2012 -- H 7117

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N   A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES - MERIT SYSTEM

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 subsection 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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RELATING TO PUBLIC OFFICERS AND EMPLOYEES - MERIT SYSTEM

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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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