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2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2106

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2106

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date 01/10/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		Tape Failed
Tape 1		x	570-1470
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman: Calls to order SB 2106. All Senators present.

Virginia Rivinius from Central Personnel Division in for Laurie Steriotti Hammeren. (See attached testimony)

Senator Krebsbach: Any questions for SB 2106?

Senator Krebsbach: I want to draw to everyone's attention that there is no fiscal impact on this bill.

Senator Nelson: Doesn't it seem strange that there is no fiscal impact?

Senator Krebsbach: I though so also, but it is probably impossible to determine at this time.

Senator Nelson: Virginia, which employees are available for sick leave?

V. Rivinius: Employees in the classified system are eligible.

Senator Nelson: Higher Ed and faculty are not, how about state hospital employees, etc.?

Senator Brown: And how do you define a permanent employee?

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2106

Hearing Date 01/10/03

V. Rivinius: those whose duration is not limited.

Senator Nelson: How long is term probation?

V. Rivinius: Most common it is 6 months, but some positions such as the highway patrol it is a year. It may be different time periods, it depends on certain circumstances.

Senator Nelson: Does probationary period count toward the time period worked.

V. Rivinius: Yes

Senator Krebsbach: any other questions,... any other testimony?

Chris Runge, NDPEA: I would like to state for the record that the NDPEA is in support of this bill.

The discussion furthers with the lines in SB 2106 that would have to be changed for amendment.

Tape 1, Side B, Meter #570

Senator Krebsbach: We will move on to SB 2106, and I believe this bill was a suggested amendment. I think we can amend that ourselves without having to wait for them to get together, I think it is pretty simple.

Senator Nelson: Is that with any agency?

Senator Krebsbach: In any state agency, within two years.

Senator Wardner: I would move that amendment.

Senator Brown: 2nd that.

Senator Nelson: Is every piece of state government an agency? they use the word agency in here twice. What is the structure, is every state employee part of an agency?

Senator Brown: What if we take out the three words "in the agency" and made it "reinstated within two years" does that infer back only to the agency they came from?

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Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2106
Hearing Date 01/10/03

Senator Wardner: "Any state service" so we can take out the words "the" and "agency", so it is reinstated in any state service within two years.

Senator Dever: I was thinking in line 21 the word state employment we could say reinstated to state employment.

Senator Krebsbach: Reinstated to any state employment or to some state employment that would probably ...

Senator Wardner: I would like to take back my motion.

Senator Krebsbach: You will withdraw your motion.

Senator Brown: I will withdraw my second.

Senator Wardner: I move to amended SB 2106 by striking the words in line 23 "the" and "agency" and replacing them with "any state employment"

Senator Brown: I will 2nd that.

Senator Krebsbach: We now have a motion and a 2nd.

Senator Nelson: Could you just say state service? however state employment is used in line 21 that word "agency" is in line 21 also.

Senator Brown: Madam Chair would it be appropriate to send this to Legislative Council for an opinion.

Senator Krebsbach: We could do that too

Senator Nelson: It might turn out that everyone is part of an agency.

Senator Krebsbach : Possibly we could even call Virginia(from Central Personnel) and ask if every employee is part of an agency.

Senator Krebsbach: They refer to agency throughout the whole bill.

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Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2106
Hearing Date 01/10/03

Senator Nelson: It also refers to unit, or entity. It says later on line 6 any state agency, unit or entity...

Senator Krebsbach: Maybe for consistency that is what we need.

Senator Nelson : So I line 21 we would need, "the agency, unit or entity official personnel policy" and then in line 22 we could say "to any agency , unit or entity"

Senator Krebsbach : All we have to do is add" unit or entity" then

Senator Wardner: I will withdraw my motion again

Senator Brown: I will withdraw my 2nd also

Senator Brown: I will make the motion to change it to unit or entity

Senator Nelson : On line 21, and 23

Senator Brown: Yes

Senator Krebsbach : The amendment now reads then on line 21 "under the official personnel policy of an agency, unit, or entity: is that correct Senator Nelson and Brown?

Senator Brown: yes

Senator Krebsbach : And then on line 23 it would be" reinstated in any agency, unit, or entity" with commas after agency and unit.

Senator Wardner: I'll second that.

Senator Krebsbach : Any discussion on the motion to amend? Will the clerk please call roll...

6 Yes, 0 No, and 0 Absent and Not voting.

Senator Krebsbach : We now have a amended bill before us. What are the committees wishes?

Senator Wardner: I would move a Do Pass on amended SB 2106.

Senator Brown: 2nd

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Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2106
Hearing Date 01/10/03

Senator Krebsbach : Will the clerk call roll on for Do Pass as amended on SB 2106.

6 Yes, 0 No, 0 Absent and Not Voting.

Senator Krebsbach : Motion prevails.

Carrier: Senator Dever

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FISCAL NOTE
 Requested by Legislative Council
 01/03/2003

Bill/Resolution No.: SB 2106

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

No fiscal impact.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Laurie Sterioli Hammeren	Agency:	Central Personnel
Phone Number:	328-4735	Date Prepared:	01/06/2003

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REPORT OF STANDING COMMITTEE (410)
January 13, 2003 10:31 a.m.

Module No: SR-05-0469
Carrier: Dever
Insert LC: 38161.0101 Title: .0200

REPORT OF STANDING COMMITTEE
SB 2106, as amended, Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2106, as amended, was placed on the Sixth order on the calendar.

Page 1, line 21, remove "agency's"

Page 1, line 22, after "policy" insert "of an agency, unit, or entity"

Page 1, line 23, replace the first "the" with "any" and after "agency" insert ", unit, or entity"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-05-0469

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2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2106

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2106

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2-27-03

Tape Number	Side A	Side B	Meter #
1	x		14.1-23.2

Committee Clerk Signature *Joseph Banks*

Minutes: Chairman Klein: called the meeting to order. All committee members were present.

Laurie Steriotti Hammeren, SPHR, Director: was present and gave a written statement (SEE ATTACHED TESTIMONY).

Representative Klein: where does the 10% come from?

Laurie Steriotti Hammeren: its been in statute for some time.

Representative Klein: bottom line is that this is an improvement or a benefit to the employees.

Representative Haas: do you have many employees taking educational leave or unpaid volunteer leave for one reason or another?

Laurie Steriotti Hammeren: I don't have a lot, but we have some employees.

Representative Haas: have we gone through any major RIFS in recent years at any of the agencies?

Laurie Steriotti Hammeren: The Dept. of Human Services have had 2 RIFS it has been awhile, I think agencies are now updating their RIF policies.

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Page 2
House Government and Veterans Affairs Committee
Bill/Resolution Number SB 2106
Hearing Date 2-27-03

Representative Meier: made a **DO PASS** motion on SB 2106.

Representative Sitte: **SECOND** the motion.

VOTE: 14-YES 0-NO 0-ABSENT.

Motion carried.

Representative Potter: will carry the bill to the floor.

Meeting adjourned.

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Date: 2-27-03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2106

House GOVERNMENT AND VETERANS AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Meier Seconded By Rep. Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J. Kasper	X				
L.R. Klemin	X				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 14 No 0

Absent -0-

Floor Assignment Rep. Potter.

If the vote is on an amendment, briefly indicate intent:

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REPORT OF STANDING COMMITTEE (410)
February 27, 2003 10:31 a.m.

Module No: HR-35-3557
Carrier: Potter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2106, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein,
Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT
VOTING). Engrossed SB 2106 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-35-3557

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2003 TESTIMONY

SB 2106

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**TESTIMONY BEFORE THE GOVERNMENT AND VETERANS AFFAIRS
COMMITTEE REGARDING PAYMENT OF SICK LEAVE UPON
TERMINATION OF EMPLOYMENT BECAUSE OF A REDUCTION IN
FORCE AND WHEN AN EMPLOYEE IS PLACED ON VOLUNTARY
LEAVE WITHOUT PAY - SB 2106.**

JANUARY 10, 2003
CENTRAL PERSONNEL DIVISION
Laurie Steriotti Hammeren, SPHR, DIRECTOR

*Same
to House*

Chairman Krebsbach and members of the Government and Veterans Affairs Committee, I am Laurie Steriotti Hammeren, Director of the Central Personnel Division. I am here this morning to ask your consideration of the term "continuous" when calculating service for purposes of the 10 percent payout of sick leave upon termination of employment.

NDCC 54-06-14 currently states that "An employee with at least ten continuous years of state employment is entitled to a lump sum payment equal to one-tenth of the pay attributed to the employee's unused sick leave accrued under this section."

Reduction in Force

Under the current statute if an employee were reduced in force (RIF'd) with less than 10 continuous years of service, the employee would not be eligible for the 10 percent payout of sick leave. If the employee were reinstated to another position in state government, under the current statute, the employee would have to start over to accumulate 10 years of continuous service. SB 2106 proposes that when an employee is reduced in force, and if the employee is reinstated to another state position within two years, the employee would not be considered to have a break in service, but rather the employee's years of state employment must be deemed

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continuous. In other words, if an employee were reduced in force after seven years of continuous service and was then reinstated to another position in state government within two years, the employee would be considered to have worked seven years and could then be eligible in three more years for 10 percent payout of sick leave upon termination. Reductions in force have drastic and emotional impact on employees and their families. RIF's happen through no fault of the employee. We believe that the employee who is able to secure future employment with the State should not be further penalized because of the reduction in force.

Voluntary Leave Without Pay

Similarly, in these times of budget cuts and implementations of cost saving practices, it is possible that some employees could opt to take a leave of absence without pay for a period of time to pursue education, family commitments, or reduced work schedules. If the agency could sustain the work for a period of time and wanted to approve such leaves of absence, we believe that the unpaid "voluntary furlough" could be a win-win situation for both the employer and the employee. However, similar to the above situation, if the "furloughed" employee were to be off the payroll, it would constitute a break in service and violate the current language of the statute that provides for continuous service to be eligible for the 10 percent payment of sick leave upon termination of employment. Thus, when the employee returned to employment, the employee would have to start over to achieve 10 years of continuous service. We believe this would be a deterrent to employees to volunteer for voluntary leaves of absence. Rather than jeopardize the employee's benefit, we propose through SB 2106 that an employee's years of state employment be deemed continuous if the employee is placed on voluntary leave status without pay and the leave lasts no longer than two years for education purposes or one year for any other voluntary leave without pay. We think

voluntary leaves of absence without pay are a creative way to achieve short-term budget cuts and cost savings. SB 2106 provides employees and management more flexibility in this endeavor.

We recommend a do pass on SB 2106.

This concludes my formal testimony. I will gladly answer questions.

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