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Testimony of Rep. Bruce White presenting
LD 1874, An Act to Clarify COVID-19 Paid Leave for School Employees
Before the Joint Standing Committee on Labor and Housing

Senator Daughtry, Representative Sylvester and other esteemed colleagues on the Labor and Housing Committee, my name is Bruce White and I represent part of Waterville in the House of Representatives. I am here today to present **LD 1874, An Act To Clarify COVID-19 Paid Leave for School Employees**. I hope the committee will support this important legislation.

Last session this Committee passed LD 993 – a bill designed to provide up to 15 days of paid leave for school employees impacted by COVID. The idea was simple. We are asking school employees to juggle a tremendous amount right now and it seems as if every day they are facing new obstacles. Many have faced multiple quarantines, some have gotten COVID, and others made the decision to stay out of school because they had COVID symptoms. Others may have needed to use sick leave because their own child had to quarantine or their childcare facility was closed due to COVID. When I worked on LD 993 with this committee, I was concerned educators in our schools were using their own sick time to remain paid while doing their part to keep our kids as safe as can be.

I was quite surprised when I learned that some school districts have had inaccurate interpretations of the bill that is now law. I have learned some school districts have argued LD 993 expired on October 18, 2021 and have since that time denied the provisions of LD 993 to their employees. While section 2 of LD 993 clearly spells out the application of the new law, some have pointed to other language to make the case the bill sunsetted. Other educators have told me they exhausted their own sick leave, so the district required them to go without pay. This doesn't seem right.

The bill before you is an attempt to fix the concerns I have heard from educators in our schools and provides clarity to districts and school employees. LD 1874 will remove any language that allows anyone to argue that the provisions in LD 993 sunsetted on October 18, 2021.

My intent for LD 993 was to make sure school employees had up to 15 paid days to use for specific COVID-related absences. LD 1874 will make this intent clear.

I have also worked with the analyst for this Committee to prepare the attached amendment. This would require school districts to make whole any employee that had no sick leave to use and was therefore required to go without pay.

I want to emphasize – many school employees have used their own sick leave to cover exposures to COVID while working at school. Some have gotten COVID after school-based exposures. With all we are asking of our teachers and educators, I believe the least we can and should do is make sure they have the leave they need with pay to cover COVID-related absences. Some teachers may be pregnant, or may encounter serious illness. It would be unfortunate if they used all their sick leave to cover school-based COVID absences, only to find they have no more sick leave to attend to their other needs.

Lastly, LD 993 has generated significant concern in the field. I understand some districts have pending grievances on the matter and districts and employee unions are likely to be in litigation if we fail to act. I hope we can all agree that we should and can support our state's educators during this extraordinary time, and making sure they have the leave they need during this time seems like one impactful way for us to support them. I hope you will agree.

Thank you for your time and consideration and I will do my best to answer any questions you may have. There are other people testifying today that I expect will have firsthand examples and more background to share with you.

An Act To Clarify COVID-19 Paid Leave for School Employees

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Public Law 2021, chapter 378 requires school administrative units to grant up to 15 sick leave days used by a public school employee affected by COVID-19; and

Whereas, the provisions of Public Law 2021, chapter 378 apply only to leave taken before the effective date of that law; and

Whereas, public school employees continue to experience the personal and economic effects of the COVID-19 pandemic but remain without sufficient paid leave to weather these effects; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §13605, as enacted by PL 2021, c. 378, §1, is amended to read:

§13605. School administrative units to grant ~~sick~~ paid leave to public school employees affected by COVID-19

A school administrative unit shall grant up to 15 ~~sick~~ paid leave days ~~used by~~ to a public school employee affected by the illness caused by infection with the coronavirus SARS-CoV-2, referred to in this section as “COVID-19,” in accordance with the following.

1. Requirements. A public school employee who ~~was~~ is affected by COVID-19 and ~~used sick~~ is granted up to a maximum of 15 days of paid leave prior to the effective date of this section is entitled to have sick leave time restored for those days used by that employee up to a maximum of 15 days if when needed by the employee because the employee:

A. ~~Was~~ Is subject to a federal, state or local quarantine order related to COVID-19;

B. ~~Had~~ Has been or ~~was~~ is advised by a health care provider to self-quarantine for reasons related to COVID-19;

C. ~~Experienced~~ Is experiencing symptoms of COVID-19 and ~~sought~~ is seeking a medical diagnosis;

D. ~~Cared~~ Is caring for an individual subject to a federal, state or local quarantine order related to COVID-19; or

E. Is a parent or guardian who ~~provided~~ is providing care for a child whose school or place of child care ~~was~~ is closed or unavailable due to precautions related to COVID-19.

2. Application. This section applies ~~to any sick leave used by an employee~~ from January 1, 2021 until the employee has been granted a maximum of 15 days of ~~sick time~~ paid leave for the purposes described in this section.

Sec. 2. Restoration. A public school employee who used sick leave pursuant to the Maine Revised Statutes, Title 20-A, section 13605 prior to the effective date of this Act shall have that leave time restored by the school administrative unit. ~~may request that that leave time be restored, and the school administrative unit shall comply with that request.~~ A public school employee absent from work due to any reason described in the Maine Revised Statutes, Title 20-A, section 13605 prior to the effective date of this Act shall have that time compensated for by the school administrative unit.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This amendment requires a school administrative unit to restore sick leave time used by a public school employee pursuant to the Maine Revised Statutes, Title 20-A, section 13605 prior to the effective date of this Act. It also provides that a public school employee who was absent from work due to the purposes described in the Maine Revised Statutes, Title 20-A, section 13605 prior to the effective date of this Act shall have that employee's leave compensated for, regardless of whether that employee was previously entitled to sick leave or any other form of leave.