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## Government Operations & Elections Committee

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### HB 2473

**Brief Description:** Encouraging citizens to serve in the legislature by creating leave provisions for legislative service.

**Sponsors:** Representatives Liias, Rodne, Sells, Reykdal, Pollet and Freeman.

#### Brief Summary of Bill

- Requires employers to grant a temporary leave of absence without loss of job status or seniority to employees serving in the state legislature.
- Authorizes a private right of action to receive an award for damages, reinstatement, and attorneys' fees and costs.

**Hearing Date:** 1/21/14, 1/22/14

**Staff:** Jasmine Vasavada (786-7301).

#### Background:

State and federal laws address leave from employment, providing that under certain circumstances, an employer may not discharge or take other adverse employment action against an employee for taking leave. Some well known examples of these laws are the federal and state Family and Medical Leave Acts, the federal Uniformed Services Employment and Reemployment Rights Act, and the federal Pregnancy Discrimination Act. Washington law provides protected leave for a number of classes of employees, including volunteer firefighters, spouses of deployed military personnel, domestic violence victims, and bargaining unit representatives. A number of states have laws that specifically protect the employment of employees who are legislators. No such protection currently exists under Washington law.

Under the Ethics in Public Service Act, state officers and employees are prohibited from receiving anything of economic value under any contract outside of his or her official duties

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unless certain conditions have been met to help ensure that no conflict of interest exists. However, Article II of the Washington Constitution provides for the legislature to be convened each year only for a limited number of days, unless a special session is convened by the governor or by resolution of two-thirds of the members of each house. In light of this, the Legislative Ethics Board has recognized a presumption in favor of a legislator's ability to be employed outside the legislature, without such employment being considered a conflict of interest under state ethics laws.

### **Summary of Bill:**

An employer must grant a temporary leave of absence without loss of job status or seniority to an employee who is a member or prospective member of the state legislature, in order for that employee to perform any official duty as a member of the legislature during regular and special legislative sessions. The employer is prohibited from discharging or threatening to discharge an employee for taking the temporary leave of absence.

The definition of "employer" includes both private sector and public sector entities: (a) any person, association, partnership, or private or public corporation that employs or exercises control over wages, hours, or working conditions of 10 or more employees; (b) the state, state institutions, and state agencies; and (c) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision. The provisions apply both to current legislators and to a "prospective member" of the legislature, defined as a person who is certified or appointed to serve in the legislature but who has not taken the oath of office.

### Notice and Compliance.

The employee seeking a temporary leave of absence must provide notice to the employer of the employee's intention to take leave. In the case of a regular legislative session, this notice must be provided at least 30-days in advance of the session. In the case of a special legislative session, the notice must be provided as soon as the governor or legislature proclaims the special session. An employer may comply by granting unpaid leave, or by substituting any accrued paid leave to which the employee is entitled.

### Civil Action.

The right to a temporary leave of absence may be enforced through a civil action brought by an employee, at his or her own expense. The employee may seek damages and an order requiring reinstatement. An employee who prevails in court is entitled to costs and reasonable attorneys' fees. No public resources may be used, directly, or indirectly, to bring or maintain the civil action.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.