
HOUSE BILL 2739

State of Washington

66th Legislature

2020 Regular Session

By Representatives Kloba and Stonier

1 AN ACT Relating to adjusting certain requirements of the shared
2 leave program; and 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 2019 c 64 s 17 are each amended to
5 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) The employee is a current member of the uniformed services
14 or is a veteran as defined under RCW 41.04.005, and is attending
15 medical appointments or treatments for a service connected injury or
16 disability;

17 (iv) The employee is a spouse of a current member of the
18 uniformed services or a veteran as defined under RCW 41.04.005, who
19 is attending medical appointments or treatments for a service
20 connected injury or disability and requires assistance while
21 attending appointment or treatment;

1 (v) A state of emergency has been declared anywhere within the
2 United States by the federal or any state government and the employee
3 has needed skills to assist in responding to the emergency or its
4 aftermath and volunteers his or her services to either a governmental
5 agency or to a nonprofit organization engaged in humanitarian relief
6 in the devastated area, and the governmental agency or nonprofit
7 organization accepts the employee's offer of volunteer services;

8 (vi) The employee is a victim of domestic violence, sexual
9 assault, or stalking;

10 (vii) The employee needs the time for parental leave; or

11 (viii) The employee is sick or temporarily disabled because of
12 pregnancy disability;

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

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

19 (ii) Terminate state employment;

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

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

23 (i) Annual leave and sick leave reserves if he or she qualifies
24 under (a)(i) of this subsection. However, the employee is not
25 required to deplete all of his or her annual leave and sick leave;

26 (ii) Annual leave and paid military leave allowed under RCW
27 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

28 (iii) Annual leave if he or she qualifies under (a)(v) or (vi)
29 of this subsection; or

30 (iv) Annual leave and sick leave reserves if the employee
31 qualifies under (a)(vii) or (viii) of this subsection. However, the
32 employee is not required to deplete all of his or her annual leave
33 and sick leave and can maintain up to forty hours of annual leave and
34 forty hours of sick leave in reserve;

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

36 (i) Sick leave use if he or she qualifies under (a)(i), (vi),
37 (vii), or (viii) of this subsection; or

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

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

4 (2) The agency head shall determine the amount of leave, if any,
5 which an employee may receive under this section. However, the agency
6 head may not prevent an employee from using shared leave
7 intermittently or on nonconsecutive days so long as the leave has not
8 been returned under subsection (10) of this section. In addition, an
9 employee shall not receive a total of more than five hundred twenty-
10 two days of leave, except that, a supervisor may authorize leave in
11 excess of five hundred twenty-two days in extraordinary circumstances
12 for an employee qualifying for the shared leave program because he or
13 she is suffering from an illness, injury, impairment, or physical or
14 mental condition which is of an extraordinary or severe nature.
15 Shared leave received under the uniformed service shared leave pool
16 in RCW 41.04.685 is not included in this total.

17 (3) The agency head must allow employees who are veterans, as
18 defined under RCW 41.04.005, and their spouses, to access shared
19 leave from the veterans' in-state service shared leave pool upon
20 employment.

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

23 (a) An employee who has an accrued annual leave balance of more
24 than ten days may request that the head of the agency for which the
25 employee works transfer a specified amount of annual leave to another
26 employee authorized to receive leave under subsection (1) of this
27 section. In no event may the employee request a transfer of an amount
28 of leave that would result in his or her annual leave account going
29 below ten days. For purposes of this subsection (4)(a), annual leave
30 does not accrue if the employee receives compensation in lieu of
31 accumulating a balance of annual leave.

32 (b) An employee may transfer a specified amount of sick leave to
33 an employee requesting shared leave only when the donating employee
34 retains a minimum of one hundred seventy-six hours of sick leave
35 after the transfer.

36 (c) An employee may transfer, under the provisions of this
37 section relating to the transfer of leave, all or part of his or her
38 personal holiday, as that term is defined under RCW 1.16.050, or as
39 such holidays are provided to employees by agreement with a school
40 district's board of directors if the leave transferred under this

1 subsection does not exceed the amount of time provided for personal
2 holidays under RCW 1.16.050.

3 (5) An employee of an institution of higher education under RCW
4 28B.10.016, school district, or educational service district who does
5 not accrue annual leave but does accrue sick leave and who has an
6 accrued sick leave balance of more than twenty-two days may request
7 that the head of the agency for which the employee works transfer a
8 specified amount of sick leave to another employee authorized to
9 receive leave under subsection (1) of this section. In no event may
10 such an employee request a transfer that would result in his or her
11 sick leave account going below twenty-two days. Transfers of sick
12 leave under this subsection are limited to transfers from employees
13 who do not accrue annual leave. Under this subsection, "sick leave"
14 also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or
15 28A.310.240(1) with compensation for illness, injury, and
16 emergencies.

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

19 (7) Leave transferred under this section may be transferred from
20 employees of one agency to an employee of the same agency or, with
21 the approval of the heads of both agencies, to an employee of another
22 state agency.

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

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

32 (b) In the case of leave transferred by an employee of one agency
33 to an employee of another agency, the agencies involved shall arrange
34 for the transfer of funds and credit for the appropriate value of
35 leave.

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

1 (ii) The office of financial management may adjust the
2 appropriation authority of an agency receiving funds under this
3 section only if and to the extent that the agency's existing
4 appropriation authority would prevent it from expending the funds
5 received.

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

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

12 (10)(a) The value of any leave transferred under this section
13 which remains unused shall be returned at its original value to the
14 employee or employees who transferred the leave when the agency head
15 finds that the leave is no longer needed or will not be needed at a
16 future time in connection with the illness or injury for which the
17 leave was transferred or for any other qualifying condition. Unused
18 shared leave may not be returned until one of the following occurs:

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

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

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

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

35 (11) An employee who uses leave that is transferred to him or her
36 under this section may not be required to repay the value of the
37 leave that he or she used.

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

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