

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2053

By: Miller

AS INTRODUCED

An Act relating to the Oklahoma Personnel Act; amending 74 O.S. 1991, Sections 840.7a, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1, Chapter 21, O.S.L. 1999 and 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, Sections 840-2.20 and 840-2.23), which relate to leave rules and the state leave sharing program; modifying accrual rates and accumulation limits for annual leave for certain persons; adding payment requirement for annual leave under certain circumstances; allowing certain state employees to use unused sick leave for certain purposes; 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 840.7a, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1, Chapter 21, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-2.20), is amended to read as follows:

Section 840-2.20 A. The Administrator of the Office of Personnel Management shall promulgate such emergency and permanent rules regarding leave and holiday leave as are necessary to assist the state and its agencies.

The Administrator of the Office of Personnel Management, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave will be accrued on a

monthly basis and prorated, as appropriate, for less than full-time service. Years of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 840-2.18 of this title.

2. a. The following accrual rates and accumulation limits apply to eligible employees ~~who initially enter into the state service prior to July 1, 1996, and who have less than ten (10) years' cumulative service:~~

ACCRUAL RATES			ACCUMULATION
			LIMITS
Cumulative			
Years of	Annual	Sick	Annual
Service	Leave	Leave	Leave
Persons employed 0-5 yrs =	15 day/yr	15 days/yr	30 days
5-10 yrs =	18 day/yr	15 days/yr	60 days

- b. ~~The following accrual rates and accumulation limits apply to eligible employees who either:~~

- ~~(i) initially enter into the state service prior to July 1, 1996, and who have ten (10) years or more cumulative service, or~~
- ~~(ii) initially enter into the state service on or after July 1, 1996:~~

ACCRUAL RATES			ACCUMULATION
			LIMITS
Cumulative			
Years of	Annual	Sick	Annual
Service	Leave	Leave	Leave
Persons employed 0-5 yrs =	10 day/yr	15 days/yr	30 days
5-10 yrs =	15 day/yr	15 days/yr	60 <u>80</u> days
10-20 yrs =	20 day/yr	15 days/yr	60 <u>80</u> days
over 20-<u>30</u> yrs =	25 day/yr	15 days/yr	60 <u>80</u> days

over 30 yrs = 30 day/yr 15 days/yr 80 days

All accrued annual leave and all leave eligibility under O.A.C. 530:10-15-11(b) (5) which is in excess of annual leave limits shall not be reduced or eliminated as a result of ~~these rule~~ any changes in law. Agencies shall pay state employees for all annual leave that they would otherwise lose in the event that agencies deny employees' requests to take the leave.

3. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority.

4. Employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section. Effective September 1, 1994, employees shall be eligible to accrue leave pursuant to paragraph 1 of this subsection.

5. The Administrator of the Office of Personnel Management and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Administrator of the Office of Personnel Management is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations.

6. State employees who terminated their employment in the state service on or after October 1, 1992, may be eligible to have sick leave accrued at the time of termination of employment restored if they return to state employment, provided that the state employees' enter-on-duty dates for reemployment occur on or before two (2) years after their termination of employment and they are eligible to accrue sick leave before the two (2) years expire.

7. State employees who terminate their employment in the state service on or after July 1, 2000, are eligible to use any unused sick leave for payment of insurance premiums when they retire or become eligible for benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

8. Persons subject to the University Hospitals Authority Model Personnel System shall be exempt from the provisions of this section.

~~8.~~ 9. Employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act and who are called to fight a fire shall not have to use any accrued leave or need to make up any time due to the performance of their volunteer firefighter duties.

B. Nothing in the Oklahoma Personnel Act is intended to prevent or discourage an appointing authority from disciplining or terminating an employee due to abuse of leave benefits or absenteeism. Appointing authorities are encouraged to consider attendance of employees in making decisions regarding promotions, pay increases, and discipline.

C. Upon the transfer of a function in state government to an entity outside state government, employees may, with the agreement of the outside entity, waive any payment for leave accumulations to which the employee is entitled and authorize the transfer of the leave accumulations or a portion thereof to the outside entity.

SECTION 2. 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) 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 § 840-2.23A of this ~~act~~ title 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; provided, that donating employees may donate any amount of unused sick leave which they have not otherwise used at the time of termination or retirement from the state service.

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 3. This act shall become effective July 1, 2000.

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.

47-2-8066 GH 6/12/15