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ENGROSSED SUBSTITUTE SENATE BILL 6724

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State of Washington

61st Legislature

2010 Regular Session

**By** Senate Government Operations & Elections (originally sponsored by Senators Kilmer, Kauffman, Eide, Berkey, Murray, Shin, and Keiser)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to the leave sharing program; amending RCW  
2 41.04.665; and declaring an emergency.

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

4 **Sec. 1.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read  
5 as follows:

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

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

11 (ii) The employee has been called to service in the uniformed  
12 services;

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

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

3 (b) The illness, injury, impairment, condition, call to service,  
4 emergency volunteer service, or consequence of domestic violence,  
5 sexual assault, or stalking has caused, or is likely to cause, the  
6 employee to:

7 (i) Go on leave without pay status; or  
8 (ii) Terminate state employment;

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

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

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

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

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

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

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

26 (2) The agency head shall determine the amount of leave, if any,  
27 which an employee may receive under this section. However, an employee  
28 shall not receive a total of more than ~~((two hundred sixty one))~~ the  
29 following number of days of leave ~~((7-except-that))~~: (a) For an  
30 employee with fewer than ten years of service, two hundred sixty-one  
31 days; (b) for an employee with at least ten but fewer than twenty years  
32 of service, five hundred twenty-two days; and (c) for an employee with  
33 twenty or more years of service, seven hundred eighty-three days.  
34 Shared leave received under the uniformed service shared leave pool in  
35 RCW 41.04.685 is not ((included-in-this-total)) subject to the  
36 limitations under (a) through (c) of this subsection.

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

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

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

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

21 (4) An employee of an institution of higher education under RCW  
22 28B.10.016, school district, or educational service district who does  
23 not accrue annual leave but does accrue sick leave and who has an  
24 accrued sick leave balance of more than twenty-two days may request  
25 that the head of the agency for which the employee works transfer a  
26 specified amount of sick leave to another employee authorized to  
27 receive leave under subsection (1) of this section. In no event may  
28 such an employee request a transfer that would result in his or her  
29 sick leave account going below twenty-two days. Transfers of sick  
30 leave under this subsection are limited to transfers from employees who  
31 do not accrue annual leave. Under this subsection, "sick leave" also  
32 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)  
33 with compensation for illness, injury, and emergencies.

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

36 (6) Leave transferred under this section may be transferred from  
37 employees of one agency to an employee of the same agency or, with the  
38 approval of the heads of both agencies, to an employee of another state

1 agency. (~~However, leave transferred to or from employees of school~~  
2 ~~districts or educational service districts is limited to transfers to~~  
3 ~~or from employees within the same employing district.~~)

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

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

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

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

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

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

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

31 (9) The value of any leave transferred under this section which  
32 remains unused shall be returned at its original value to the employee  
33 or employees who transferred the leave when the agency head finds that  
34 the leave is no longer needed or will not be needed at a future time in  
35 connection with the illness or injury for which the leave was  
36 transferred or for any other qualifying condition. Before the agency  
37 head makes a determination to return unused leave in connection with an  
38 illness or injury, or any other qualifying condition, he or she must

1 receive from the affected employee a statement from the employee's  
2 doctor verifying that the illness or injury is resolved. To the extent  
3 administratively feasible, the value of unused leave which was  
4 transferred by more than one employee shall be returned on a pro rata  
5 basis.

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

9 (11) The director of personnel may adopt rules as necessary to  
10 implement subsection (2)(a) through (c) of this section.

11 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 immediately.

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