

# SENATE BILL REPORT

## ESB 5294

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As of Third Reading

**Title:** An act relating to encouraging citizens to serve in the legislature by creating leave provisions for legislative service.

**Brief Description:** Creating leave provisions for legislative service.

**Sponsors:** Senators Hunt, Hasegawa, Pedersen, Kuderer, Zeiger, Takko, Keiser and Saldaña.

**Brief History:**

**Committee Activity:** State Government, Tribal Relations & Elections: 2/01/19, 2/06/19 [DP].

**Brief Summary of Bill**

- Requires that an employer grant a temporary leave of absence without loss of job status or seniority to an employee who is a member of the state Legislature.

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### SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

**Majority Report:** Do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Zeiger, Ranking Member; Bailey, Hasegawa, Hawkins and Takko.

**Staff:** Melissa Van Gorkom (786-7491)

**Background:** The Washington State Constitution provides for the Legislature to be convened each year only for a limited number of days, unless a special session is convened. In light of this, the Legislative Ethics Board has recognized a presumption in favor of a legislator's ability to be employed outside of the Legislature, without such employment being considered a conflict of interest under state ethics laws.

State and federal laws address leave from employment, providing 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 include

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state and federal family and medical leave laws. Washington law provides protected leave for a number of classes of employees, including spouses of deployed military personnel, domestic violence victims, and volunteer firefighters. Some states have laws specifically protecting the employment of employees who are legislators. No such protection currently exists under Washington law.

**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 of the state Legislature, for that employee to perform any official duty as a member of the Legislature during regular and special legislative sessions. The employer may comply by granting unpaid leave, or by substituting any accrued paid leave to which the employee is entitled. An employer is prohibited from discharging or threatening to discharge an employee for taking the temporary leave of absence.

The employee seeking a temporary leave of absence must provide notice at least 30 days in advance of a regular session and as soon as the Governor or Legislature proclaims a special session.

An employee may only bring a civil action, at their own expense, in superior court for an order requiring the reinstatement of the employee. No public resources may be used, directly or indirectly, to bring or maintain the civil action.

The bill is retroactive to January 1, 2019.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Discovered that there is a question as to whether or not an employer could deny someone time off to go to the Legislature and so the bill would clarify this.

**Persons Testifying:** PRO: Senator Sam Hunt, Prime Sponsor.

**Persons Signed In To Testify But Not Testifying:** No one.