

HOUSE BILL REPORT

SB 5979

As Passed House:
February 27, 2024

Title: An act relating to accrued leave for construction workers.

Brief Description: Concerning accrued leave for construction workers.

Sponsors: Senators Keiser, Conway, Saldaña, Randall, Kuderer, Liias, Kauffman, Van De Wege, Hasegawa, Nobles, Valdez and Wilson, C..

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/20/24, 2/21/24 [DP].

Floor Activity:

Passed House: 2/27/24, 96-0.

Brief Summary of Bill

- Limits the requirement for a construction industry employer to pay a separating worker for unused sick leave to when the worker performed service, maintenance, or construction work on a jobsite, in the field, or in a fabrication shop using the tools of the worker's trade or craft.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Schmidt, Ranking Minority Member; Bronoske, Doglio, Ormsby, Ortiz-Self, Rude and Ybarra.

Staff: Kelly Leonard (786-7147).

Background:

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

Washington's Paid Sick Leave Law, enacted by Initiative No. 1433 in 2016, requires employers to provide paid sick leave to employees. Employees must accrue at least one hour of paid sick leave for every 40 hours worked. Paid sick leave must be paid at the employee's normal hourly rate of compensation. An employee may use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment. If an employee does not use all of his or her available paid sick leave by the end of the accrual year, the employer must carry over balances of 40 hours or less to the next year.

An employer is generally not required to pay the employee for any unused paid sick leave upon the employee's separation from employment. However, Engrossed Substitute Senate Bill 5111, which passed in 2023, established certain requirements for payment of unused sick leave to workers in the construction industry. Specifically, workers covered under the North American Industry Classification System code for construction, except for residential building construction, who have not met the 90-day eligibility requirement at the time of separation, must be paid the balance of their unused sick leave in the applicable final pay period.

The Paid Sick Leave Law does not cover construction workers covered by a collective bargaining agreement (CBA) if: (1) the union signatory to the CBA is an approved referral union program; (2) the CBA establishes equivalent sick leave provisions; and (3) the sick leave requirements have been expressly waived in the CBA. Equivalent sick leave provisions provided by a CBA must meet the requirements of the Paid Sick Leave Law, including the requirement to pay construction workers for unused sick leave.

Summary of Bill:

A definition of "construction worker" is added for purposes of determining the applicability of the requirement to pay a construction worker his or her unused sick leave if the worker has not met the 90-day eligibility threshold. "Construction worker" means a worker who performed service, maintenance, or construction work on a jobsite, in the field, or in a fabrication shop using the tools of the worker's trade or craft. This effectively excludes employees of a construction industry employer who are not performing construction work from being eligible to receive payment for their unused sick leave.

Other provisions are reorganized. The reference to the North American Industry Classification System code for residential construction is corrected.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The bill makes important corrections to a policy change made in the 2023 Legislative Session. The state did not intend to allow administrators or office workers to cash out their paid sick leave. The bill clarifies that the cash out provisions apply only to construction workers.

(Opposed) None.

Persons Testifying: Senator Karen Keiser, prime sponsor; and Michael Transue, Mechanical Contractors Association of Western Washington.

Persons Signed In To Testify But Not Testifying: None.