or other political
6.12 subdivision of this state, subject to section 471.657.

6.13 Sec. 10. **EFFECTIVE DATE.**

6.14 Sections 1 to 9 are effective July 1, 2013. For an employee whose vacation, sick
6.15 leave, or paid time off balances exceed the maximum permissible accumulation specified
6.16 in section 4 or 8 on that date, the maximum permissible balance is the person's balance
6.17 on that date. The higher balance is authorized only during the person's employment with
6.18 the person's employer as of July 1, 2013.