

# SENATE BILL REPORT

## HB 2739

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As Passed Senate - Amended, March 10, 2020

**Title:** An act relating to adjusting certain requirements of the shared leave program.

**Brief Description:** Adjusting certain requirements of the shared leave program.

**Sponsors:** Representatives Kloba, Stonier, Appleton, Davis and Duerr.

**Brief History:** Passed House: 2/17/20, 96-1; 3/10/20, 97-0.

**Committee Activity:** State Government, Tribal Relations & Elections: 2/21/20, 2/26/20 [DPA].

**Floor Activity:**

Passed Senate - Amended: 3/10/20, 49-0.

### Brief Summary of Amended Bill

- Allows an employee to maintain up to 40 hours of the applicable leave in reserve and still be eligible for shared leave.
- Allows use of shared leave for employees isolated or quarantined by a public health official or health care provider as a result of suspected or confirmed COVID-19 infection or exposure during the declared state of emergency.
- Allows intermittent and nonconsecutive use of shared leave.
- Removes the requirement that an employee pursue and be found ineligible for industrial insurance wage benefits for shared leave eligibility.
- Limits the amount of shared leave that an employee may receive when also receiving industrial insurance wage replacement benefits to 25 percent of base salary.
- Requires parental leave be used in the 16 weeks immediately following birth or placement, or after pregnancy disability has resolved provided that it is not used more than one year after birth.

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### SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass as amended.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Zeiger, Ranking Member; Muzzall, Assistant Ranking Member; Hasegawa, Hawkins and Takko.

**Staff:** Melissa Van Gorkom (786-7491)

**Background:** Shared Leave Program. The purpose of the Shared Leave Program is to permit state employees, at no significantly increased cost to the state, to provide annual leave, sick leave, or personal holidays to fellow state employees experiencing circumstances that may cause them to take leave without pay or terminate their employment.

Agency heads may permit employees to receive shared leave when an employee:

- suffers from or has a relative or household member who is suffering from an illness, injury, impairment, or extraordinary or severe physical or mental condition and has depleted, or will shortly deplete, their annual leave and sick leave reserves;
- has been called to service in the uniformed services and has depleted, or will shortly deplete, their annual leave and paid military leave;
- is a victim of domestic violence, sexual assault, or stalking and has depleted, or will shortly deplete, their annual leave;
- volunteers to assist in a state of emergency declared by the state or federal government and has depleted, or will shortly deplete, their annual leave; or
- needs the time for parental leave or is sick or temporarily disabled because of pregnancy disability and has depleted, or will shortly deplete, their annual leave and sick leave reserve—the employee is not required to deplete all of their annual leave and sick leave to be eligible for shared leave and can maintain up to 40 hours of annual leave and sick leave in reserve.

Employees must diligently pursue and be found ineligible for industrial insurance wage replacement benefits to be eligible for shared leave.

The agency head determines the amount of leave, if any, an employee may receive. Employees must not receive a total of more than 522 days of leave unless extraordinary circumstances apply. Any unused leave is returned at its original value to the employee or employees who transferred the leave when the agency head finds the leave is no longer needed or will not be needed at a future time in connection with the underlying condition. Unused leave may not be returned until certain conditions are met.

Coronavirus Disease 2019. COVID-19 is a respiratory illness that can be transmitted from person-to-person. Reported cases have resulted in mild to severe illness as well as death. Symptoms, such as fever, cough, and shortness of breath, may appear 2 to 14 days after exposure. There is currently no vaccine or treatment for COVID-19, but medical care can relieve the symptoms. On January 30, 2020, the World Health Organization declared the recent outbreak of COVID-19 to be a public health emergency of international concern. On January 31, 2020, the federal Department of Health and Human Services declared a public health emergency for the United States. On February 29, 2020, the Governor issued a proclamation to declare a state of emergency in all counties of Washington and directed state agencies to take all reasonable measures to assist affected local governments to respond to and recover from the COVID-19 outbreak.

**Summary of Bill:** The shared leave program is modified to permit employees who are isolated or quarantined, or who have relatives or household members who are isolated or quarantined, as recommended, requested, or ordered by a public health official or health care provider as a result of suspected or confirmed COVID-19 infection or exposure, regardless of whether other standards for use of shared leave are met during the declared state of emergency. This additional authority expires when the proclamation declaring an emergency, or any amendment to the proclamation, expires. The Office of the Governor must provide notification of the expiration.

The definition of "parental leave" for purposes of the shared leave program is modified. The 16-week period in which parental leave may be taken begins immediately after birth or placement. In cases where a birth parent also has a pregnancy disability, parental leave will begin immediately after the pregnancy disability has resolved, but it must be used within the first year after the birth of the child.

"Shortly deplete" is defined as an employee having 40 hours or less of the applicable leave type for the purposes of qualifying for the program. Employees may maintain up to 40 hours of each applicable leave type in reserve and still be eligible for shared leave.

Agency heads may not prevent state employees from using shared leave intermittently or on nonconsecutive days so long as the leave has not been returned under specified procedures for unused leave.

The requirement that an employee diligently pursue and be found ineligible for industrial insurance wage replacement benefits is removed. An employee receiving wage replacement benefits may not receive more than 25 percent of their base salary as a result of receiving shared leave.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except for Section 2 which contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: A state employee had a child with chronic illness that required intermittent leave to address these needs, colleagues were willing to share leave but school districts indicated that he was not allowed to take intermittent leave and must spend all leave balances before shared leave could be used. This will be helpful to a lot of employees who may have these medical issues or family members that do and that may need similar intermittent use of leave for treatment. This bill tries to address these issues. This will not increase or decrease total amount of leave available, it will just help distribute these hours to those who need it. The bill still gives employers the ability to approve or disapprove the leave. Support the idea of rolling in other amendments to shared leave proposed this session to allow for a broader allowance of maintaining leave to

qualify for shared leave and clarification regarding the use of leave for Labor and Industry purposes as well.

**Persons Testifying:** PRO: Representative Shelley Kloba, Prime Sponsor; Matt Zuvich, American Federation of State, County and Municipal Employees Council 28, Washington Federation of State Employees; Julie Salvi, Washington Education Association; Seamus Petrie, Washington Public Employees Association.

**Persons Signed In To Testify But Not Testifying:** No one.