ENROLLED HOUSE
BILL NO. 2274

By: Settle, Begley, Cox, Calvey and Miller of the House

and

Haney and Hobson of the Senate

An Act relating to the Oklahoma Personnel Act; amending 74 O.S. 1991, Section 840.7d, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 7, Chapter 306, O.S.L. 1999 and Section 8, Chapter 306, O.S.L. 1999 (74 O.S. Supp. 1999, Sections 840-2.23 and 840-2.23A), which relate to the state leave sharing program and national disaster leave; modifying eligibility period for certain leave; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 840.7d, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 7, Chapter 306, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-2.23), is amended to read as follows:

Section 840-2.23. 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 or sick leave to a fellow state employee who is eligible for and requires family leave, or who 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, or who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of ~~six (6)~~ eighteen (18) months after the date of the presidentially declared national disaster if:

1. The employee suffered a physical injury as a result of the disaster;

2. The spouse, relative, or household member of the employee suffered a physical injury or died as a result of the disaster; or

3. The domicile of the employee or the home of a relative of the employee was damaged or destroyed as a result of the disaster.

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. The term “state employee” does not include classified employees in probationary status or unclassified employees on temporary or other limited term appointments, except that those employees are eligible to receive shared leave as provided in subsection A of this section and the leave with pay authorized by Section 8 of this act related to a presidentially declared national disaster.

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 leave.

D. An employee may donate annual or sick 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 donated to an eligible employee;

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

3. Employees may not donate excess annual or sick 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 donated 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 need for the leave and expected duration of the condition.

G. Donated annual or sick 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 donated 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 donated 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 donated leave.

K. Any donated 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 donated 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 original 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 or sick leave for purposes of the leave sharing program.

SECTION 2. AMENDATORY Section 8, Chapter 306, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-2.23A), is amended to read as follows:

Section 840-2.23A. A. An appointing authority may grant leave with pay not to exceed fifteen (15) working days to a state employee who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, if:

1. The employee suffered a physical injury as a result of the disaster;

2. A relative or household member of the employee, as defined by subsection B of Section 840-2.23 of Title 74 of the Oklahoma Statutes, suffered a physical injury or died as a result of the disaster; or

3. The domicile of the employee or the domicile of a relative of the employee, as defined by subsection B of Section 840-2.23 of Title 74 of the Oklahoma Statutes, was damaged or destroyed as a result of the disaster.

B. The authority to grant leave with pay pursuant to subsection A of this section shall extend for a period of not more than ~~six (6)~~ eighteen (18) months after the date of a presidentially declared national disaster.

C. Annual leave, sick leave, or compensatory time which was charged to a state employee as a result of the presidentially declared national disaster resulting from the May 3, 1999, tornadoes that would have otherwise been eligible for the leave provision in subsection A of this section, may be reinstated by the appointing authority. A state employee entitled to leave with pay pursuant to this section who was charged leave without pay shall be compensated at the base rate of pay of the employee.

SECTION 3. 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.

Passed the House of Representatives the 19th day of May, 2000.

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Speaker of the House of Representatives

Passed the Senate the 22nd day of May, 2000.

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President of the Senate