STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2472 BY: THOMPSON

AS INTRODUCED

AN ACT RELATING TO STATE GOVERNMENT; AMENDING 74 O.S. 1991, SECTIONS 840.7C AND 840.7D, WHICH RELATE TO STATE EMPLOYEE LEAVE PLANS; AUTHORIZING STATE EMPLOYEES TO DONATE ANNUAL LEAVE FOR FAMILY LEAVE AS A PART OF THE LEAVE SHARING PROGRAM; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 1991, Section 840.7c, is amended to read as follows:

Section 840.7c A. The Administrator of the Office of Personnel Management shall promulgate emergency and permanent rules which entitle state employees to family leave and entitle state employees to donate annual leave pursuant to Section 840.7d of this title to other employees for family leave. The Office of Personnel Management, in promulgating rules concerning family leave, shall ensure that the following provisions are incorporated:

1. Family leave rules shall be applicable to all permanent classified and regular unclassified and exempt state employees with over six (6) months of continuous service;

2. Family leave shall include use of annual leave, enforced leave, leave without pay, and sick leave due to pregnancy as provided in the rules promulgated by the Office of Personnel Management, annual leave donated by other state employees, pursuant to Section 840.7d of this title, or any one or a combination of these or other types of leave taken in family situations. Family leave shall not be accrued or accumulated;

3. Family leave rules must specify that:

a. family leave must be taken within one (1) year of the birth or placement of a child or as required to provide care to a dependent adult,

b. employees must be required to provide reasonable notice if possible, and

c. whenever possible, employees must schedule their leave to accommodate the needs of the employer, if the need for leave is foreseeable and it is medically feasible to do so;

4. Upon returning to work from family leave, the employee shall have the right to be restored to the original position of the employee; and

5. While on leave without pay, the employee shall be eligible to continue the state employee group health and life insurance coverage of the employee upon proper application and payment of premiums;

B. Promulgation of rules on family leave by the Administrator of the Office of Personnel Management pursuant to the provisions of this section shall not prohibit employers from choosing to also approve requests for leave which are otherwise permitted by law.

C. The Administrator of the Office of Personnel Management shall assist any agency, pursuant to the State Personnel Interchange Program, in securing any needed services for such agency brought about as a result of an employee on family leave.

D. As used in this section "family leave" means leave of absence from state service resulting from:

1. childbirth;

2. receiving custody of a child through adoption; or

3. the care of terminally or critically ill child or dependent adult.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 840.7d, is amended to read as follows:

Section 840.7d A. There is hereby created the state leave sharing program. The purpose of the state leave sharing program is to permit state employees to donate annual leave to a fellow state employee who <u>is eligible for and requires family leave or who</u> is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate employment.

B. As used in this section:

1. "Relative of the employee" shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee;

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

3. "Severe" or "extraordinary" means serious, extreme or life threatening; and

4. "State employee" means a permanent classified employee or a regular unclassified employee with over six (6) months continuous service with the state. It does not include classified employees in

probationary status or unclassified employees on temporary or other limited term appointments.

C. An employee may be eligible to receive shared leave pursuant to the following conditions:

1. The chief administrative officer of the employee determines that the employee meets the criteria described in this section; and

2. The employee has abided by state policies regarding the use of sick leave.

D. An employee may donate annual leave to another employee only pursuant to the following conditions:

1. a. The receiving employee has exhausted, or will exhaust, all annual leave and sick leave due to an illness, injury, impairment, or physical or mental condition, which is of an extraordinary or severe nature, and involves the employee, a relative of the employee or household member;

   b. The condition has caused, or is likely to cause, the employee to go on leave without pay or terminate employment; and

   c. The chief administrative officer of the employee permits the leave to be shared with an eligible employee.

2. The donating employee may donate any amount of annual leave provided the donation does not cause the annual leave balance of the employee to fall below eighty (80) hours.

3. Employees may not donate excess annual leave that the donor would not be able to otherwise take.

E. The chief administrative officer of the employee shall determine the amount of donated leave an employee may receive and may only authorize an employee to use up to a maximum of two hundred sixty-one (261) days of shared leave during total state employment.

F. The chief administrative officer of the employee shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition.

G. Donated annual leave is transferable between employees in different state entities with the agreement of both chief administrative officers of the entities.

H. The receiving employee shall be paid his or her regular rate of pay; therefore, one hour of shared leave may cover more or less than one hour of the salary of the recipient. The calculation of the leave value of the recipient shall be in accordance with Office of Personnel Management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received will be designated as shared leave and be maintained separately from all other leave balances.

I. Any donated leave may only be used by the recipient for the purposes specified in this section.

J. All forms of paid leave available for use by the recipient must be used prior to using shared leave.

K. Any shared leave not used by the recipient during each occurrence as determined by the chief administrative officer of the employee shall be returned to the donor. The shared leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to the annual leave balance of each donor.

L. All donated leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating annual leave for purposes of the leave sharing program.

SECTION 3. This act shall become effective July 1, 1992.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7970 MCD