

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2557

Chapter 177, Laws of 2016

64th Legislature
2016 Regular Session

UNUSED SHARED LEAVE--RETURN CRITERIA

EFFECTIVE DATE: 6/9/2016

Passed by the House February 11, 2016
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 1, 2016
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved April 1, 2016 3:34 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2557** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 4, 2016

**Secretary of State
State of Washington**

HOUSE BILL 2557

Passed Legislature - 2016 Regular Session

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.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

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