

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1507

60th Legislature
2007 Regular Session

Passed by the House February 12, 2007
Yeas 96 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 2, 2007
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1507** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1507

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Seaquist, Bailey, Schual-Berke, Green, Kenney, Williams, Conway, Ericks, Lantz, Darneille, Linville, Moeller, Kelley, Morrell and Rolfes; by request of Governor Gregoire)

READ FIRST TIME 01/26/07.

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; and
4 providing an effective date.

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 (10) 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 (10) 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) It shall be the responsibility of the employee who has been
6 called to service to provide an earnings statement verifying military
7 salary, orders of service, and notification of a change in orders of
8 service or military salary.

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

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

15 (7) Any leave donated shall be removed from the personally
16 accumulated leave balance of the employee donating the leave.

17 (8) An employee who receives shared leave from the pool is not
18 required to recontribute such leave to the pool, except as otherwise
19 provided in this section.

20 (9) Leave that may be donated or received by any one employee shall
21 be calculated as in RCW 41.04.665.

22 (10) As used in this section:

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

26 (b) "Service in the uniformed services" has the meaning provided in
27 RCW 41.04.655.

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

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

32 "Monthly salary" does not include:

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

37 (11) The department of personnel, in consultation with the military
38 department and the office of financial management, shall adopt rules

1 and policies governing the donation and use of shared leave from the
2 uniformed service shared leave pool, including definitions of pay and
3 allowances and guidelines for agencies to use in recordkeeping
4 concerning shared leave.

5 (12) Agencies shall investigate any alleged abuse of the uniformed
6 service shared leave pool and on a finding of wrongdoing, the employee
7 may be required to repay all of the shared leave received from the
8 uniformed service shared leave pool.

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

11 **Sec. 2.** RCW 41.04.665 and 2003 1st sp.s. c 12 s 3 are each amended
12 to read as follows:

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

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

18 (ii) The employee has been called to service in the uniformed
19 services;

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

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

23 (ii) Terminate state employment;

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

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

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

29 (ii) Annual leave and paid military leave allowed under RCW
30 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

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

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

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

36 (f) The employee has diligently pursued and been found to be

1 ineligible for benefits under chapter 51.32 RCW if he or she qualifies
2 under (a)(i) of this subsection.

3 (2) The agency head shall determine the amount of leave, if any,
4 which an employee may receive under this section. However, an employee
5 shall not receive a total of more than two hundred sixty-one days of
6 leave, except that shared leave received under the uniformed service
7 shared leave pool in section 1 of this act is not included in this
8 total.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (9) The value of any leave transferred under this section which
5 remains unused shall be returned at its original value to the employee
6 or employees who transferred the leave when the agency head finds that
7 the leave is no longer needed or will not be needed at a future time in
8 connection with the illness or injury for which the leave was
9 transferred. To the extent administratively feasible, the value of
10 unused leave which was transferred by more than one employee shall be
11 returned on a pro rata basis.

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

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

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

27 NEW SECTION. **Sec. 4.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 5.** This act takes effect October 1, 2007.

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