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HOUSE BILL 2557

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State of Washington                      64th Legislature                      2016 Regular Session

By Representatives S. Hunt and Reykdal

Read first time 01/14/16. Referred to Committee on State Government.

1            AN ACT Relating to the return of unused shared leave; and  
2 amending RCW 41.04.665.

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

4            **Sec. 1.** RCW 41.04.665 and 2015 3rd sp.s. c 1 s 312 are each  
5 amended to read 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  
18 in the devastated area, and the governmental agency or nonprofit  
19 organization accepts the employee's offer of volunteer services; or

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

1 (b) The illness, injury, impairment, condition, call to service,  
2 emergency volunteer service, or consequence of domestic violence,  
3 sexual assault, temporary layoff under section 3(5), chapter 32, Laws  
4 of 2010 1st sp. sess., or stalking has caused, or is likely to cause,  
5 the employee to:

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

7 (ii) Terminate state employment;

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

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

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

13 (ii) Annual leave and paid military leave allowed under RCW  
14 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

15 (iii) Annual leave if he or she qualifies under (a)(iii) or (iv)  
16 of this subsection;

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

18 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of  
19 this subsection; or

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

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

25 (2) The agency head shall determine the amount of leave, if any,  
26 which an employee may receive under this section. However, an  
27 employee shall not receive a total of more than five hundred twenty-  
28 two days of leave, except that, a supervisor may authorize leave in  
29 excess of five hundred twenty-two days in extraordinary circumstances  
30 for an employee qualifying for the shared leave program because he or  
31 she is suffering from an illness, injury, impairment, or physical or  
32 mental condition which is of an extraordinary or severe nature.  
33 Shared leave received under the uniformed service shared leave pool  
34 in RCW 41.04.685 is not included in this total.

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

37 (a) An employee who has an accrued annual leave balance of more  
38 than ten days may request that the head of the agency for which the  
39 employee works transfer a specified amount of annual leave to another  
40 employee authorized to receive leave under subsection (1) of this

1 section. In no event may the employee request a transfer of an amount  
2 of leave that would result in his or her annual leave account going  
3 below ten days. For purposes of this subsection (3)(a), annual leave  
4 does not accrue if the employee receives compensation in lieu of  
5 accumulating a balance of annual leave.

6 (b) An employee may transfer a specified amount of sick leave to  
7 an employee requesting shared leave only when the donating employee  
8 retains a minimum of one hundred seventy-six hours of sick leave  
9 after the transfer.

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

17 (4) An employee of an institution of higher education under RCW  
18 28B.10.016, school district, or educational service district who does  
19 not accrue annual leave but does accrue sick leave and who has an  
20 accrued sick leave balance of more than twenty-two days may request  
21 that the head of the agency for which the employee works transfer a  
22 specified amount of sick leave to another employee authorized to  
23 receive leave under subsection (1) of this section. In no event may  
24 such an employee request a transfer that would result in his or her  
25 sick leave account going below twenty-two days. Transfers of sick  
26 leave under this subsection are limited to transfers from employees  
27 who do not accrue annual leave. Under this subsection, "sick leave"  
28 also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or  
29 28A.310.240(1) with compensation for illness, injury, and  
30 emergencies.

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

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

37 (7) While an employee is on leave transferred under this section,  
38 he or she shall continue to be classified as a state employee and  
39 shall receive the same treatment in respect to salary, wages, and

1 employee benefits as the employee would normally receive if using  
2 accrued annual leave or sick leave.

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

7 (b) In the case of leave transferred by an employee of one agency  
8 to an employee of another agency, the agencies involved shall arrange  
9 for the transfer of funds and credit for the appropriate value of  
10 leave.

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

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

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

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

26 (9)(a) The value of any leave transferred under this section  
27 which remains unused shall be returned at its original value to the  
28 employee or employees who transferred the leave when the agency head  
29 finds that the leave is no longer needed or will not be needed at a  
30 future time in connection with the illness or injury for which the  
31 leave was transferred or for any other qualifying condition. (~~Before~~  
32 ~~the agency head makes a determination to return unused leave in~~  
33 ~~connection with an illness or injury, or any other qualifying~~  
34 ~~condition, he or she must~~) Unused shared leave may not be returned  
35 until one of the following occurs:

36 (i) The agency head receives from the affected employee a  
37 statement from the employee's doctor verifying that the illness or  
38 injury is resolved((-)); or

39 (ii) The employee is released to full-time employment; has not  
40 received additional medical treatment for his or her current

1 condition or any other qualifying condition for at least six months;  
2 and the employee's doctor has declined, in writing, the employee's  
3 request for a statement indicating the employee's condition has been  
4 resolved.

5 (b) If a shared leave account is closed and an employee later has  
6 a need to use shared leave due to the same condition listed in the  
7 closed account, the agency head must approve a new shared leave  
8 request for the employee.

9 (c) To the extent administratively feasible, the value of unused  
10 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  
14 leave that he or she used.

15 (11) The director of financial management may adopt rules as  
16 necessary to implement subsection (2) of this section.

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