
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) A state of emergency has been declared anywhere within the
16 United States by the federal or any state government and the employee
17 has needed skills to assist in responding to the emergency or its
18 aftermath and volunteers his or her services to either a governmental
19 agency or to a nonprofit organization engaged in humanitarian relief
20 in the devastated area, and the governmental agency or nonprofit
21 organization accepts the employee's offer of volunteer services; or

1 (iv) The employee is a victim of domestic violence, sexual
2 assault, or stalking;

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

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

9 (ii) Terminate state employment;

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

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

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

15 (ii) Annual leave and paid military leave allowed under RCW
16 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

17 (iii) Annual leave if he or she qualifies under (a)(iii) or (iv)
18 of this subsection;

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

20 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of
21 this subsection; or

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

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

27 (2) The agency head shall determine the amount of leave, if any,
28 which an employee may receive under this section. However, an
29 employee shall not receive a total of more than five hundred twenty-
30 two days of leave, except that, a supervisor may authorize leave in
31 excess of five hundred twenty-two days in extraordinary circumstances
32 for an employee qualifying for the shared leave program because he or
33 she is suffering from an illness, injury, impairment, or physical or
34 mental condition which is of an extraordinary or severe nature.
35 Shared leave received under the uniformed service shared leave pool
36 in RCW 41.04.685 is not included in this total.

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

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

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

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

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

23 ~~((+4))~~ (5) An employee of an institution of higher education
24 under RCW 28B.10.016, school district, or educational service
25 district who does not accrue annual leave but does accrue sick leave
26 and who has an accrued sick leave balance of more than twenty-two
27 days may request that the head of the agency for which the employee
28 works transfer a specified amount of sick leave to another employee
29 authorized to receive leave under subsection (1) of this section. In
30 no event may such an employee request a transfer that would result in
31 his or her sick leave account going below twenty-two days. Transfers
32 of sick leave under this subsection are limited to transfers from
33 employees who do not accrue annual leave. Under this subsection,
34 "sick leave" also includes leave accrued pursuant to RCW
35 28A.400.300(1)(b) or 28A.310.240(1) with compensation for illness,
36 injury, and emergencies.

37 ~~((+5))~~ (6) Transfers of leave made by an agency head under
38 subsections ~~((+3) and)~~ (4) and (5) of this section shall not exceed
39 the requested amount.

1 ~~((6))~~ (7) Leave transferred under this section may be
2 transferred from employees of one agency to an employee of the same
3 agency or, with the approval of the heads of both agencies, to an
4 employee of another state agency.

5 ~~((7))~~ (8) While an employee is on leave transferred under this
6 section, he or she shall continue to be classified as a state
7 employee and shall receive the same treatment in respect to salary,
8 wages, and employee benefits as the employee would normally receive
9 if using accrued annual leave or sick leave.

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

14 (b) In the case of leave transferred by an employee of one agency
15 to an employee of another agency, the agencies involved shall arrange
16 for the transfer of funds and credit for the appropriate value of
17 leave.

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

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

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

30 ~~((8))~~ (9) Leave transferred under this section shall not be
31 used in any calculation to determine an agency's allocation of full
32 time equivalent staff positions.

33 ~~((9))~~ (10)(a) The value of any leave transferred under this
34 section which remains unused shall be returned at its original value
35 to the employee or employees who transferred the leave when the
36 agency head finds that the leave is no longer needed or will not be
37 needed at a future time in connection with the illness or injury for
38 which the leave was transferred or for any other qualifying
39 condition. Unused shared leave may not be returned until one of the
40 following occurs:

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

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

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

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

17 ~~((10))~~ (11) An employee who uses leave that is transferred to
18 him or her under this section may not be required to repay the value
19 of the leave that he or she used.

20 ~~((11))~~ (12) The director of financial management may adopt
21 rules as necessary to implement subsection (2) of this section.

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

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

26 (a) Veteran employees who meet the requirements of RCW 41.04.665;
27 or

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

30 (2) Participation in the pool shall, at all times, be voluntary
31 on the part of the employee. The office of financial management shall
32 administer the veterans' in-state service shared leave pool.

33 (3) Employees who are eligible to donate leave under RCW
34 41.04.665 may donate leave to the veterans' in-state service shared
35 leave pool.

36 (4) A veteran employee who is eligible for shared leave under RCW
37 41.04.665 or a spouse of a veteran employee, who is eligible for
38 shared leave under RCW 41.04.665, who is caring for his or her spouse

1 may request shared leave from veterans' in-state service shared leave
2 pool.

3 (5) Shared leave under this section may not be granted unless the
4 pool has a sufficient balance to fund the requested shared leave for
5 the expected term of service.

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

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

11 (8) All employees who donate to the shared leave pool must
12 specify their intent to donate to the veterans' in-state service
13 shared leave pool.

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

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

19 (11) As used in this section:

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

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

- 27 (i) Overtime pay;
- 28 (ii) Call back pay;
- 29 (iii) Standby pay; or
- 30 (iv) Performance bonuses.

31 (c) "Service in the uniformed services" has the meaning provided
32 in RCW 41.04.655.

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

34 (12) The office of financial management shall adopt rules and
35 policies governing the donation and use of shared leave from the
36 veterans' in-state service shared leave pool, including definitions
37 of pay and allowances and guidelines for agencies to use in
38 recordkeeping concerning shared leave.

39 (13) Agencies shall investigate any alleged abuse of the
40 veterans' in-state service shared leave pool and on a finding of

1 wrongdoing, the employee may be required to repay all of the shared
2 leave received from the veterans' in-state service shared leave pool.

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

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

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