
SENATE BILL 5430

State of Washington

60th Legislature

2007 Regular Session

By Senators Hobbs, Fairley, Kilmer, Pridemore, Roach, Swecker, Shin, Benton, Rasmussen and Kohl-Welles; by request of Governor Gregoire

Read first time 01/19/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to shared leave for state employees in the
2 uniformed services; amending RCW 41.04.665; adding a new section to
3 chapter 41.04 RCW; adding a new section to chapter 43.79 RCW; providing
4 an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.04 RCW
7 to read as follows:

8 (1) The uniformed service shared leave pool is created to allow
9 employees to donate leave to be used as shared leave for any employee
10 who has been called to service in the uniformed services and who meets
11 the requirements of RCW 41.04.665. Participation in the pool shall, at
12 all times, be voluntary on the part of the employee. The military
13 department, in consultation with the department of personnel and the
14 office of financial management, shall administer the uniformed service
15 shared leave pool.

16 (2) Employees as defined in subsection (8) of this section who are
17 eligible to donate leave under RCW 41.04.665 may donate leave to the
18 uniformed service shared leave pool.

1 (3) An employee as defined in subsection (8) of this section who
2 has been called to service in the uniformed services and is eligible
3 for shared leave under RCW 41.04.665 may request shared leave from the
4 uniformed service shared leave pool.

5 (4) Shared leave paid under this section, in combination with
6 military salary, shall not exceed the level of the employee's state
7 monthly salary.

8 (5) Any leave donated shall be removed from the personally
9 accumulated leave balance of the employee donating the leave.

10 (6) An employee who receives shared leave from the pool is not
11 required to recontribute such leave to the pool, except as otherwise
12 provided in this section.

13 (7) Leave that may be donated or received by any one employee shall
14 be calculated as in RCW 41.04.665.

15 (8) As used in this section:

16 (a) "Employee" has the meaning provided in RCW 41.04.655, except
17 that "employee" as used in this section does not include employees of
18 school districts and educational service districts.

19 (b) "Service in the uniformed services" has the meaning provided in
20 RCW 41.04.655.

21 (c) "Military salary" includes base, specialty, and other pay, but
22 does not include allowances such as the basic allowance for housing.

23 (d) "Monthly salary" includes monthly salary and special pay and
24 shift differential, or the monthly equivalent for hourly employees.

25 "Monthly salary" does not include:

26 (i) Overtime pay;

27 (ii) Call back pay;

28 (iii) Standby pay; or

29 (iv) Performance bonuses.

30 (9) The department of personnel, in consultation with the military
31 department and the office of financial management, shall adopt rules
32 and policies governing the donation and use of shared leave from the
33 uniformed service shared leave pool, including definitions of pay and
34 allowances and guidelines for agencies to use in recordkeeping
35 concerning shared leave.

36 (10) Agencies shall investigate any alleged abuse of the uniformed
37 service shared leave pool and on a finding of wrongdoing, the employee

1 may be required to repay all of the shared leave received from the
2 uniformed service shared leave pool.

3 (11) Higher education institutions shall adopt policies consistent
4 with the needs of the employees under their respective jurisdictions.

5 **Sec. 2.** RCW 41.04.665 and 2003 1st sp.s. c 12 s 3 are each amended
6 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; or

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

14 (b) The illness, injury, impairment, condition, or call to service
15 has caused, or is likely to cause, the employee to:

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

17 (ii) Terminate state employment;

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

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

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

23 (ii) Annual leave and paid military leave allowed under RCW
24 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

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

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

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

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

33 (2) The agency head shall determine the amount of leave, if any,
34 which an employee may receive under this section. However, an employee
35 shall not receive a total of more than two hundred sixty-one days of
36 leave, except that shared leave received under the uniformed service

1 shared leave pool in section 1 of this act is not included in this
2 total.

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

5 (a) An employee who has an accrued annual leave balance of more
6 than ten days may request that the head of the agency for which the
7 employee works transfer a specified amount of annual leave to another
8 employee authorized to receive leave under subsection (1) of this
9 section. In no event may the employee request a transfer of an amount
10 of leave that would result in his or her annual leave account going
11 below ten days. For purposes of this subsection (3)(a), annual leave
12 does not accrue if the employee receives compensation in lieu of
13 accumulating a balance of annual leave.

14 (b) An employee may transfer a specified amount of sick leave to an
15 employee requesting shared leave only when the donating employee
16 retains a minimum of one hundred seventy-six hours of sick leave after
17 the transfer.

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

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

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

3 (6) Leave transferred under this section may be transferred from
4 employees of one agency to an employee of the same agency or, with the
5 approval of the heads of both agencies, to an employee of another state
6 agency. However, leave transferred to or from employees of school
7 districts or educational service districts is limited to transfers to
8 or from employees within the same employing district.

9 (7) While an employee is on leave transferred under this section,
10 he or she shall continue to be classified as a state employee and shall
11 receive the same treatment in respect to salary, wages, and employee
12 benefits as the employee would normally receive if using accrued annual
13 leave or sick leave.

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

18 (b) In the case of leave transferred by an employee of one agency
19 to an employee of another agency, the agencies involved shall arrange
20 for the transfer of funds and credit for the appropriate value of
21 leave.

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

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

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

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

36 (9) The value of any leave transferred under this section which
37 remains unused shall be returned at its original value to the employee
38 or employees who transferred the leave when the agency head finds that

1 the leave is no longer needed or will not be needed at a future time in
2 connection with the illness or injury for which the leave was
3 transferred. To the extent administratively feasible, the value of
4 unused leave which was transferred by more than one employee shall be
5 returned on a pro rata basis.

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

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.79 RCW
10 to read as follows:

11 The uniformed service shared leave pool account is created in the
12 custody of the state treasurer. All receipts from leave donated under
13 the uniformed service shared leave pool under section 1 of this act and
14 any moneys appropriated or otherwise provided must be deposited into
15 the account. Expenditures from the account may be used only for
16 providing shared leave to employees under the uniformed service shared
17 leave pool. Only the adjutant general or his or her designee may
18 authorize expenditures from the account. The account is not subject to
19 allotment procedures under chapter 43.88 RCW, and no appropriation is
20 required for expenditures.

21 NEW SECTION. **Sec. 4.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 July 1, 2007.

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