
HOUSE BILL 3037

State of Washington

58th Legislature

2004 Regular Session

By Representatives Simpson, G., Delvin, Cooper, Hankins, Campbell and Chase

Read first time 01/27/2004. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to making employees entitled to accrue seniority
2 benefits while on family leave; amending RCW 49.78.005 and 49.78.080;
3 and creating a new section.

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

5 **Sec. 1.** RCW 49.78.005 and 1997 c 16 s 1 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (2) of this section, the
8 department shall cease to administer and enforce this chapter beginning
9 on July 27, 1997, and until the earlier of the following dates:

10 (a) The effective date of the repeal of the federal family and
11 medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6);
12 or

13 (b) July 1st of the year following the year in which amendments to
14 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,
15 P.L. 103-3, 107 Stat. 6) take effect that provide less family leave
16 than is provided under RCW 49.78.030. In determining whether the
17 federal law provides the same or more leave, the department shall only
18 consider whether (i) the total period of leave allowed under the
19 amended federal law is twelve or more workweeks in a twenty-four month

1 period, and (ii) the types of leave authorized under the amended
2 federal law are similar to the types authorized (~~(in this chapter)~~)
3 under RCW 49.78.030.

4 (2)(a) The following provisions of this chapter are in effect:

5 (i) An employee's right under RCW 49.78.070(1)(b) to be returned to
6 a workplace within twenty miles of the employee's workplace when leave
7 commenced (~~(shall remain in effect.)~~);

8 (ii) An employee's right under RCW 49.78.080 to accrue seniority
9 benefits during any period of leave; and

10 (iii) An employee's entitlement to leave for sickness or temporary
11 disability because of pregnancy or childbirth, which shall be in
12 addition to the family leave required by 29 U.S.C. (~~(29.2612))~~ Sec.
13 2612 (a)(1)(A) and (B) of the federal family and medical leave act of
14 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) (~~(shall be in addition~~
15 to any leave for sickness or temporary disability because of pregnancy
16 or childbirth)).

17 (b) The department shall enforce this subsection under RCW
18 49.78.140 through 49.78.190, except that an initial notice of
19 infraction shall state that the employer has thirty days in which to
20 take corrective action. No infraction or penalty may be assessed if
21 the employer complies with the requirements of the initial notice of
22 infraction.

23 **Sec. 2.** RCW 49.78.080 and 1989 1st ex.s. c 11 s 8 are each amended
24 to read as follows:

25 (1) The taking of leave under this chapter shall not result in the
26 loss of any benefit, including seniority or pension rights, accrued
27 before the date on which the leave commenced.

28 (2) An employee is entitled to accrue seniority benefits during any
29 period of leave under the federal family and medical leave act of 1993,
30 this chapter, or other applicable federal, state, or local law.

31 (3) Except as provided in subsection (2) of this section, nothing
32 in this chapter shall be construed to require the employer to grant
33 benefits, including (~~seniority or~~) pension rights, during any period
34 of leave.

35 ~~((+3))~~ (4) All policies applied during the period of leave to the
36 classification of employees to which the employee on leave belongs
37 shall apply to the employee on leave.

1 (~~(4)~~) (5) During any period of leave taken under RCW 49.78.030,
2 if the employee is not eligible for any employer contribution to
3 medical or dental benefits under an applicable collective bargaining
4 agreement or employer policy during any period of leave, an employer
5 shall allow the employee to continue, at his or her own expense,
6 medical or dental insurance coverage, including any spouse and
7 dependent coverage, in accordance with state or federal law. The
8 premium to be paid by the employee shall not exceed one hundred two
9 percent of the applicable premium for the leave period.

10 NEW SECTION. **Sec. 3.** With respect to employees covered by a
11 collective bargaining agreement in effect on the effective date of this
12 section or an employee benefit plan with a stated year ending on or
13 after the effective date of this section, this act does not apply until
14 the later of: (1) The first day following expiration of the collective
15 bargaining agreement; or (2) the first day of the next plan year, as
16 applicable.

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