

709 – SICK LEAVE

Section 709.01 Policy and Accrual	<p>All full-time employees, as defined in Policy 401 Categories of Employment, will accrue sick leave at the rate of 2.47 hours per pay period. Temporary and part-time employees do not accrue sick leave. Use of accrued sick leave is subject to the approval of an employee’s supervisor, elected official or department head.</p> <p>There is no limit to the amount of sick leave full-time employees may accrue. However, any payment of accrued sick leave upon retirement is subject to the provisions of this policy.</p>
Section 709.02 Utilization of Sick Leave	<p>Sick leave is to be used for the illness or injury of an employee, employee’s spouse, employee’s dependent or employee’s parent, as defined in §825.113 of the Family and Medical Leave Act (FMLA, see Section 704.03 of this manual). Sick leave may also be used to visit a physician, dentist or other health care provider, when the visit cannot reasonably be scheduled outside working hours. Sick leave is not counted as time worked under the Fair Labor Standards Act. (FLSA”).</p> <p>A health care provider’s verification may be required for sick leave at the discretion of the elected official or department head. Pay for sick days may be denied if an employee, upon request, fails to provide a satisfactory verification. In addition, failure to provide satisfactory verification upon request may affect an employee’s eligibility for pay out of sick leave at retirement as provided in Section 709.08 below, and/or their ability to participate in the Shared Sick Leave pool as provided in Section 712.</p>
Section 709.03 Workers Compensation	<p>Employees receiving workers compensation for loss of work due to an accident or injury received while at work may not use accrued leave for the absences.</p>
Section 709.04 Actual Time Basis	<p>Sick leave must be taken on an actual-time basis. Employees may not borrow against future accruals nor use more sick leave than accrued.</p>
Section 709.05 Accrued Time	<p>Employees who have exhausted their accumulated sick leave must then use their compensatory time, vacation time, deferred time and deferred holidays for absences related to an illness or injury as stated in Section 709.02 above. Once an employee has exhausted all accumulated time, they may apply to use hours from the Shared Sick Leave Pool (see Section 712), if the employee is a member of the Pool. When all leave is exhausted, additional time off without pay may be granted subject to the provisions of the FMLA and/or approval of a Leave of Absence (see Section 706).</p>
Section 709.06 Forfeiture of Sick Leave	<p>An employee who ends employment with the County for any reason shall forfeit all unused sick leave except in the following circumstances:¹</p> <ol style="list-style-type: none"> 1. A portion of an employee’s unused sick leave balance may be paid out to the employee when the employee retires from Fort Bend County as provided in Section 709.08 2. A person ending employment with the County for any reason may contribute up to 80 hours of unused sick leave to the County’s Shared Sick Leave Pool. Please see Section 712 for further explanation.

¹ Effective January 1, 2009

Section 709.07
Deceased Employee The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee. Any such unused sick leave will be forfeited.

Section 709.08
Payout of Sick Leave at Retirement Subject to the terms of Section 709.09 below, employees who retire from Fort Bend County may be eligible to receive a payment for up to ½ of their accrued sick leave balance, or \$5,000, whichever ever is less, only if certain conditions, as detailed below, are met:

1. The employee meets the retirement eligibility requirements as set forth by Section 510 of this manual; and
2. The employee has ended employment with Fort Bend County for purposes of retirement; and
3. The employee has a current, unused sick leave balance; and
4. The employee has not had any unexcused absences, voluntary leave of absence, leave without pay or disciplinary suspensions in the 12 months preceding the employee's retirement date.

The amount of a retiree's sick leave payout shall be calculated by multiplying ½ of the employee's accrued sick leave hours by the employee's base hourly wage in effect at the time of retirement. Any certification pay, bonuses, overtime, or other supplemental pay shall not be included in the calculation. If the total of this calculation is less than \$5,000, the person shall receive the calculated amount. If the total of this calculation is greater than \$5,000, the employee shall receive \$5,000. The payout will be made in the pay period following the employee's last pay period as an employee and shall be subject to all taxes and withholding as applicable at the time of payout.

Prior to retirement, an employee may choose to donate up to 80 hours of accrued sick leave to the Shared Sick Leave Pool as defined in Section 712. If the employee chooses to do so, the donation will be made after the above calculation of sick leave is complete, and the donated amount will be deducted from the remaining sick leave balance.

Section 709.09
Provision for Employees Retiring Prior to 2014 Section 709.08, Payout of Sick Leave at Retirement, is effective on January 1, 2009. Consistent with Article III, §53 of the Texas Constitution, and supported by Attorney General Letter Opinion DM98-099, this policy may only be applied prospectively. Therefore, the pay out provision may only be applied to sick leave hours accrued after the effective date of the policy.

Recognizing that limiting pay out of sick leave to hours accrued on or after January 1, 2009 affects employees who retire prior to 2014, in the interest of fairness, Commissioners Court has enacted the following temporary provisions to this policy. The following temporary provisions are effective from January 1, 2009 until December 31, 2013.

1. Sick leave taken in accordance with the attendance and sick leave policies will be charged on a "first in -- first out basis." That is, an employee's sick leave hours accrued after January 1, 2009 will not be used unless and until any previously accrued sick leave balance is exhausted. This will leave the maximum number of sick leave hours available for retirement sick leave payout.
2. Employees who retire on or before December 31, 2013, shall be eligible to receive payment for 100% of their unused sick leave hours accrued between January 1, 2009 and December 31, 2013, or \$5,000, whichever is less, subject to Section 709.08..

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Effective January 1, 2014, provision #2, to temporarily pay 100% of hours accrued since January 1, 2009, will be rescinded. At that time, retirees will be eligible to receive a payout for 50% of unused Sick Leave accrued since January 1, 2009, or \$5,000, which ever is less, subject to Section 709.08.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
July 20, 1993
Revised: February 10, 2004
Revised: July 1, 2008
Revised: March 27, 2012