

2011 -- H 5818

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES - MERIT SYSTEM

Introduced By: Representative Robert E. Flaherty

Date Introduced: March 03, 2011

Referred To: House Labor

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 36-4-63 of the General Laws in Chapter 36-4 entitled "Merit  
2 System" is hereby amended to read as follows:

3           **36-4-63. Sick leave and other leave -- Effect of discharging upon overtime work and**  
4 **overtime compensation.** -- (a) For each discharge with pay of three (3) consecutive days of sick  
5 leave, an employee's appointing authority shall require a physician's certificate or other evidence  
6 satisfactory to the appointing authority. Sick leave is hereby defined to mean a necessary absence  
7 or absences from duty due to an employee's illness, injury, or exposure to contagious disease. In  
8 the event that the required evidence satisfactory to the appointing authority is not presented by the  
9 employee prior to or upon the conclusion of that leave, no payment of any compensation to which  
10 the employee would otherwise be entitled shall be made and the employee shall be considered for  
11 all purposes as having been absent without leave.

12           (b) In any given pay period in the event that an employee discharges any sick leave or  
13 leave of a type referred to in subsection (a) of this section, either with pay or without pay, he or  
14 she shall be permitted to work overtime only after he or she has worked his or her full thirty-five  
15 (35) or forty (40) hours, whichever is appropriated for the job classification. This subsection shall  
16 also apply to leave without pay which is taken by an employee for purposes other than those  
17 purposes referred to in subsection (a) of this section excluding, specifically, planned vacation  
18 days, personal days, and leave for death in employee's immediate family.

19           (c) Overtime, for purposes of this section, shall mean the performance of hours of work

1 in any work week which are in excess of an employee's established work week schedule, or when  
2 requested by the employer. Hours which are paid for but not actually worked except planned  
3 vacation days, personal days, jury duty, and leave for death in the employee's immediate family  
4 shall not be counted as hours worked nor shall they otherwise be used in computing overtime  
5 compensation.

6 (d) The provisions of subsection (b) of this section shall not be applicable to employees  
7 in the nonstandard category.

8 (e) Notwithstanding other subsections of this section, an employee who is granted leave  
9 with or without pay for the purpose of fulfilling a military obligation shall be eligible to perform  
10 overtime work.

11 (f) Notwithstanding the provisions of any other law, it shall be unlawful for any state  
12 agency or any person or persons acting on behalf of the agency, to agree to, or enter into any  
13 agreement including a collective bargaining agreement or any amendment, modification,  
14 extension, or replacement thereof, whether verbal or written, which contains provisions that are  
15 inconsistent with the provisions of this section and the inconsistent provisions shall be null and  
16 void, whether the provisions result from agreement or the award of an arbitrator or arbitration  
17 panel under the provisions of chapter 11 of this title.

18 (g) Notwithstanding other subsections of this section, highway maintenance operators  
19 employed by the department of transportation, granted sick leave during the same payroll period  
20 while performing snow removal and emergency operations shall be eligible to perform overtime  
21 work.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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- 1           This act would provide that highway maintenance operators shall be eligible for overtime
- 2 work despite being granted sick leave during the same payroll period.
- 3           This act would take effect upon passage.

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