

New Law Allows Teachers to Utilize Up to Two Years of Accumulated Sick Leave Toward Creditable Service in TRS

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Earlier this month, the Governor signed into law Public Act 92-0867 which increases the amount of unused and uncompensated sick leave TRS members can utilize for service credit at retirement. Under the new law, teachers can utilize up to two years (340 days) of unused and uncompensated sick leave to increase their service credit for retirement purposes so long as those sick leave days are available for use by the teacher prior to retirement.

The Act does not mandate that Illinois school districts allow teachers to accumulate two full years of sick leave. On the contrary, existing law in this regard is found at Section 24-6 of the School Code and provides that any unused amount of sick leave shall be allowed to accumulate to a minimum available leave of 180 days at full pay, including any leave granted in the current year. This provision does not change. In addition, the Act does not authorize school districts to automatically report two years of sick leave on behalf of retiring teachers. The Act also does not automatically restore a teacher's previously capped sick days. In short, the Act only benefits those teachers whose districts allow accumulation of sick leave beyond one year.

We have been asked by some districts whether they may, subject to collective bargaining obligations, increase the cap on accumulated sick leave to two full years and either grant additional sick leave for their teachers or restore any amounts that the teachers would have lost due to a previously imposed cap. In a letter issued prior to the passage of the Act, the General Counsel for TRS indicated that TRS Rule 1650.350 will continue to control whether sick leave days granted by an employer in excess of a teacher's normal annual sick leave allotment will be creditable for retirement purposes. Under that rule, TRS applies a formula to determine whether specially granted sick leave days will be available to increase the teacher's creditable service at retirement.

First, TRS calculates the number of days remaining in the school term or the teacher's employment agreement on the date upon which the sick leave days are granted. From that number, TRS subtracts the number of sick leave days previously accrued by the teacher. The difference is the maximum number of additional sick leave days that may be provided by the employer. For example, assume a district is willing to grant additional sick days to a particular teacher on February 1, 2003. Assume further that there are 80 school days left in the term as of that date. If the teacher will retire at the end of the 2002-2003 school term, and already has 50 days of accumulated sick leave, any sick leave days granted in excess of 30 would not be available for purposes of TRS service credit at retirement.

However, if the teacher does not retire at the end of the 2002-2003 school year, some or all of the days granted in excess of 30 would be available for service credit. This is true because TRS representatives have indicated that TRS will consider any school days remaining prior to the teacher's retirement to be "days remaining in the school term or the teacher's employment agreement." Thus, if the teacher in the above example did not retire until the end of the 2003-2004 school year, up to 210 days given to the teacher on February 1, 2003 could be used for additional service credit (assuming a 180 day school year). This is calculated as follows: 80 days remaining in the 2002-2003 school year

plus 180 days in the 2003-2004 school year minus 50 days currently accrued by the teacher. If this teacher does not retire until the end of the 2004-2005 school year and the district granted 290 or more (up to 390 in this example) sick leave days this year, the teacher could utilize the full 340 sick leave days for service credit, assuming the teacher had at least that many days remaining and available for use at retirement.

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