

**161.155 Definitions for section -- Sick leave for employee or teacher -- Salary, benefits, and leave for employee or teacher when victim of assault Sick leave bank -- Sick leave donation program -- Payment for unused sick leave upon retirement or death. (Effective until January 1, 2022)**

- (1) As used in this section:
  - (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
  - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
  - (c) "Immediate family" shall mean the teacher's or employee's spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's or employee's home;
  - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days; and
  - (e) "Assault" shall mean an act that intentionally causes injury so significant that the victim is determined to be, by certification of a physician or surgeon duly qualified under KRS Chapter 342, incapable of performing the duties of his or her job.
- (2) Each district board of education shall allow to each teacher and full-time employee in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher or employee if he or she presents a personal affidavit or a certificate of a physician stating that the teacher or employee was ill, that the teacher or employee was absent for the purpose of attending to a member of his or her immediate family who was ill, or for the purpose of mourning a member of his or her immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher or employee on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher or employee under the provisions of subsection (4) of this section.
- (3) A school district shall coordinate among the income and benefits from workers' compensation, temporary disability retirement, and district payroll and benefits so that there is no loss of income or benefits to a teacher or employee for work time lost because of an assault while performing the teacher's or employee's assigned duties for a period of up to one (1) year after the assault. In the event a teacher or employee suffers an assault while performing his or her assigned duties that results in injuries that qualify the teacher or employee for workers' compensation benefits, the district shall provide leave to the teacher or employee for up to one (1) year after the assault with no loss of income or benefits under the following conditions:
  - (a) The district shall pay the salary of the teacher or employee between the

time of the assault and the time the teacher's or employee's workers' compensation income benefits take effect, or the time the teacher or employee is certified to return to work by a physician or surgeon duly qualified under KRS Chapter 342, whichever is sooner;

- (b) The district shall pay, for up to one (1) year from the time of the assault, the difference between the salary of the teacher or employee and any workers' compensation income benefits received by the teacher or employee resulting from the assault. Payments by the district shall include payments for intermittent work time missed as a result of the assault during the one (1) year period. If the teacher's or employee's workers' compensation income benefits cease during the one (1) year period after the assault, the district shall also cease to make payments under this paragraph;
  - (c) The Commonwealth, through the Kentucky Department of Education, shall make the employer's health insurance contribution during the period that the district makes payments under paragraphs (a) and (b) of this subsection;
  - (d) The Commonwealth, through the Kentucky Department of Education, shall make the employer's contribution to the retirement system in which the teacher or employee is a member during the period that the district makes payments under paragraphs (a) and (b) of this subsection; and
  - (e) Payments to a teacher or employee under paragraphs (a) and (b) of this subsection shall be coordinated with workers' compensation benefits under KRS Chapter 342, disability retirement benefits for teachers under KRS 161.661 to 161.663, and disability retirement benefits for employees under KRS 61.600 to 61.621 and 78.5522, 78.5524, 78.5526, 78.5528, and 78.5530 so that the teacher or employee receives income equivalent to his or her full contracted salary, but in no event shall the combined payments exceed one hundred percent (100%) of the teacher's or employee's full contracted salary.
- (4) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he or she transfers his or her place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.
- (5) Accumulated days of sick leave shall be granted to a teacher or employee if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher or employee is unable to commence his or her duties on the opening day of the school year, but will be able to assume his or her duties within a

period of time that the board determines to be reasonable.

- (6) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- (7) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- (8)
  - (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
  - (b) A teacher or employee may receive donations of sick leave if:
    1.
      - a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
      - b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;
    2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;
    3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
    4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
  - (c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
  - (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.

- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (9) A teacher or employee may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
- (10) (a) After July 1, 1982, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service for inclusion in the calculation of the employee's or teacher's retirement allowance only at the time of his or her initial retirement; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
- (b) For a teacher or employee who begins employment with a local school district on or after July 1, 2008, the maximum amount of unused sick leave days a district board of education may recognize in calculating the payment of compensation to the teacher or employee under this subsection shall not exceed three hundred (300) days.
- (11) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (10) of this section.
- (12) The death benefit provided in subsection (10) of this section may be cited as the Baughn Benefit.

**Effective:** April 1, 2021

**History:** Amended 2021 Ky. Acts ch. 102, sec. 82, effective April 1, 2021. -- Amended 2018 Ky. Acts ch. 107, sec. 44, effective July 14, 2018. -- Amended 2010 Ky. Acts ch. 164, sec. 2, effective July 1, 2010. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 28, effective June 27, 2008. -- Amended 2006 Ky. Acts ch. 52, sec. 2, effective July 12, 2006. -- Amended 2004 Ky. Acts ch. 145, sec. 1, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 138, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 137, sec. 1, effective July 14, 2000; ch. 381, sec. 1, effective July 14, 2000; ch. 390, sec. 1, effective July 14, 2000; and ch. 485, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 530, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 147, sec. 1, effective July 15, 1996; and ch. 309, sec. 1, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 483, sec. 4, effective July 13, 1990; and ch. 476, Pt. V, sec. 478, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 363, sec. 20, effective July 1, 1988; and ch. 375, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 54, sec. 1, effective July 15, 1986; ch. 126, sec. 2, effective

July 15, 1986; ch. 395, sec. 1, effective July 15, 1986; and ch. 450, sec. 1, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 35, sec. 1, effective July 15, 1982; ch. 314 sec. 1, effective July 15, 1982; and ch. 326, sec. 1, effective July 1, 1982. -- Amended 1980 Ky. Acts ch. 244, sec. 1, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 132, sec. 1; and ch. 239, sec. 1. -- Amended 1974 Ky. Acts ch. 7, sec. 1; and ch. 274, sec. 1. -- Amended 1970 Ky. Acts ch. 184, sec. 1. -- Amended 1968 Ky. Acts ch. 27, sec. 1. -- Amended 1962 Ky. Acts ch. 75, sec. 1. -- Created 1948 Ky. Acts ch. 88, sec. 1.

**Legislative Research Commission Note (7/13/90).** The Act amending this section prevails over the repeal and reenactment in House Bill 940, Ky. Acts ch. 476, pursuant to sec. 653(1) of Ky. Acts ch. 476.

**Legislative Research Commission Note (12/13/2018).** On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. That ruling applies to changes made to this statute in that Act.