

SENATE BILL REPORT

SB 5233

As Amended by House, April 4, 2019

Title: An act relating to creating an alternative process for sick leave benefits for workers represented by collective bargaining agreements.

Brief Description: Creating an alternative process for sick leave benefits for workers represented by collective bargaining agreements.

Sponsors: Senators Keiser and Conway.

Brief History:

Committee Activity: Labor & Commerce: 1/22/19, 1/29/19 [DP, w/oRec].

Floor Activity:

Passed Senate: 3/05/19, 48-0.

Passed House: 4/04/19, 92-1.

Brief Summary of Bill

- Exempts workers covered by a collective bargaining agreement (CBA) from state sick leave requirements if the CBA meets certain criteria, including establishing provisions for sick leave that meet or exceed the benefits provided under state sick leave laws.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Walsh and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; Braun.

Staff: Jarrett Sacks (786-7448)

Background: Initiative 1433 was adopted by a vote of the people in 2016. The initiative included provisions raising the minimum wage and established a new requirement for employers to provide paid sick leave.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Paid Sick Leave. Every employer must provide to each of its employees paid sick leave. Each employee accrues at least one-hour of paid sick leave for every 40 hours worked.

An employee may use paid sick leave for the following reasons:

- an absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;
- to allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care;
- when the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason; and
- for absences that qualify for leave under the state's existing Domestic Violence Leave Act.

An employee is entitled to use accrued paid sick leave beginning on the 90th day after starting their employment. Unused paid sick leave carries over to the following year; however, an employer is not required to allow an employee to carry over more than 40 hours of sick leave.

Referral Union Programs. State unemployment insurance law requires individuals who receive unemployment benefits to actively look for work using customary trade practices. In some trades, labor unions refer members to job openings. Being a member of a union that has been approved by the Employment Security Department (ESD) for the referral union program satisfies the job search requirement for unemployment insurance purposes.

Under ESD rule, for a union to be eligible to join the referral union program:

- the union must have a constitution, bylaws, or working rules that prohibit its members from seeking work in the industry on their own; or
- at least 50 percent of the union members eligible for referral who received a job during the most recent completed year did so through referral by the union.

Summary of Bill: State sick leave requirements do not apply to workers covered by a bona fide collective bargaining agreement if:

- the union signatory to the collective bargaining agreement is an approved referral union program;
- the collective bargaining agreement has provisions for sick leave that meet or exceed the benefits provided under current state law and the rules adopted by the Department of Labor and Industries (L&I); and
- state sick leave requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement.

After ratification of a collective bargaining agreement that meets these requirements, the signatory union must submit a copy of the agreement to L&I.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The current sick leave law is good, but by its structure, eliminates construction workers from eligibility. The law does not provide for flexibility for construction workers who may work for multiple employers. Construction industry workers who are covered by collective bargaining agreements should be allowed to negotiate comparable benefits that can be portable from employer to employer.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Michael Transue, Mechanical Contractors Association; Mark Riker, Executive Secretary, Washington State Building & Construction Trades Council.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S): Applies the bill to only construction workers. Provides that the sick leave benefits under the workers' collective bargaining agreement must be equivalent to those in state law, rather than meeting or exceeding those in state law, to qualify for the exemption. Specifies that equivalent sick leave provisions are those that meet the requirements in state law, except that the payment of leave may occur before usage. Adds references to the act in the existing paid sick leave requirements. Removes the requirement that collective bargaining agreements under the exemption be submitted to L&I.