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**SUBSTITUTE HOUSE BILL 3077**

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**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House State Government & Tribal Affairs (originally sponsored by Representatives Liiias, Armstrong, Appleton, Hunt, O'Brien, Green, Rodne, Ericks, Miloscia, Williams, Simpson, and Hasegawa)

READ FIRST TIME 02/05/08.

1            AN ACT Relating to transferring leave to leave pool programs;  
2 reenacting and amending RCW 41.04.665; and adding a new section to  
3 chapter 41.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 41.04.665 and 2007 c 454 s 1 and 2007 c 25 s 2 are  
6 each reenacted and amended to read as follows:

7            (1) An agency head may permit an employee to receive leave under  
8 this section if:

9            (a)(i) The employee suffers from, or has a relative or household  
10 member suffering from, an illness, injury, impairment, or physical or  
11 mental condition which is of an extraordinary or severe nature;

12            (ii) The employee has been called to service in the uniformed  
13 services; or

14            (iii) A state of emergency has been declared anywhere within the  
15 United States by the federal or any state government and the employee  
16 has needed skills to assist in responding to the emergency or its  
17 aftermath and volunteers his or her services to either a governmental  
18 agency or to a nonprofit organization engaged in humanitarian relief in

1 the devastated area, and the governmental agency or nonprofit  
2 organization accepts the employee's offer of volunteer services;

3 (b) The illness, injury, impairment, condition, call to service, or  
4 emergency volunteer service has caused, or is likely to cause, the  
5 employee to:

6 (i) Go on leave without pay status; or

7 (ii) Terminate state employment;

8 (c) The employee's absence and the use of shared leave are  
9 justified;

10 (d) The employee has depleted or will shortly deplete his or her:

11 (i) Annual leave and sick leave reserves if he or she qualifies  
12 under (a)(i) of this subsection;

13 (ii) Annual leave and paid military leave allowed under RCW  
14 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

15 (iii) Annual leave if he or she qualifies under (a)(iii) of this  
16 subsection;

17 (e) The employee has abided by agency rules regarding:

18 (i) Sick leave use if he or she qualifies under (a)(i) of this  
19 subsection; or

20 (ii) Military leave if he or she qualifies under (a)(ii) of this  
21 subsection; and

22 (f) The employee has diligently pursued and been found to be  
23 ineligible for benefits under chapter 51.32 RCW if he or she qualifies  
24 under (a)(i) of this subsection.

25 (2) The agency head shall determine the amount of leave, if any,  
26 which an employee may receive under this section. However, an employee  
27 shall not receive a total of more than two hundred sixty-one days of  
28 leave, except that shared leave received under the uniformed service  
29 shared leave pool in RCW 41.04.685 is not included in this total.

30 (3) An employee may transfer annual leave, sick leave, and his or  
31 her personal holiday, as follows:

32 (a) An employee who has an accrued annual leave balance of more  
33 than ten days may request that the head of the agency for which the  
34 employee works transfer a specified amount of annual leave to another  
35 employee authorized to receive leave under subsection (1) of this  
36 section. In no event may the employee request a transfer of an amount  
37 of leave that would result in his or her annual leave account going

1 below ten days. For purposes of this subsection (3)(a), annual leave  
2 does not accrue if the employee receives compensation in lieu of  
3 accumulating a balance of annual leave.

4 (b) An employee may transfer a specified amount of sick leave to an  
5 employee requesting shared leave only when the donating employee  
6 retains a minimum of one hundred seventy-six hours of sick leave after  
7 the transfer.

8 (c) An employee may transfer, under the provisions of this section  
9 relating to the transfer of leave, all or part of his or her personal  
10 holiday, as that term is defined under RCW 1.16.050, or as such  
11 holidays are provided to employees by agreement with a school  
12 district's board of directors if the leave transferred under this  
13 subsection does not exceed the amount of time provided for personal  
14 holidays under RCW 1.16.050.

15 (4) An employee of an institution of higher education under RCW  
16 28B.10.016, school district, or educational service district who does  
17 not accrue annual leave but does accrue sick leave and who has an  
18 accrued sick leave balance of more than twenty-two days may request  
19 that the head of the agency for which the employee works transfer a  
20 specified amount of sick leave to another employee authorized to  
21 receive leave under subsection (1) of this section. In no event may  
22 such an employee request a transfer that would result in his or her  
23 sick leave account going below twenty-two days. Transfers of sick  
24 leave under this subsection are limited to transfers from employees who  
25 do not accrue annual leave. Under this subsection, "sick leave" also  
26 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)  
27 with compensation for illness, injury, and emergencies.

28 (5) Transfers of leave made by an agency head under subsections (3)  
29 and (4) of this section shall not exceed the requested amount.

30 (6) Leave transferred under this section may be transferred from  
31 employees of one agency to an employee of the same agency or, with the  
32 approval of the heads of both agencies, to an employee of another state  
33 agency. However, leave transferred to or from employees of school  
34 districts or educational service districts is limited to transfers to  
35 or from employees within the same employing district.

36 (7) While an employee is on leave transferred under this section,  
37 he or she shall continue to be classified as a state employee and shall

1 receive the same treatment in respect to salary, wages, and employee  
2 benefits as the employee would normally receive if using accrued annual  
3 leave or sick leave.

4 (a) All salary and wage payments made to employees while on leave  
5 transferred under this section shall be made by the agency employing  
6 the person receiving the leave. The value of leave transferred shall  
7 be based upon the leave value of the person receiving the leave.

8 (b) In the case of leave transferred by an employee of one agency  
9 to an employee of another agency, the agencies involved shall arrange  
10 for the transfer of funds and credit for the appropriate value of  
11 leave.

12 (i) Pursuant to rules adopted by the office of financial  
13 management, funds shall not be transferred under this section if the  
14 transfer would violate any constitutional or statutory restrictions on  
15 the funds being transferred.

16 (ii) The office of financial management may adjust the  
17 appropriation authority of an agency receiving funds under this section  
18 only if and to the extent that the agency's existing appropriation  
19 authority would prevent it from expending the funds received.

20 (iii) Where any questions arise in the transfer of funds or the  
21 adjustment of appropriation authority, the director of financial  
22 management shall determine the appropriate transfer or adjustment.

23 (8) Leave transferred under this section shall not be used in any  
24 calculation to determine an agency's allocation of full time equivalent  
25 staff positions.

26 (9) The value of any leave transferred under this section which  
27 remains unused shall be returned at its original value to the employee  
28 or employees who transferred the leave when the agency head finds that  
29 the leave is no longer needed or will not be needed at a future time in  
30 connection with the illness or injury for which the leave was  
31 transferred or for any other qualifying condition. With the permission  
32 of the employee who transferred the leave, the leave may be transferred  
33 to a sick leave pool created under RCW 41.04.680 in which the employee  
34 who transferred leave participates. Before the agency head makes a  
35 determination to return unused leave in connection with an illness or  
36 injury, or any other qualifying condition, he or she must receive from  
37 the affected employee a statement from the employee's doctor verifying

1 that the illness or injury is resolved. To the extent administratively  
2 feasible, the value of unused leave which was transferred by more than  
3 one employee shall be returned on a pro rata basis.

4 (10) An employee who uses leave that is transferred to him or her  
5 under this section may not be required to repay the value of the leave  
6 that he or she used.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.04 RCW  
8 to read as follows:

9 Annual leave that is lost by an employee because he or she did not  
10 take it within the required time period must be transferred equally to  
11 the uniformed service shared leave pool created under RCW 41.04.685 and  
12 a sick leave pool created under RCW 41.04.680 in which the employee who  
13 lost the annual leave participates. If the employee does not  
14 participate in a sick leave pool, the entire amount of annual leave  
15 that is lost must be transferred to the uniform services shared leave  
16 pool. The department of personnel shall adopt rules setting forth  
17 procedures for the transfer of lost annual leave.

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