

**ESB 5294** - H COMM AMD

By Committee on State Government & Tribal Relations

**NOT CONSIDERED 12/23/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The Washington state legislature is  
4 purposefully designed to be a part-time legislature to provide people  
5 from all areas of life the opportunity to participate. All businesses  
6 and industries, in the private and public sector, benefit when the  
7 legislature is made up of the broadest possible representation.

8 (2) It is a significant public policy to encourage citizens to  
9 serve in the legislature. However, serving as a legislator is often  
10 demanding and time consuming, and most legislators have other  
11 employment to support themselves and their families.

12 (3) Other states have enacted legislation addressing the duties  
13 and responsibilities of legislators and prospective legislators in  
14 relation to their regular employment. The intent of this act is to  
15 align Washington law with that of other similar states with part-time  
16 legislatures. It is already a crime in Washington to intimidate a  
17 public servant in an attempt to influence the public servant's vote,  
18 opinion, decision, or other official action. It is the intent of this  
19 chapter to create a civil remedy to ensure that legislators are able  
20 to remain independent, and not face undue influence from their  
21 outside employers, by being able to take a leave of absence from  
22 outside employment to serve the public interest during regular and  
23 special legislative sessions.

24 NEW SECTION. **Sec. 2.** For the purposes of this chapter,  
25 "employer" means: (1) Any person or business entity that employs or  
26 exercises control over wages, hours, or working conditions of ten or  
27 more employees; (2) the state, state institutions, and state  
28 agencies; and (3) any unit of local government including, but not  
29 limited to, a county, city, town, municipal corporation, quasi-  
30 municipal corporation, or political subdivision.

1        NEW SECTION.    **Sec. 3.**    (1) Except as provided in subsection (4)  
2 of this section, an employer must grant a temporary leave of absence  
3 without loss of job status or seniority to an employee who is a  
4 member or a member-elect of the state legislature in order for that  
5 employee to serve as a member of the legislature during regular and  
6 special legislative sessions.

7        (2) The leave of absence under this chapter may be unpaid. An  
8 employer may allow an employee to use accrued paid leave to which the  
9 employee is entitled for any part of the leave provided under this  
10 chapter.

11        (3) An employee who seeks leave under this chapter must provide  
12 the employer with notice of the employee's intention to take leave:

13        (a) At least thirty days before a regular legislative session;  
14 and

15        (b) As soon as it is reasonably apparent that a special  
16 legislative session will be called.

17        (4) An employer is not required to grant a leave of absence if:

18        (a) The employee does not provide notice as required by  
19 subsection (3) of this section;

20        (b) The employee was employed by the employer for less than  
21 ninety days immediately before the first day of the leave of absence;  
22 or

23        (c) The employment is on a temporary basis.

24        NEW SECTION.    **Sec. 4.**    (1) No employer may discharge or threaten  
25 to discharge, intimidate, or coerce any employee if the employee  
26 seeks leave under this chapter.

27        (2) At the end of the leave of absence under this section, an  
28 employee must be restored to the same employment position the  
29 employee held immediately before the first day of the leave of  
30 absence without loss of seniority, the right to participate in  
31 insurance, or any other employment benefits, if the position still  
32 exists. If the position does not still exist, the employee must be  
33 restored to as similar a position as possible, without loss of  
34 seniority, the right to participate in insurance, or any other  
35 employment benefits.

36        (3) The protections of this section do not apply if:

37        (a) The employee does not return to employment within:

38        (i) Fifteen days after adjournment sine die of a regular  
39 legislative session; or

1 (ii) Five days after adjournment of a special legislative  
2 session; or

3 (b) The circumstances of the employer have so changed during the  
4 leave of absence as to make a return to employment impossible or  
5 unreasonable.

6 NEW SECTION. **Sec. 5.** (1) If an employer violates the provisions  
7 of this chapter, the employee may bring a civil action, at his or her  
8 own expense, in superior court for damages and an order requiring the  
9 reinstatement of the employee. A prevailing employee is entitled to  
10 costs and reasonable attorneys' fees. Public resources may not be  
11 used, directly or indirectly, to bring or maintain a civil action  
12 under this section.

13 (2) The remedy provided in this section is in addition to any  
14 common law remedy or other remedy that may be available to the  
15 employee.

16 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
17 constitute a new chapter in Title 49 RCW."

18 Correct the title.

EFFECT: Prohibits an employer from intimidating or coercing an employee because the employee seeks a leave of absence to serve as a legislator. Removes provisions allowing the act to be enforced retroactively. Specifies that an employer may, rather than must, allow an employee to use accrued paid leave for any part of the leave of absence. Provides specific exceptions to the general rule that an employee must be allowed to take a leave of absence or is entitled to restoration of employment following a leave of absence. Allows an aggrieved employee to sue an employer that violates the act for damages and to seek any other remedy that may be available, and provides for costs and reasonable attorneys' fees to be awarded to a prevailing employee.

--- END ---