

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1581

By: Floyd

AS INTRODUCED

An Act relating to state employees benefits; amending 74 O.S. 2011, Section 840-2.23, which relates to state leave sharing program eligibility; expanding purpose of program; modifying circumstances for which certain leave hours may be granted; adding definition; establishing rules and regulations for donation of leave hours to leave bank; directing certain entity to develop procedure for leave bank donations; specifying application process for leave bank hours; directing certain entity to develop application procedure for shared leave; modifying eligibility requirements for shared leave; removing certain restrictions on the donation of shared leave; removing certain requirements for receiving shared leave; modifying person responsible for granting shared leave; removing certain restrictions on unused donated leave; specifying time restrictions on use of shared leave; specifying leave bank hour eligibility for certain persons; authorizing leave bank hours for employees working certain modified schedules; specifying terms of awarding leave bank hours; establishing procedures for leave bank hours after termination or death of an employee; and providing an effective date.

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:

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

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

12 2. ~~Who is~~ Is suffering from or has a relative or household
13 member suffering from an extraordinary or severe illness, injury,
14 impairment, or physical or mental condition which has caused or is
15 likely to cause the employee to take leave without pay or terminate
16 employment;

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

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

- 1 a. the employee suffered a physical injury as a result of
2 the disaster,
3 b. the spouse, relative, or household member of the
4 employee suffered a physical injury or died as a
5 result of the disaster, ~~or~~
6 c. the domicile of the employee or the home of a relative
7 of the employee was damaged or destroyed as a result
8 of the disaster; or

9 5. Experiences a qualifying emergency where the employee's
10 spouse, son, daughter or parent is a military member in the Armed
11 Forces, including the National Guard or Reserves on covered active
12 duty, or who has been notified of an impending call or order to
13 covered active duty. The receiving employee may use up to twenty-
14 six (26) work weeks of leave consisting of unpaid leave, and when
15 requested and appropriate, accrued sick and/or annual leave during a
16 single rolling twelve (12) month period measured forward from the
17 date a military caregiver is used to:

- 18 a. care for a covered service member, who is a current
19 member of the Armed Forces, including the National
20 Guard or Reserves, and who is the spouse, son,
21 daughter, parent or next of kin to the employee, with
22 a qualifying serious injury or illness, or

1 b. care for a covered veteran with a qualifying serious
2 injury or illness who is the spouse, son, daughter,
3 parent or next of kin to the employee.

4 B. As used in this section:

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

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

14 3. "Severe" or "extraordinary" means extreme or life
15 threatening;

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

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

3 6. "Leave bank" means the voluntary leave bank, administered by
4 the Human Capital Management Division of the Office of Management
5 and Enterprise Services, consisting of accrued leave donated by
6 state employees and awarded to eligible qualifying regular and part-
7 time employees who are members of the leave bank. All leave bank
8 members who qualify for leave pursuant to the Family and Medical
9 Leave Act can request donations from the leave bank. The accrued
10 sick, annual and compensatory time of those employees requesting
11 leave bank hours must be exhausted, except for those requesting
12 leave bank hours for parenting reasons. Those requesting leave to
13 parent new children must only exhaust their accrued annual hours,
14 not accrued sick hours, before requesting leave bank hours.
15 Requests will be reviewed and acted upon by the Human Capital
16 Management Division of the Office of Management and Enterprise
17 Services. As long as criteria are met and the leave bank is not
18 empty, hours will be awarded, up to four hundred eighty (480) per
19 employee, based on medical need.

20 C. Donations to the leave bank may only be made from accrued
21 sick or annual hours. A minimum donation of accrued leave is
22 required for an employee to become a member of the leave bank. All
23 donations are strictly voluntary. Donated hours cannot be returned
24 to the donor. Donations will be requested through the annual

1 Benefit Open Enrollment Period, and additionally throughout the year
2 if needed.

3 1. Each member must complete a form verifying his or her
4 willingness to join the program on a voluntary basis. Membership
5 will continue until a member terminates employment, retires or fails
6 to renew membership.

7 2. Membership in the leave bank does not rollover. Employees
8 must renew their membership each year that they want to participate.

9 An employee who fails to become a member during the Benefit Open
10 Enrollment Period may become a member during the next open
11 enrollment period. Leave bank hours will be available to employees
12 beginning in January, following the Benefit Open Enrollment Period.

13 The Human Capital Management Division of the Office of
14 Management and Enterprise Services shall develop a procedure to
15 establish the donation process and define minimum donation
16 requirements.

17 D. 1. Employees shall request leave in writing. An employee
18 who intends to take family or medical leave shall submit a request
19 to their Director at least thirty (30) days before the first day of
20 leave. The request must state the reason for the leave, the
21 duration of the leave and the starting and ending dates of the
22 leave. When it is not practicable under the circumstances to
23 provide thirty (30) days advance notice, the employee must give
24 notice to their Director as soon as possible, but no later than two

1 (2) business days after the employee learns of the need for the
2 leave. Hours will not be awarded on a retroactive basis.

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

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

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

14 1. ~~The chief administrative officer of the employee~~ Human
15 Capital Management Division of the Office of Management and
16 Enterprise Services determines that the employee meets the criteria
17 described in this section; ~~and~~

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

20 3. The leave bank has donated hours available.

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

1 ~~E. An employee may donate annual or sick leave to another~~
2 ~~employee provided the donation does not cause the annual leave~~
3 ~~balance of the employee to fall below eighty (80) hours and provided~~
4 ~~the donation does not cause the sick leave balance of the employee~~
5 ~~to fall below eighty (80) hours.~~

6 ~~F. Except as otherwise provided for in this subsection, the~~
7 ~~chief administrative officer of the employee shall determine the~~
8 ~~amount of donated leave an employee may receive and may authorize an~~
9 ~~employee to use up to a maximum of two hundred sixty one (261) days~~
10 ~~of donated leave during total state employment. If the employee is~~
11 ~~suffering from an illness which has been certified in writing by a~~
12 ~~licensed physician or health care practitioner as being terminal and~~
13 ~~the employee who either has reached or shall reach in the near~~
14 ~~future the maximum amount as set out in this subsection, the chief~~
15 ~~administrative officer of the employee may approve additional~~
16 ~~donated leave upon written request of the employee.~~

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

24 ~~H. Donated annual~~

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

4 ~~I. Donated annual~~

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

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

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

12 ~~L. Any donated leave not used by the recipient during each~~
13 ~~occurrence as determined by the chief administrative officer of the~~
14 ~~employee shall be returned to the donor. The donated leave~~
15 ~~remaining will be divided among the donors on a prorated basis based~~
16 ~~on the original donated value and returned at its original donor~~
17 ~~value and reinstated to the original leave balance of each donor.~~

18 ~~M. I.~~ All donated leave must be given voluntarily. No employee
19 shall be coerced, threatened, intimidated, or financially induced
20 into donating annual or sick leave for purposes of the leave sharing
21 program.

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

1 J. The Human Capital Management Division of the Office of
2 Management and Enterprise Services will review and evaluate the
3 applications to determine the number of leave bank hours, if any, to
4 be awarded. Except as noted above, members must exhaust their own
5 accrued sick, annual and compensatory time balances and have a
6 qualifying condition or event pursuant to the Family and Medical
7 Leave Act prior to any award of leave bank hours. Members may be
8 awarded up to four hundred eighty (480) leave bank hours. Leave
9 bank hours must be taken within the Family and Medical Leave Act
10 period associated with the qualifying condition or event.

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

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

17 3. Employees applying for leave bank hours under this
18 subsection shall only be required to exhaust Annual leave.

19 4. Employees qualifying for the Family and Medical Leave Act
20 whose chief administrative officers have agreed to intermittent or
21 reduced schedules within Family and Medical Leave Act rules may use
22 leave bank hours in addition to working hours to receive full-time
23 pay.

1 K. The ability to award donated hours from the leave bank is
2 dependent upon available hours voluntarily donated by employees.
3 Hours awarded are proportionate to the member's budgeted work week.
4 Leave accrual and other benefits continue while using leave bank
5 hours.

6 If a member who receives donations terminates employment with
7 the state before the donations are exhausted, any unused donated
8 leave balance will be returned to the leave bank. Members leaving
9 employment with the state are not entitled to payment of awarded,
10 but unused leave bank hours. The estate of a deceased employee is
11 not entitled to payment of unused leave bank hours.

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

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