RESPONSE TO HOUSE CONCURRENT RESOLUTION NO. 223
OF THE
2006 REGULAR SESSION
OF THE
LOUISIANA LEGISLATURE

LOUISIANA BOARD OF REGENTS

APRIL, 2007
House Concurrent Resolution No. 223 of the 2006 Regular Session of the
Louisiana Legislature (see Appendix A) provides as follows:

"To urge and request the Board of Regents, in collaboration with the public
postsecondary education management boards, to study the feasibility of the
implementation by such management boards of an alternative leave program for
unclassified and academic personnel employed in postsecondary education institutions
under the respective jurisdiction of each board as an option to the sick and annual leave
that is currently provided to such employees pursuant to state law and to report the study
findings and recommendations, in writing, to the House Committee on Education and the
Senate Committee on Education prior to the convening of the 2007 Regular Session."

The concept suggested by the study resolution is one of what can generally be
referred to as a "Paid Time Off" (PTO) policy which, while allowing for more flexible
use of accrued leave by employees, carries more restrictive accrual and accumulation of
leave provisions. The objective of moving to this type of leave policy is two-fold:

1. Allow employees in today's work, life-style and family environment greater
   flexibility to use leave for personal and family needs,

2. Prospectively limit the amount of uncompensated leave balance obligations on the
   part of the institutions, retirement systems and the State.

Current law, Revised Statutes 17:3311 and 3312 (see Appendix B), requires
public postsecondary education management boards to recognize a specified sick leave
policy for unclassified and academic personnel that includes a forty-hour work week for
full-time employees and defines sick as leave with pay granted an employee who is suffering from a disability which prevents his performing his usual duties and responsibilities and who requires medical, dental, or optical consultation or treatment; and provides for uses of such sick leave. Currently, such leave accumulates without limitation and employees are compensated for such leave upon termination of service in one form or another.

Additionally, current law (Louisiana Revised Statute 42:421(B) see Appendix C) provides that no limitation shall be placed upon the amount of annual leave which any employee of the state or any state agency may accrue during the period of his employment and provides that such employee shall accrue annual leave at the same rate as is provided for members of the classified service of the state by the Civil Service Commission.

House Concurrent Resolution No. 223 specified that the study was to include the following considerations:

1. All sick and annual leave shall be combined into a Paid Time Off bank.
2. All academic personnel appointed on a fiscal year basis and all unclassified personnel shall accrue leave in a Paid Time Off bank.
3. Accrual leave, including limits on maximum accrual, shall be defined by each public postsecondary education institution.
4. Leave accrued in the Paid Time Off bank may be used for the purpose of rest, relaxation, vacation, or personal or family illness and needs as defined by each public postsecondary education institution.

5. In addition to the Paid Time Off bank, all academic and unclassified personnel shall accrue sick leave in an Extended Sick Leave (ESL) bank and such leave may be used for personal or family illness as defined by each public postsecondary education institution.

6. Accrual of extended sick leave, including limits on maximum accrual, shall be as defined by each public postsecondary education institution.

7. Accrued leave in a Paid Time Off bank for which unclassified and academic personnel may be paid upon separation from employment shall not exceed three hundred hours.

Additionally, in conducting the study, it was suggested that the Board of Regents seek input from and participation by representatives from the Department of Civil State Service, the State Civil Service Commission, and the state retirement systems.

The staff of the Board of Regents met with representatives of the four postsecondary education management boards to review and consider the issues identified by House Concurrent Resolution No. 223. The concept is that a Paid Time Off policy combines annual and sick leave into one “bank” of leave for each employee which would provide faculty and staff under such policy more flexibility in scheduling and use of
leave. As considered, such a policy would not impact holiday, sabbatical, military, emergency, civil, educational or special leave provisions.

The proposed concept would be an optional leave policy that each postsecondary education management board and system could exercise upon its own determination as long as the alternative program would not yield a greater benefit than current state leave policy provides. Current unclassified and faculty employees would be given the option to participate in the alternative program or could be grandfathered under the current leave program. Any alternative leave policy would not apply to classified employees – they would continue under existing state policies.

Leave accrual under such a policy would likely be based upon years of service under a scale such as the following:

**Possible PTO Accrual Schedule**

<table>
<thead>
<tr>
<th>YEARS OF SERVICE</th>
<th>HOURS PER MONTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than one year</td>
<td>12 hours (1.5 days)</td>
</tr>
<tr>
<td>One to four years</td>
<td>16 hours (2 days)</td>
</tr>
<tr>
<td>Five to nine years</td>
<td>24 hours (3 days)</td>
</tr>
<tr>
<td>Ten or more years</td>
<td>32 hours (4 days)</td>
</tr>
</tbody>
</table>

Such an accrual rate would be less than currently provided for combined annual and sick leave under existing state policy. This type of alternative leave policy would also
include a maximum amount of accumulated leave beyond which additional leave would not accrue. However, all leave allowed to be accrued under the alternative policy would be available for a broader array of purposes, to include vacation, personal or family illness, FMLA, and other personal or family needs.

The alternative leave policy considered would also include and Extended Sick Leave bank available only for personal or family illness. The accrual of leave for this purpose would be in addition to the base PTO leave allowed. However, specific conditions and provisions would apply to an employee seeking to access leave from the extended leave bank accumulation.

Upon separation from employment or retirement, specific provisions would apply to the treatment of unused PTO and ESL leave and would be significantly more restrictive than existing state policy.

It was determined that a general Paid Time Off leave program could be of benefit to employees by providing them a more flexible leave policy, empowering employees to better manage their time off, assisting in keeping employees more engaged and productive while at work, and providing employees and their families a more accommodating environment for both work and family life. Such an alternative leave policy would provide greater flexibility for employees to use leave for personal and dependent care needs while encouraging employees to take more responsibility for managing their leave away from work, avoiding unscheduled absences, and scheduling
leave for the maximum benefit of employees and the institutions. Also, such an alternative leave policy could reduce the direct and indirect costs associated with time off, retirement service credit for unused leave, and unlimited leave accrual available under current state policy.

In conducting this study, the staff of the Board of Regents and representatives from the four management systems met with officials of the Department of Civil Service, the Teachers’ Retirement System of Louisiana (TRSL) and the Louisiana State Employees’ Retirement Systems (LASERS) to review and evaluate the implications of such an alternative leave policy. Although there were no apparent issues or drawbacks to the proposed concept, estimates of any fiscal impact could not be made until an actuarial analysis is conducted.

Conclusions

The proposal for an alternative leave policy for academic and unclassified employees of the postsecondary education boards under conditions outlined above in this report appears to have benefit for the employees, institutions and the State. As proposed, the decision to participate in an alternative leave program would be made by each of the management boards and participation in such a program if adopted would be optional for current employees.
The Board of Regents, after consultation with representatives of the four management boards and review of the issues related to the provision of an alternative leave policy, believe that a Paid Time Off and Extended Sick Leave policy as an alternative to existing State policies could be of benefit to employees, institutions and the State and could be a feasible means of revising current State leave policies, benefits and obligations. If State law were to be changed to authorize such an alternative policy, it is recommended that each postsecondary education management system carefully consider the decision to exercise the alternative leave policy, to use caution in the design of such policy, to engage the impacted employees in extensive discussion and consideration in the design and implementation of such policy, and to do so only after it has been clearly demonstrated that there are benefits from such policy for employees, the institutions and the State.
APPENDIX A
A CONCURRENT RESOLUTION

To urge and request the Board of Regents, in collaboration with the public postsecondary education management boards, to study the feasibility of the implementation by such management boards of an alternative leave program for unclassified and academic personnel employed in postsecondary education institutions under the respective jurisdiction of each board as an option to the sick and annual leave that is currently provided to such employees pursuant to state law and to report the study findings and recommendations, in writing, to the House Committee on Education and the Senate Committee on Education prior to the convening of the 2007 Regular Session.

WHEREAS, Article VIII, Section 5(A) of the Constitution of Louisiana places the responsibility for the planning, coordination, and budgeting of all public postsecondary education with the Board of Regents; and

WHEREAS, Article VIII, Sections 6, 7, and 7.1 of the Constitution of Louisiana grant to the public postsecondary education management boards the power to supervise and manage the public colleges and universities under the control of each; and

WHEREAS, current law, R.S. 17:3311, requires public postsecondary education management boards to recognize a specified sick leave policy for unclassified and academic personnel that includes a forty-hour work week for full-time employees and defines sick leave as leave with pay granted an employee who is suffering from a disability which prevents his performing his usual duties and responsibilities and who requires medical, dental, or optical consultation or treatment; and

WHEREAS, current law, R.S. 17:3312, provides for uses of sick leave for unclassified and academic personnel for illness or injury which prevents performance of his usual duties or medical, dental, or optical consultation or treatment; and
WHEREAS, current law, R.S. 42:421(B), provides that no limitation shall be placed upon the amount of annual leave which any employee of the state or any state agency may accrue during the period of his employment and provides that such employee shall accrue annual leave at the same rate as is provided for members of the classified service of the state by the Civil Service Commission; and

WHEREAS, many people in the higher education community believe that employees should have opportunities for time away from work with pay through the implementation of an alternative leave program or "Paid Time Off" program; and

WHEREAS, this type of program provides leave with pay for eligible faculty and staff members for the purpose of rest, relaxation, personal or family illness and needs, and combines vacation and sick leave into one program which can allow such employees more flexibility in scheduling time off to meet those needs and to achieve a better work/life balance; and

WHEREAS, in addition to helping the employees in such manner, this type of leave program also can assist the employer in managing staffing needs more effectively by reducing the number of unscheduled absences by employees; and

WHEREAS, those who favor implementation of this type of program see it as a fair and equitable means by which employers can better respond to the multiple needs of staff while at the same time improve efforts to retain and recruit faculty and staff.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Board of Regents, in collaboration with the public postsecondary education management boards, to study the feasibility of the implementation by such management boards of an alternative leave program for unclassified and academic personnel employed in postsecondary education institutions under the respective jurisdiction of each board as an option to the sick and annual leave that is currently provided to such employees pursuant to state law and to report the study findings and recommendations, in writing, to the House Committee on Education and the Senate Committee on Education prior to the convening of the 2007 Regular Session.

BE IT FURTHER RESOLVED that such study shall include but not be limited to the following components relative to the alternative leave program:

(1) All sick and annual leave shall be combined into a Paid Time Off bank.
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(2) All academic personnel appointed on a fiscal year basis and all unclassified personnel shall accrue leave in a Paid Time Off bank.

(3) Accrual of leave, including limits on maximum accrual, shall be as defined by each public postsecondary education institution.

(4) Leave accrued in the Paid Time Off bank may be used for the purpose of rest, relaxation, vacation, or personal or family illness and needs as defined by each public postsecondary education institution.

(5) In addition to the Paid Time Off bank, all academic and unclassified personnel shall accrue sick leave in an Extended Sick Leave bank and such leave may be used for personal or family illness as defined by each public postsecondary education institution.

(6) Accrual of extended sick leave, including limits on maximum accrual, shall be as defined by each public postsecondary education institution.

(7) Accrued leave in a Paid Time Off bank for which unclassified and academic personnel may be paid upon separation from employment shall not exceed three hundred hours.

BE IT FURTHER RESOLVED that in conducting such study, the Board of Regents may seek input from and participation by representatives from the Department of State Civil Service, the State Civil Service Commission, and the state retirement systems.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be transmitted to the chairman of the Board of Regents, the commissioner of higher education, and the presiding officers of the Board of Supervisors for the University of Louisiana System, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, and the Board of Supervisors of Community and Technical Colleges.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE
APPENDIX B
PART V. SICK LEAVE

§3311. Sick leave for unclassified; academic personnel

Each board vested with management and supervision of colleges and universities shall recognize the following sick leave policy for unclassified and academic personnel:

A. Employees, work weeks, and definitions

(1) Appointing authorities shall establish work weeks of forty hours per week for full-time employees. The purpose of establishing the forty hour week is merely to provide appointing authorities a system of accounting for and the taking of sick leave. Nothing contained in this Act or in any other provision of the Revised Statutes shall be construed as requiring academic teaching personnel, whether employed on a twelve month basis or on a basis other than twelve months, to be physically present in their classrooms, laboratories, offices, or any other place where their employment duties are performed, for the period of forty hours per week.

(2) Appointing authorities shall establish work weeks proportionate to Paragraph (1) for part-time employees.

(3) Daily attendance and leave records must be maintained for unclassified employees under the jurisdiction of each board. Each board may, in the exercise of its discretion, adopt an attendance form which is designed merely to indicate that academic teaching personnel were either present or absent from their usual duty posts during the usual working day of such personnel. The attendance record shall be signed by the employee and reported monthly to the personnel office.

(4) Definition of sick leave: Sick leave is leave with pay granted an employee who is suffering from a disability which prevents his performing his usual duties and responsibilities and who requires medical, dental, or optical consultation or treatment.

B. Earning of sick leave for twelve-month employees

(1) Sick leave shall be earned by each employee who has a regular tour of duty.

(2) The earning of such leave shall be based on the equivalent of years of full-time state service and shall be creditable at the end of each calendar month in accordance with the following general schedule:

(a) Less than three years of service: at the rate of one day of sick leave per month, or the equivalent thereof in hours.

(b) Three years but less than five years of service: at the rate of one and one-fourth days of sick leave per month, or the equivalent thereof in hours.

(c) Five years but less than ten years of service: at the rate of one and one-half days of sick leave per month, or the equivalent thereof in hours.

(d) Ten years but less than fifteen years of service: at the rate of one and three-fourth days of sick leave per month, or the equivalent thereof in hours.

(e) Fifteen or more years of service: at the rate of two days of sick leave per month, or the equivalent thereof in hours.

(3) No twelve-month unclassified employee shall be credited with sick leave for any calendar month:

(a) until he has completed the calendar month in which he was employed;

(b) during which he has been on leave without pay for ten or more working days;

(c) while serving in the military.

C. Earning of sick leave for employees employed on basis other than twelve months

(1) Sick leave shall be earned by each employee who has a regular tour of duty.

(2) The earning of such leave shall be based on the equivalent of years of full-time service and shall be creditable at the end of each calendar month as follows:

<table>
<thead>
<tr>
<th>Length of Contract</th>
<th>Summer Session Worked in yrs.</th>
<th>Service</th>
<th>Service</th>
<th>Service</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td>5 but</td>
<td>10 but</td>
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<td>over</td>
</tr>
</tbody>
</table>

9 mos.  12 wks.  12  15  18  21  24
9 mos.  9 wks.  11 1/4  14  17 1/4  19 3/4  22 1/2
9 mos.  6 wks.  10 1/2  13  15 3/4  18 1/2  21
9 mos.  None  9  11 1/4  13 1/2  15 3/4  18

(b) For contract periods less than twelve months but different from nine months a proportionate rate should be used.

(3) No unclassified employee employed on a basis less than twelve months shall be credited with sick leave for the reason cited in Subparagraphs (a), (b) and (c) of Paragraph (3) of Subsection B of this Section.

D. Accrued unused sick leave earned by an employee shall be carried forward to the succeeding years without limitation.

E. Transfer of sick leave.

When an employee changes his position from one state agency to another his accumulated sick leave shall be forwarded to the new agency and shall be credited to him.

§3312. Use of sick leave
   A. Sick leave may be used as follows:
      (1) Sick leave with pay may be taken by an employee who has sufficient leave to his credit for the
           following:
               (a) Illness or injury which prevents performance of his usual duties.
               (b) Medical, dental, or optical consultation or treatment.
      (2) The minimum charge for sick leave shall be four hours (1/2 day) and if more, shall be charged in hour
           increments to the nearest hour.
      (3) The employee may use sick leave for maternity purposes when postnatal or prenatal condition of the
           employee prevents the performance of usual duties provided the employee has sufficient sick leave credit. The
           limit to the use of sick leave for a postnatal condition is six weeks except if a physician certifies inability to
           return to work.
      (4) An appointing authority may advance sick leave with pay in an amount not exceeding twenty-two
           working days to an unclassified employee who has exhausted all his sick leave.
      (5) The value of any advanced sick leave which has not been repaid at the time of the employee
           separation from the unclassified service shall be deducted from his last paycheck and/or paid in cash to the
           appointing authority unless the separation is for the purpose of moving to another state agency, in which case the
           advanced sick leave shall be forwarded to the agency accepting him as an employee.
      (6) Upon separation caused by disability, death or retirement, all advanced sick leave shall be cancelled.
      (7) Upon death or retirement of an unclassified employee, sick leave accrued to his credit shall be
           computed and the value thereof shall be paid to him provided that the sick leave had been accrued under
           established leave regulations and a daily attendance record has been maintained for the employee by his
           supervisor, except that such payment shall not exceed the value of twenty-five working days computed on the
           basis of a five-day week and on a four-week per month basis for personnel employed on a less than twelve
           month employment basis and on the basis of a five-day week and fifty-two week year for twelve-month
           employees. The rate of pay shall be computed utilizing the base rate the employee is receiving at the time of
           termination.

PART III. ACCRUED LEAVE

§421. Annual leave; limitation on amount of payment in lieu thereof

A. No officer or ex-officer of the state or of any state agency, appointed by the governor shall be paid anything by the state or any state agency for any time which may elapse after separation from his office or employment either under the guise of paying for annual leave which accrued to and was unused by him prior to separation or under any other guise whatsoever.

B. No limitation shall be placed upon the amount of annual leave which any employee of the state or of any state agency may accrue during the period of his employment; provided, however, that any employee of the state or of any state agency shall accrue annual leave at the same rate as is provided for members of the classified service of the state by the Civil Service Commission; and provided, further, that any employee or ex-employee of the state or of any state agency may be paid for accrued annual leave amounting to the same maximum as is provided for members of the classified service of the state by the Civil Service Commission as approved by the governor after his separation from his office or employment if the annual leave has been accrued under established leave regulations and an attendance record has been maintained for the employee by his supervisor. When an employee covered by this Subsection retires, or whenever any such employee dies while still a member of any retirement system to which the state contributes in whole or in part and before retirement, leaving a surviving spouse or dependent or both who are entitled to benefits from said system, his unused accumulated annual leave in excess of the amount for which payment is received, as above provided, shall be added to his membership service. The employee's unused accumulated annual leave shall not be used to determine eligibility for retirement, but shall be credited to the member only after it is determined that the member is otherwise eligible for retirement.