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HOUSE BILL 1802

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State of Washington

65th Legislature

2017 Regular Session

**By** Representatives Reeves, Springer, Kilduff, Farrell, Appleton, Stonier, Stanford, Kloba, Frame, Ryu, Tharinger, Pellicciotti, Macri, Chapman, Fitzgibbon, Jinkins, Orwall, Doglio, Lovick, Riccelli, Peterson, Gregerson, Blake, Ortiz-Self, Ormsby, Bergquist, Fey, and Pollet

Read first time 01/30/17. Referred to Committee on Community Development, Housing & Tribal Affairs.

1 AN ACT Relating to increasing the access of veterans, military  
2 service members, and military spouses to shared leave in state  
3 employment; and amending RCW 41.04.665 and 41.04.685.

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

5 **Sec. 1.** RCW 41.04.665 and 2016 c 177 s 1 are each amended to  
6 read as follows:

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

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

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

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

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

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

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

9 (ii) Terminate state employment;

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

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

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

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

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

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

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

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

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

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

37 (3) The agency head must allow employees who are current or  
38 former uniformed service members, and their military spouses, to  
39 access shared leave from the uniformed service shared leave pool upon  
40 employment.

1       (4) An employee may transfer annual leave, sick leave, and his or  
2 her personal holiday, as follows:

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

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

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

23       ~~((+4+))~~ (5) An employee of an institution of higher education  
24 under RCW 28B.10.016, school district, or educational service  
25 district who does not accrue annual leave but does accrue sick leave  
26 and who has an accrued sick leave balance of more than twenty-two  
27 days may request that the head of the agency for which the employee  
28 works transfer a specified amount of sick leave to another employee  
29 authorized to receive leave under subsection (1) of this section. In  
30 no event may such an employee request a transfer that would result in  
31 his or her sick leave account going below twenty-two days. Transfers  
32 of sick leave under this subsection are limited to transfers from  
33 employees who do not accrue annual leave. Under this subsection,  
34 "sick leave" also includes leave accrued pursuant to RCW  
35 28A.400.300(1)(b) or 28A.310.240(1) with compensation for illness,  
36 injury, and emergencies.

37       ~~((+5+))~~ (6) Transfers of leave made by an agency head under  
38 subsections ~~((+3+and))~~ (4) and (5) of this section shall not exceed  
39 the requested amount.

1       ~~((6))~~ (7) Leave transferred under this section may be  
2 transferred from employees of one agency to an employee of the same  
3 agency or, with the approval of the heads of both agencies, to an  
4 employee of another state agency.

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

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

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

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

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

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

30       ~~((8))~~ (9) Leave transferred under this section shall not be  
31 used in any calculation to determine an agency's allocation of full  
32 time equivalent staff positions.

33       ~~((9))~~ (10)(a) The value of any leave transferred under this  
34 section which remains unused shall be returned at its original value  
35 to the employee or employees who transferred the leave when the  
36 agency head finds that the leave is no longer needed or will not be  
37 needed at a future time in connection with the illness or injury for  
38 which the leave was transferred or for any other qualifying  
39 condition. Unused shared leave may not be returned until one of the  
40 following occurs:

1 (i) The agency head receives from the affected employee a  
2 statement from the employee's doctor verifying that the illness or  
3 injury is resolved; or

4 (ii) The employee is released to full-time employment; has not  
5 received additional medical treatment for his or her current  
6 condition or any other qualifying condition for at least six months;  
7 and the employee's doctor has declined, in writing, the employee's  
8 request for a statement indicating the employee's condition has been  
9 resolved.

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

14 (c) To the extent administratively feasible, the value of unused  
15 leave which was transferred by more than one employee shall be  
16 returned on a pro rata basis.

17 ~~((10))~~ (11) An employee who uses leave that is transferred to  
18 him or her under this section may not be required to repay the value  
19 of the leave that he or she used.

20 ~~((11))~~ (12) The director of financial management may adopt  
21 rules as necessary to implement subsection (2) of this section.

22 **Sec. 2.** RCW 41.04.685 and 2011 1st sp.s. c 43 s 438 are each  
23 amended to read as follows:

24 (1) The uniformed service shared leave pool is created to allow  
25 employees to donate leave to be used as shared leave for any employee  
26 who has been called to service in the uniformed services and who  
27 meets the requirements of RCW 41.04.665. Participation in the pool  
28 shall, at all times, be voluntary on the part of the employee. The  
29 military department, in consultation with the office of financial  
30 management, shall administer the uniformed service shared leave pool.

31 (2) Employees as defined in subsection (10) of this section who  
32 are eligible to donate leave under RCW 41.04.665 may donate leave to  
33 the uniformed service shared leave pool.

34 (3) An employee as defined in subsection (10) of this section who  
35 has been called to service in the uniformed services and is eligible  
36 for shared leave under RCW 41.04.665 may request shared leave from  
37 the uniformed service shared leave pool at any time during employment  
38 with the state.

1 (4) It shall be the responsibility of the employee who has been  
2 called to service to provide an earnings statement verifying military  
3 salary, orders of service, and notification of a change in orders of  
4 service or military salary.

5 (5) Shared leave under this section may not be granted unless the  
6 pool has a sufficient balance to fund the requested shared leave for  
7 the expected term of service.

8 (6) Shared leave paid under this section, in combination with  
9 military salary, shall not exceed the level of the employee's state  
10 monthly salary.

11 (7) Any leave donated shall be removed from the personally  
12 accumulated leave balance of the employee donating the leave.

13 (8) An employee who receives shared leave from the pool is not  
14 required to recontribute such leave to the pool, except as otherwise  
15 provided in this section.

16 (9) Leave that may be donated or received by any one employee  
17 shall be calculated as in RCW 41.04.665.

18 (10) As used in this section:

19 (a) "Employee" has the meaning provided in RCW 41.04.655, except  
20 that "employee" as used in this section does not include employees of  
21 school districts and educational service districts.

22 (b) "Service in the uniformed services" has the meaning provided  
23 in RCW 41.04.655.

24 (c) "Military salary" includes base, specialty, and other pay,  
25 but does not include allowances such as the basic allowance for  
26 housing.

27 (d) "Monthly salary" includes monthly salary and special pay and  
28 shift differential, or the monthly equivalent for hourly employees.  
29 "Monthly salary" does not include:

- 30 (i) Overtime pay;
- 31 (ii) Call back pay;
- 32 (iii) Standby pay; or
- 33 (iv) Performance bonuses.

34 (11) The office of financial management, in consultation with the  
35 military department, shall adopt rules and policies governing the  
36 donation and use of shared leave from the uniformed service shared  
37 leave pool, including definitions of pay and allowances and  
38 guidelines for agencies to use in recordkeeping concerning shared  
39 leave.

1           (12) Agencies shall investigate any alleged abuse of the  
2 uniformed service shared leave pool and on a finding of wrongdoing,  
3 the employee may be required to repay all of the shared leave  
4 received from the uniformed service shared leave pool.

5           (13) Higher education institutions shall adopt policies  
6 consistent with the needs of the employees under their respective  
7 jurisdictions.

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