

# GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

## Legislative Fiscal Note

**BILL NUMBER:** House Bill 213 (Third Edition)

**SHORT TITLE:** VSL Nonfamily Sick Leave Donations.

**SPONSOR(S):** Representatives Insko, Lucas, and Hurley

### FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
<b>REVENUES</b>	N/A	-	-	-	-
<b>EXPENDITURES</b>	<b>Indeterminate Fiscal Impact- See Assumptions and Methodology</b>				
<b>POSITIONS (cumulative):</b>	N/A				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	State agencies and departments, the University of North Carolina, the North Carolina Community College System, and local school administration units.				
<b>EFFECTIVE DATE:</b>	January 1, 2010.				

### BILL SUMMARY:

House Bill 213 parallels Senate Bill 352.

The proposed legislation directs the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges, respectively, to adopt rules and policies under existing voluntary shared leave programs that permit employees to donate sick leave to non-family member employees.

The proposed legislation provides several statutory limitations as follows: (1) no donor may donate more than five days of sick leave per year to any one non-family member recipient; (2) limits the combined total of sick leave donated to a recipient from non-family member donors to a maximum of 30 days per year; (3) requires the donor and recipient be employed by a like entity (i.e. state agency/state agency, community college/community college, public school/public school); (4) prohibits donated sick leave from being used for retirement purposes; and (5) requires notice in writing to employees who donate sick leave of the state retirement consequences of donating the

sick leave. The House Committee Substitute #2 added language authorizing departments and agencies to extend the voluntary shared leave benefit to exempt employees who are not subject to the State Personnel Act.

**ASSUMPTIONS AND METHODOLOGY:**

The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges have adopted Voluntary Shared Leave policies affecting employees subject to the State Personnel Act (SPA) including university SPA employees, employees of local education agencies (public school employees), and community college employees. Generally, these policies permit employees to voluntarily donate vacation or bonus leave to approved recipients employed by a like entity (the donor and recipient must both be employed by either state agencies, community colleges, or the same public school). In addition, these policies permit an immediate family member donor of any agency, public school system, or community college to donate vacation, bonus, or sick leave to another immediate family member in any agency, public school, or community college. Lastly, the policies permit a non-family donor to share leave with a coworker's immediate family who is an employee in an agency, public school, or community college (the employee and coworker must be in the same agency, public school, or community college). Donated leave in excess of 40 hours of the amount of donated leave the recipient actually uses is returned to the donors on a pro rata basis.

As stated above, this proposed legislation expands these current Voluntary Shared Leave policies to also permit employees to donate sick leave to non-family members. The fiscal impact of this proposed legislation is indeterminate as data is not available from the public schools, community colleges, or universities as to the amounts of leave currently donated and used under existing policies. Without such data, we have no basis upon which to estimate the fiscal impact.

Data is available from the BEACON Human Resources/Payroll system relative to leave donated and used by State employees employed in State agencies and departments. This data reflects that 761 employees received voluntary shared leave donations during the 2008 calendar year from 3,964 donors. The leave donated included vacation, sick, and bonus leave (in one instance overtime compensation leave was donated which is not consistent with current policy). During 2008, a total of 119,410.2 hours of leave were donated (see table below for a breakdown of the hours donated) and only 96,014.96 were used.

Leave Donated under SPA VSL program during 2008

Vacation	87,628.9 hours
Sick	26,475.8 hours
Overtime Compensation	8.0
Bonus	5,297.5 hours
<b>Total:</b>	<b>119,410.2 hours</b>

The average salary of the recipients of voluntary shared leave during 2008 equated to \$36,430.98, or \$17.51 an hour. Thus, the cost of the current voluntary shared leave program to State agencies and departments equated to \$1,946,686.09 in the 2008 calendar year. This figure was calculated by multiplying \$17.51 (the average hourly salary of the recipients of the voluntary shared leave) by

96,014.96 (the total used voluntary shared leave) by 1.1579 (cost of benefits; retirement and social security). The cost stated above may be more accurately described as a loss of salary savings that would have otherwise occurred had these recipients not stayed on the payroll by exhausting voluntary shared leave.

It is believed by most that sick leave is less valued by employees than vacation leave. This belief is based upon the fact that accumulated vacation leave up to 30 days (and bonus leave up to 25 days) is paid in a lump sum upon termination of employment and the fact that the use of sick leave is substantially more restricted than the use of vacation leave. If this belief holds true, employees may be more likely to donate sick leave than vacation leave as permitted under current policy.

As stated above, 119,410.2 hours were donated and 96,014.96 actually used during 2008. If the 3,964 State agency and department 2008 donors were permitted and had each donated the maximum of 5 days of sick leave, a total of 158,560 hours would have been donated (3,964 times 5 days times 8 hours per day). The cost of Voluntary Shared Leave programs and this proposed legislation is, of course, related to the actual hours used and not the hours donated. Assuming the 2008 State agency and department fact that more hours were donated than actually used holds true each and every year and across all affected public sectors, one may conclude that this proposed legislation would have no additional cost (as more hours are already being donated than used). Such a conclusion would be flawed, however, as the data provided was aggregate totals and did not include individual detail by employee recipient. In the likely event that some of the 761 2008 recipients did not receive voluntary shared leave donations sufficient to cover their entire prolonged illness absence, additional losses of salary savings (or costs) may occur if it holds true that employees are more likely to donate sick leave than vacation leave.

Officials at the Office of State Personnel and the Community Colleges Systems Office expressed additional concerns that the proposed legislation would increase the State's liability related to vacation leave balances. Accrued vacation leave up to 30-days may be carried forward and upon termination of employment paid in a lump sum. Payouts for accrued vacation and bonus leave (also payable upon termination) are not budgeted and must be paid from lapsed salaries. If an agency or department does not have sufficient lapsed salaries to cover the payouts, they essentially have to hold the position vacant until sufficient lapsed salaries are generated to cover the payouts. The thought is that if this proposed legislation is enacted, employees would be more likely donate sick than vacation leave (sick leave is less valued than vacation leave) and would, thus, accrue greater unused vacation leave balances that will have to be paid out upon termination of employment. Additionally, vacation and bonus leave liabilities are reported in the State's Comprehensive Annual Financial Report and higher vacation leave liabilities could have other unintended consequences to the State.

**SOURCES OF DATA:**

Office of State Personnel, Office of the State Controller, BEACON HR/Payroll System, Department of Public Instruction, NC Community College System Office, and the University of North Carolina – General Administration.

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** June 17, 2009



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