
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1802

State of Washington

65th Legislature

2017 Regular Session

By House Appropriations (originally sponsored by Representatives Reeves, Springer, Kilduff, Farrell, Appleton, Stonier, Stanford, Kloba, Frame, Ryu, Tharinger, Pellicciotti, Macri, Chapman, Fitzgibbon, Jenkins, Orwall, Doglio, Lovick, Riccelli, Peterson, Gregerson, Blake, Ortiz-Self, Ormsby, Bergquist, Fey, and Pollet)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to increasing the access of veterans, military
2 service members, and military spouses to shared leave in state
3 employment; amending RCW 41.04.665; adding a new section to chapter
4 41.04 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 41.04.665 and 2016 c 177 s 1 are each amended to
7 read as follows:

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

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

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

15 (iii) The employee is a current member of the uniformed services
16 or is a veteran as defined under RCW 41.04.005, and is attending
17 medical appointments or treatments for a service connected injury or
18 disability;

19 (iv) The employee is a spouse of a current member of the
20 uniformed services or a veteran as defined under RCW 41.04.005, who
21 is attending medical appointments or treatments for a service

1 connected injury or disability and requires assistance while
2 attending appointment or treatment;

3 (v) A state of emergency has been declared anywhere within the
4 United States by the federal or any state government and the employee
5 has needed skills to assist in responding to the emergency or its
6 aftermath and volunteers his or her services to either a governmental
7 agency or to a nonprofit organization engaged in humanitarian relief
8 in the devastated area, and the governmental agency or nonprofit
9 organization accepts the employee's offer of volunteer services; or

10 ~~((+iv+))~~ (vi) The employee is a victim of domestic violence,
11 sexual assault, or stalking;

12 (b) The illness, injury, impairment, condition, call to service,
13 emergency volunteer service, or consequence of domestic violence,
14 sexual assault, temporary layoff under section 3(5), chapter 32, Laws
15 of 2010 1st sp. sess., or stalking has caused, or is likely to cause,
16 the employee to:

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

18 (ii) Terminate state employment;

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

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

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

24 (ii) Annual leave and paid military leave allowed under RCW
25 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

26 (iii) Annual leave if he or she qualifies under (a)~~((+iii+))~~ (v)
27 or ~~((+iv+))~~ (vi) of this subsection;

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

29 (i) Sick leave use if he or she qualifies under (a)(i) or
30 ~~((+iv+))~~ (vi) of this subsection; or

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

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

36 (2) The agency head shall determine the amount of leave, if any,
37 which an employee may receive under this section. However, an
38 employee shall not receive a total of more than five hundred twenty-
39 two days of leave, except that, a supervisor may authorize leave in
40 excess of five hundred twenty-two days in extraordinary circumstances

1 for an employee qualifying for the shared leave program because he or
2 she is suffering from an illness, injury, impairment, or physical or
3 mental condition which is of an extraordinary or severe nature.
4 Shared leave received under the uniformed service shared leave pool
5 in RCW 41.04.685 is not included in this total.

6 (3) The agency head must allow employees who are veterans, as
7 defined under RCW 41.04.005, and their spouses, to access shared
8 leave from the veterans' in-state service shared leave pool upon
9 employment.

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

12 (a) An employee who has an accrued annual leave balance of more
13 than ten days may request that the head of the agency for which the
14 employee works transfer a specified amount of annual leave to another
15 employee authorized to receive leave under subsection (1) of this
16 section. In no event may the employee request a transfer of an amount
17 of leave that would result in his or her annual leave account going
18 below ten days. For purposes of this subsection ~~((+3))~~ (4)(a),
19 annual leave does not accrue if the employee receives compensation in
20 lieu of accumulating a balance of annual leave.

21 (b) An employee may transfer a specified amount of sick leave to
22 an employee requesting shared leave only when the donating employee
23 retains a minimum of one hundred seventy-six hours of sick leave
24 after the transfer.

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

32 ~~((+4))~~ (5) An employee of an institution of higher education
33 under RCW 28B.10.016, school district, or educational service
34 district who does not accrue annual leave but does accrue sick leave
35 and who has an accrued sick leave balance of more than twenty-two
36 days may request that the head of the agency for which the employee
37 works transfer a specified amount of sick leave to another employee
38 authorized to receive leave under subsection (1) of this section. In
39 no event may such an employee request a transfer that would result in
40 his or her sick leave account going below twenty-two days. Transfers

1 of sick leave under this subsection are limited to transfers from
2 employees who do not accrue annual leave. Under this subsection,
3 "sick leave" also includes leave accrued pursuant to RCW
4 28A.400.300(1)(b) or 28A.310.240(1) with compensation for illness,
5 injury, and emergencies.

6 ~~((+5))~~ (6) Transfers of leave made by an agency head under
7 subsections ~~((+3) and)~~ (4) and (5) of this section shall not exceed
8 the requested amount.

9 ~~((+6))~~ (7) Leave transferred under this section may be
10 transferred from employees of one agency to an employee of the same
11 agency or, with the approval of the heads of both agencies, to an
12 employee of another state agency.

13 ~~((+7))~~ (8) While an employee is on leave transferred under this
14 section, he or she shall continue to be classified as a state
15 employee and shall receive the same treatment in respect to salary,
16 wages, and employee benefits as the employee would normally receive
17 if using accrued annual leave or sick leave.

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

22 (b) In the case of leave transferred by an employee of one agency
23 to an employee of another agency, the agencies involved shall arrange
24 for the transfer of funds and credit for the appropriate value of
25 leave.

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

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

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

38 ~~((+8))~~ (9) Leave transferred under this section shall not be
39 used in any calculation to determine an agency's allocation of full
40 time equivalent staff positions.

1 ~~((9))~~ (10)(a) The value of any leave transferred under this
2 section which remains unused shall be returned at its original value
3 to the employee or employees who transferred the leave when the
4 agency head finds that the leave is no longer needed or will not be
5 needed at a future time in connection with the illness or injury for
6 which the leave was transferred or for any other qualifying
7 condition. Unused shared leave may not be returned until one of the
8 following occurs:

9 (i) The agency head receives from the affected employee a
10 statement from the employee's doctor verifying that the illness or
11 injury is resolved; or

12 (ii) The employee is released to full-time employment; has not
13 received additional medical treatment for his or her current
14 condition or any other qualifying condition for at least six months;
15 and the employee's doctor has declined, in writing, the employee's
16 request for a statement indicating the employee's condition has been
17 resolved.

18 (b) If a shared leave account is closed and an employee later has
19 a need to use shared leave due to the same condition listed in the
20 closed account, the agency head must approve a new shared leave
21 request for the employee.

22 (c) To the extent administratively feasible, the value of unused
23 leave which was transferred by more than one employee shall be
24 returned on a pro rata basis.

25 ~~((10))~~ (11) An employee who uses leave that is transferred to
26 him or her under this section may not be required to repay the value
27 of the leave that he or she used.

28 ~~((11))~~ (12) The director of financial management may adopt
29 rules as necessary to implement subsection (2) of this section.

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

32 (1) The veterans' in-state service shared leave pool is created
33 to allow employees to donate leave to be used as shared leave for:

34 (a) Veteran employees who meet the requirements of RCW 41.04.665;
35 or

36 (b) Spouses of veteran employees, who meet the requirements of
37 RCW 41.04.665, who are caring for their spouses.

1 (2) Participation in the pool shall, at all times, be voluntary
2 on the part of the employee. The department of veterans affairs shall
3 administer the veterans' in-state service shared leave pool.

4 (3) Employees who are eligible to donate leave under RCW
5 41.04.665 may donate leave to the veterans' in-state service shared
6 leave pool.

7 (4) A veteran employee who is eligible for shared leave under RCW
8 41.04.665 or a spouse of a veteran employee, who is eligible for
9 shared leave under RCW 41.04.665, who is caring for his or her spouse
10 may request shared leave from veterans' in-state service shared leave
11 pool.

12 (5) Shared leave under this section may not be granted unless the
13 pool has a sufficient balance to fund the requested shared leave.

14 (6) Shared leave paid under this section, in combination with an
15 employees's salary, may not exceed the level of the employee's state
16 monthly salary.

17 (7) Any leave donated must be removed from the personally
18 accumulated leave balance of the employee donating the leave.

19 (8) All employees who donate to the shared leave pool must
20 specify their intent to donate to the veterans' in-state service
21 shared leave pool.

22 (9) An employee who receives shared leave from the pool is not
23 required to recontribute such leave to the pool, except as otherwise
24 provided in this section.

25 (10) Leave that may be donated or received by any one employee
26 must be calculated as in RCW 41.04.665.

27 (11) As used in this section:

28 (a) "Employee" has the meaning provided in RCW 41.04.655, except
29 that "employee" as used in this section does not include employees of
30 school districts and educational service districts. "Employee" does
31 not include employees called to service in the uniformed services.

32 (b) "Monthly salary" includes monthly salary and special pay and
33 shift differential, or the monthly equivalent for hourly employees.
34 "Monthly salary" does not include:

- 35 (i) Overtime pay;
- 36 (ii) Call back pay;
- 37 (iii) Standby pay; or
- 38 (iv) Performance bonuses.

39 (c) "Service in the uniformed services" has the meaning provided
40 in RCW 41.04.655.

1 (d) "Veteran" has the meaning provided in RCW 41.04.005.

2 (12) The office of financial management, in consultation with the
3 department of veterans affairs, shall adopt rules and policies
4 governing the donation and use of shared leave from the veterans' in-
5 state service shared leave pool, including definitions of pay and
6 allowances and guidelines for agencies to use in recordkeeping
7 concerning shared leave.

8 (13) Agencies shall investigate any alleged abuse of the
9 veterans' in-state service shared leave pool and on a finding of
10 wrongdoing, the employee may be required to repay all of the shared
11 leave received from the veterans' in-state service shared leave pool.

12 (14) Higher education institutions shall adopt policies
13 consistent with the needs of the employees under their respective
14 jurisdictions.

15 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
16 this act, referencing this act by bill or chapter number, is not
17 provided by June 30, 2017, in the omnibus appropriations act, this
18 act is null and void.

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