AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Sick Leave Transfer Policy Discussion; Gunnison Co

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Revisions to the Employee Handbook Section 4-3(i)(7)-Sick Leave Transfer

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Revisions to the Sick Leave Transfer policy to include incorporating FMLA language, changes to the donations limits and Criteria for Determination of Authorization for Transfer.

Fiscal Impact:

Submitted by: Cheryl Seling **Submitter's Email Address:** cseling@gunnisoncounty.org

Finance Review: ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ● Required ○ Not Required

Comments:
ok db 12/17/20

Reveiwed by: Discharge Date: 12/18/2020 Certificate of Insurance Required Yes ○ No ●

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 12/18/2020

○ Consent Agenda ● Regular Agenda ○ Worksession Time Allotted: 2

Agenda Date: 12/22/2020

Revised April 2015

(4) Sick Leave Transfers. The Internal Revenue Service (IRS) allows for donation of accrued sick leave without negative tax consequences to the donor in instances of medical emergency, defined by the Family and Medical Leave Act (FMLA) as a serious health condition of the employee or an immediate family member (spouse, child or parent) that prevents the employee from performing the functions of the employee's essential job duties, and will require the prolonged/extended absence of the employee from duty resulting in a substantial loss of income to the employee due to the exhaustion of all paid leave available, apart from the leave-sharing plan. Family and Medical Leave should run concurrently with an approved Sick Leave Transfer. An employee may request a sick leave transfer for extended time off following the loss of a spouse, child or parent. A leave transfer application for pregnancy or maternity leave will not be considered unless the pregnancy and/or birth of a child resulted in a medical emergency.

Currently, any benefit-eligible County employee may make voluntary donations of accumulated sick leave to the Sick Leave Bank to assist employees who are in need of additional sick leave time over and above their vacation, sick leave, holiday and comp time balances. This practice does not constitute a change to Section 4-3(i), but is a method of assisting employees experiencing a medical emergency, as defined by the IRS, or bereavement following the death of a spouse, child or parent. All paid leave granted to the recipient employee is considered wages and is subject to Federal Insurance Contributions Act (FICA) withholding, Federal Unemployment Tax Act (FUTA) withholding and other required tax holdings. Donor employees may not claim an expense, a tax deduction or a charitable contribution for any of the leave that they donated to the Sick Leave Bank.

a. Donations. Each January, Human Resources may request donation of sick leave from eligible employees, and donations will be accepted until January 31st. Upon separation, employees may donate any portion or all of their accumulated sick time to the Sick Leave Bank, limited to the number of hours the employee is eligible to receive cash payment (see Section 7 for more information). In the event that the Sick Leave Bank balance falls below an adequate level at any given time during the year, the Sick Leave Bank Board may request that Human Resources issue additional donation requests. Donors may not request transfer of their donated hours to specific employees, all donated hours are immediately transferred to the Sick Leave Bank, and donor employees forfeit their right to reclaim the hours for any reason.

b. Donation Limitations. County employees should strive to maintain a sick leave balance capable of meeting the demands of expected absences (i.e., general illnesses, routine medical needs, vacations, pregnancy, etc.). Thus, only employees with sick leave balances of at least 160 hours (equivalent to 20 standard eight-hour shifts) and separating employees may donate to this program according to the below limitations:

Donor Employee's Accumulated Sick Leave Balance	Maximum Annual Allowed Donation
159 or less hours	No donation possible
160-480 hours	32 hours
481+ hours	64 hours
N/A (separating employees only)	Limited to those hours that the employee would have otherwise been entitled to receive cash payment.

c. Application Procedure. An employee desiring to receive a transfer should submit an application for additional sick leave to their supervisor at least 10 working days prior to the use of all of his/her available leave time, or as soon as reasonably possible. If an employee is unable to make such application, the application may be completed by a family member or a representative. Application forms are available in Human Resources and on the County website. Applications and transfers will be kept confidential; however, the applicant accepts that his/her private health-related information and request will be discussed by the Sick Leave Bank Board members and any other members of management who may be consulted to fully evaluate the application.

1. The application will be reviewed by the supervisor and department head. If approved, it will be forwarded to Human Resources for evaluation by the Sick Leave Bank Board (See Section 2-4).
2. The Sick Leave Bank Board will then review the request and make a determination, by majority vote, regarding authorization of a sick leave transfer.
    i. Under Six (6) Months of Sick-Leave Benefitted Employment. These employees are not eligible for transfers of sick leave hours from the Sick Leave Bank.
    ii. More than Six (6) but Less than 12 Months of Sick-Leave Benefitted Employment. These employees are eligible to receive up to 80 hours of leave from the Sick Leave Bank. Additional hours for these employees may be authorized upon full depletion or imminent full depletion of the original transfer and any additionally earned leave, only by unanimous approval of the Sick Leave Bank Board members.
    iii. After 12 Months of Sick-Leave Benefitted Employment. These employees are eligible to receive up to 173.33 hours (equivalent to a full-time monthly pay period) of leave. Additional hours for these employees may be authorized upon full depletion or imminent full depletion of the original transfer and any additionally earned leave, only by unanimous approval of the members of the Sick Leave Bank Board.
3. Actual transfer of sick leave hours to an eligible employee may be less than the full amount authorized, if less is taken or if the Sick Leave Bank balance remains insufficient to cover authorized transfers after all donations are received. If the Sick Leave Bank is insufficient to cover authorized transfers, the receiving employee will need to take leave without pay for the duration of their absence.

d. Criteria for Determination of Authorization for Transfer.

1. An employee should have made a conscientious effort to accumulate leave time balances that are sufficient, in the Sick Leave Bank Board's opinion, to meet the demands of expected absences.
2. An employee's request for additional sick-leave time beyond the initial 173.33 hours should, in the opinion of the Sick Leave Bank Board, reflect an unexpected circumstance, extended recovery or life-threatening situation.
3. The Sick Leave Bank Board may, it its sole discretion, provide additional hours if needed.

4. While an employee may apply for a transfer prior to the use of all of his/her combined available accumulated compensatory time, holiday time, sick leave, personal leave and vacation time, all of those combined hours must be exhausted prior to the final transfer and utilization of donated hours made possible by this program.