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AS AMENDED

By: Floyd and **Griffin**

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[ state employees benefits - state leave sharing
program eligibility - leave bank donations -
effective date ]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-2.23, is amended to read as follows:

Section 840-2.23. A. There is hereby created the state ~~leave sharing~~ Leave of Last Resort program which will serve as the leave sharing program for state employees. The purpose of the state leave sharing program is to permit state employees ~~to donate~~ who have exhausted annual or sick leave to receive paid Leave of Last Resort through donated annual or sick leave ~~to a~~ from a fellow state employee ~~who has exhausted, or will exhaust, all types of paid leave and~~ when the receiving employee:

1. ~~Who is~~ Is eligible for and requires family leave pursuant to the provisions of the Family and Leave Medical Act of 1993, 29 U.S.C., 2601 et seq.; or

2. ~~Who is~~ Is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury,

1 impairment, or physical or mental condition which has caused or is
2 likely to cause the employee to take leave without pay or terminate
3 employment;

4 3. ~~Immediately~~ Requires leave immediately after the death of a
5 relative or household member, provided that the total leave received
6 for this purpose shall not exceed five (5) days in any calendar
7 year; or

8 4. ~~Who is~~ Is affected by a presidentially declared national
9 disaster in Oklahoma after May 1, 1999, for a period of eighteen
10 (18) months after the date of the presidentially declared national
11 disaster if:

- 12 a. the employee suffered a physical injury as a result of
13 the disaster,
- 14 b. the spouse, relative, or household member of the
15 employee suffered a physical injury or died as a
16 result of the disaster, ~~or~~
- 17 c. the domicile of the employee or the home of a relative
18 of the employee was damaged or destroyed as a result
19 of the disaster; or

20 5. Experiences a qualifying emergency where the employee's
21 spouse, son, daughter or parent is a military member in the Armed
22 Forces, including the National Guard or Reserves on covered active
23 duty, or who has been notified of an impending call or order to
24 covered active duty. The receiving employee may use up to twenty-

1 six (26) work weeks of leave consisting of unpaid leave, and when
2 requested and appropriate, accrued sick and/or annual leave during a
3 single rolling twelve (12) month period measured forward from the
4 date a military caregiver is used to:

- 5 a. care for a covered service member, who is a current
6 member of the Armed Forces, including the National
7 Guard or Reserves, and who is the spouse, son,
8 daughter, parent or next of kin to the employee, with
9 a qualifying serious injury or illness, or
10 b. care for a covered veteran with a qualifying serious
11 injury or illness who is the spouse, son, daughter,
12 parent or next of kin to the employee.

13 B. As used in this section:

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

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

23 3. "Severe" or "extraordinary" means extreme or life
24 threatening;

1 4. "State employee" means a permanent classified employee or a
2 regular unclassified employee with one (1) year or more continuous
3 service with the state. The term "state employee" does not include
4 classified employees in probationary status or unclassified
5 employees on temporary or other limited term appointments, except
6 that those employees are eligible to receive shared leave as
7 provided in paragraph 4 of subsection A of this section and the
8 leave with pay authorized by Section 840-2.23A of this title related
9 to a presidentially declared national disaster; ~~and~~

10 5. "Terminal" means likely to result in death within two (2)
11 calendar years; and

12 6. "Leave bank" means the voluntary leave bank, administered by
13 the Human Capital Management Division of the Office of Management
14 and Enterprise Services, consisting of accrued leave donated by
15 state employees and awarded to eligible qualifying regular and part-
16 time employees who are members of the leave bank. All leave bank
17 members who qualify for leave pursuant to the Family and Medical
18 Leave Act can request donations from the leave bank. The accrued
19 sick, annual and compensatory time of those employees requesting
20 leave bank hours must be exhausted, except for those requesting
21 leave bank hours for parenting reasons. Those requesting leave to
22 parent new children must only exhaust their accrued annual hours,
23 not accrued sick hours, before requesting leave bank hours.
24 Requests will be reviewed and acted upon by the Human Capital

1 Management Division of the Office of Management and Enterprise
2 Services. As long as criteria are met and the leave bank is not
3 empty, hours will be awarded, up to four hundred eighty (480) per
4 employee, based on medical need.

5 C. Donations to the leave bank may only be made from accrued
6 sick or annual hours. A minimum donation of accrued leave is
7 required for an employee to become a member of the leave bank. All
8 donations are strictly voluntary. Donated hours cannot be returned
9 to the donor. Donations will be requested through the annual
10 Benefit Open Enrollment Period, and additionally throughout the year
11 if needed.

12 1. Each member must complete a form verifying his or her
13 willingness to join the program on a voluntary basis. Membership
14 will continue until a member terminates employment, retires or fails
15 to renew membership.

16 2. Membership in the leave bank does not rollover. Employees
17 must renew their membership each year that they want to participate.
18 An employee who fails to become a member during the Benefit Open
19 Enrollment Period may become a member during the next open
20 enrollment period. Leave bank hours will be available to employees
21 beginning in January, following the Benefit Open Enrollment Period.

22 The Human Capital Management Division of the Office of
23 Management and Enterprise Services shall develop a procedure to
24

1 establish the donation process and define minimum donation
2 requirements.

3 D. 1. Employees shall request leave in writing. An employee
4 who intends to take family or medical leave shall submit a request
5 to their Director at least thirty (30) days before the first day of
6 leave. The request must state the reason for the leave, the
7 duration of the leave and the starting and ending dates of the
8 leave. When it is not practicable under the circumstances to
9 provide thirty (30) days advance notice, the employee must give
10 notice to their Director as soon as possible, but no later than two
11 (2) business days after the employee learns of the need for the
12 leave. Hours will not be awarded on a retroactive basis.

13 2. When a Director receives such a request, he or she should
14 ensure the employee has information about the leave bank. A
15 Director may require satisfactory proof of the proper use of medical
16 leave and may disallow medical leave in the absence of such proof.

17 3. The Human Capital Management Division of the Office of
18 Management and Enterprise Services will develop a procedure and
19 application process so that members of the leave bank can meet with
20 their department Family and Medical Leave Act coordinator to apply
21 for donations from the leave bank program.

22 E. An employee ~~may~~ shall be eligible to receive shared leave
23 pursuant to the following conditions:

1 1. ~~The chief administrative officer of the employee~~ Human
2 Capital Management Division of the Office of Management and
3 Enterprise Services determines that the employee meets the criteria
4 described in this section; ~~and~~

5 2. The employee has abided by state policies regarding the use
6 of leave; and

7 3. The leave bank has donated hours available.

8 ~~D. An employee may not donate annual or sick leave to an~~
9 ~~eligible employee without the permission of the chief administrative~~
10 ~~officer of the donating employee's agency.~~

11 ~~E. An employee may donate annual or sick leave to another~~
12 ~~employee provided the donation does not cause the annual leave~~
13 ~~balance of the employee to fall below eighty (80) hours and provided~~
14 ~~the donation does not cause the sick leave balance of the employee~~
15 ~~to fall below eighty (80) hours.~~

16 ~~F. Except as otherwise provided for in this subsection, the~~
17 ~~chief administrative officer of the employee shall determine the~~
18 ~~amount of donated leave an employee may receive and may authorize an~~
19 ~~employee to use up to a maximum of two hundred sixty one (261) days~~
20 ~~of donated leave during total state employment. If the employee is~~
21 ~~suffering from an illness which has been certified in writing by a~~
22 ~~licensed physician or health care practitioner as being terminal and~~
23 ~~the employee who either has reached or shall reach in the near~~
24 ~~future the maximum amount as set out in this subsection, the chief~~

~~administrative officer of the employee may approve additional
donated leave upon written request of the employee.~~

~~G. The chief administrative officer of the employee shall
require the employee to submit, prior to approval or disapproval of
shared leave pursuant to paragraph 1 of subsection A of this
section, a medical certificate from a licensed physician or health
care practitioner verifying the need for the leave and expected
duration of the illness, injury, impairment, or physical or mental
condition for which the leave is donated.~~

~~H. Donated annual~~

F. Annual or sick leave donated to the leave bank is
transferable between employees in different state entities ~~with the
agreement of both chief administrative officers of the entities.~~

~~I. Donated annual~~

G. Annual or sick leave donated to the leave bank is
transferable between employees on an hour-to-hour basis irrespective
of the hourly wage of the donating or receiving employee.

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

~~K. All forms of paid leave available for use by the recipient
must be used prior to using donated leave.~~

~~L. 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~~

1 ~~remaining will be divided among the donors on a prorated basis based~~
2 ~~on the original donated value and returned at its original donor~~
3 ~~value and reinstated to the original leave balance of each donor.~~

4 ~~M. I.~~ All donated leave must be given voluntarily. No employee
5 shall be coerced, threatened, intimidated, or financially induced
6 into donating annual or sick leave for purposes of the leave sharing
7 program.

8 ~~N. Employees may not donate excess annual or sick leave that~~
9 ~~the donor would not be able to otherwise take.~~

10 J. The Human Capital Management Division of the Office of
11 Management and Enterprise Services will review and evaluate the
12 applications to determine the number of leave bank hours, if any, to
13 be awarded. Except as noted above, members must exhaust their own
14 accrued sick, annual and compensatory time balances and have a
15 qualifying condition or event pursuant to the Family and Medical
16 Leave Act prior to any award of leave bank hours. Members may be
17 awarded up to four hundred eighty (480) leave bank hours. Leave
18 bank hours must be taken within the Family and Medical Leave Act
19 period associated with the qualifying condition or event.

20 1. Members that are eligible for and have not exhausted Workers
21 Compensation benefits, or any other paid benefits are not eligible
22 to be awarded leave bank hours.

1 2. Leave bank hours for new parents are available to mothers
2 and fathers for the birth of the child and the placement of a child
3 with the employee for adoption or foster care.

4 3. Employees qualifying for the Family and Medical Leave Act
5 whose chief administrative officers have agreed to intermittent or
6 reduced schedules within Family and Medical Leave Act rules may use
7 leave bank hours in addition to working hours to receive full-time
8 pay.

9 K. The ability to award donated hours from the leave bank is
10 dependent upon available hours voluntarily donated by employees.
11 Hours awarded are proportionate to the member's budgeted work week.
12 Leave accrual and other benefits continue while using leave bank
13 hours.

14 If a member who receives donations terminates employment with
15 the state before the donations are exhausted, any unused donated
16 leave balance will be returned to the leave bank. Members leaving
17 employment with the state are not entitled to payment of awarded,
18 but unused leave bank hours. The estate of a deceased employee is
19 not entitled to payment of unused leave bank hours.

20 SECTION 2. This act shall become effective November 1, 2018.

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
22 March 1, 2018 - DO PASS AS AMENDED
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