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February 22, 2023

SENATE BILL NO. 364

By: Pugh, Pemberton, Stanley,
and Stephens of the Senate

and

Baker of the House

[school employees - maternity leave - benefits -
funds - shared leave - codification - effective date

emergency]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-104.8 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A full-time employee of a public school district in this state who has been employed by the school district for at least one year and has worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve-month period shall be entitled to twelve (12) weeks of paid maternity leave following the birth of the employee's child. The twelve (12) weeks of paid maternity leave shall be used in the twelve (12) months following the birth of the school district employee's child and shall expire at the end of the twelve-month period.

1 B. Paid maternity leave provided pursuant to this section shall
2 be in addition to and not in place of sick leave due to pregnancy,
3 as provided for in Section 6-104 of Title 70 of the Oklahoma
4 Statutes.

5 C. A school district employee who takes maternity leave
6 pursuant to the provisions of this section shall not be deprived of
7 any compensation or other benefits to which the employee is
8 otherwise entitled.

9 D. Each fiscal year, the Legislature shall appropriate adequate
10 funding to the State Board of Education for the purpose of providing
11 paid maternity leave to eligible school district employees pursuant
12 to this act. If the Legislature does not appropriate adequate
13 funding specifically for the purpose of providing paid maternity
14 leave to school district employees, the State Board of Education
15 shall allocate from the funds appropriated to the State Board of
16 Education for the support of public school activities an amount to
17 fully fund paid maternity leave.

18 E. The State Board of Education may promulgate rules to
19 implement the provisions of this section.

20 SECTION 2. AMENDATORY 70 O.S. 2021, Section 6-104.1, is
21 amended to read as follows:

22 Section 6-104.1. After exhausting sick leave and extended leave
23 pursuant to Sections 6-104 and 6-104.5 of ~~Title 70 of the Oklahoma~~
24 ~~Statutes~~ this title and maternity leave pursuant to Section 1 of

1 this act, a full-time teacher who, with the proper approval of the
2 district board of education, takes not more than ninety (90) school
3 days of leave without pay to care for the teacher's child during the
4 first year of the child's life, shall receive full credit for the
5 days on leave without pay as though the teacher had been on leave
6 with pay for purposes of computing experience for the minimum
7 teacher salary schedule. A teacher on leave without pay pursuant to
8 this section who pays the actuarial cost, as determined by the Board
9 of Trustees of the Teachers' Retirement System of Oklahoma, shall
10 have the period during which such leave without pay is taken,
11 counted toward retirement service credit as though the teacher had
12 been on leave with pay. The teacher shall notify ~~their~~ his or her
13 employer and the System in writing within thirty (30) days from the
14 date he or she returns to service that ~~they~~ he or she will pay such
15 actuarial cost. The teacher shall have up to twelve (12) months
16 from the date he or she returns to service to pay such actuarial
17 cost.

18 SECTION 3. AMENDATORY 70 O.S. 2021, Section 6-104.5, is
19 amended to read as follows:

20 Section 6-104.5. A. If, after exhausting all sick leave
21 pursuant to Section 6-104 of this title and maternity leave pursuant
22 to Section 1 of this act, a teacher is absent from his or her duties
23 due to personal accidental injury, illness, or pregnancy, the
24

1 teacher shall receive for a period of not to exceed twenty (20) days
2 his or her full contract salary less the amount:

3 1. ~~actually~~ Actually paid a certified substitute teacher for
4 his or her position if a certified substitute teacher is hired; or

5 2. ~~normally~~ Normally paid a certified substitute teacher for
6 his or her position if a certified substitute teacher is not hired.

7 B. The district's plan may provide that the teacher is entitled
8 to payment for accrued but unused sick leave upon termination of
9 employment.

10 SECTION 4. AMENDATORY 70 O.S. 2021, Section 6-104.6, is
11 amended to read as follows:

12 Section 6-104.6. A. The board of education of each school
13 district may establish a leave sharing program for all district
14 employees. The program shall permit district employees to donate
15 sick leave to a fellow district employee who is pregnant or
16 recovering from childbirth or who is suffering from or has a
17 relative or household member suffering from an extraordinary or
18 severe illness, injury, impairment, or physical or mental condition
19 which has caused or is likely to cause the employee to take leave
20 without pay or to terminate employment.

21 B. As used in this section:

22 1. "Relative of the employee" means a spouse, child, stepchild,
23 grandchild, grandparent, stepparent, or parent of the employee;

24

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

7 3. "Severe" or "extraordinary" means serious, extreme, or life-
8 threatening including temporary disability resulting from pregnancy,
9 miscarriage, childbirth, and recovery therefrom; and

10 4. "District employee" means a teacher or any full-time
11 employee of the school district.

12 C. A district employee may be eligible to receive shared leave
13 pursuant to the following conditions:

14 1. The board of education determines that the employee meets
15 the criteria described in this section; and

16 2. The employee has abided by district policies regarding the
17 use of sick leave.

18 D. A district employee may donate annual leave to another
19 district employee only pursuant to the following conditions:

20 1. The receiving employee has exhausted, or will exhaust, ~~only~~
21 maternity leave granted pursuant to Section 1 of this act or sick
22 leave earned pursuant to Section 6-104 of this title due to
23 pregnancy, miscarriage, childbirth and recovery therefrom, an
24 illness, injury, impairment, or physical or mental condition, which

1 is of an extraordinary or severe nature, and involves the employee,
2 a relative of the employee, or household member;

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

5 3. The board of education of the district permits the leave to
6 be shared with an eligible employee;

7 4. The amount of leave to be donated is within the limits set
8 by the board of education of the district; and

9 5. District employees may not donate excess sick leave that the
10 donor would not be able to otherwise take.

11 E. The board of education of each school district shall
12 determine the amount of donated leave an employee may receive.

13 F. The board of education shall require the employee to submit,
14 prior to approval or disapproval, a medical certificate from a
15 licensed physician or health care practitioner verifying the severe
16 or extraordinary nature and expected duration of the condition.

17 G. Donated sick leave is transferable between employees of
18 different school districts in the state with the agreement of both
19 boards of education of each school district.

20 H. The receiving employee shall be paid the regular rate of pay
21 of the employee. The sick leave received will be designated as
22 shared sick leave and be maintained separately from all other sick
23 leave balances.

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

3 J. ~~Only~~ Maternity leave granted pursuant to Section 1 of this
4 act and sick leave earned pursuant to Section 6-104 of this title
5 available for use by the recipient ~~must~~ shall be used prior to using
6 shared sick leave.

7 K. Any shared sick leave not used by the recipient during each
8 occurrence as determined by the board of education shall be returned
9 to the donor. The shared sick leave remaining will be divided among
10 the donors on a prorated basis based on the original donated value
11 and returned at its original donor value and reinstated to the
12 annual leave balance of each donor.

13 L. All donated sick leave ~~must~~ shall be given voluntarily. No
14 employee shall be coerced, threatened, intimidated, or financially
15 induced into donating sick leave for purposes of the leave sharing
16 program.

17 M. In addition to the sick leave sharing program provided for
18 in this section, the board of education of each school district may
19 establish a sick leave sharing bank for all district employees. A
20 district employee may donate sick leave to a common fund which may
21 be used by any district employee who is eligible to receive shared
22 leave as set forth in subsection A of this section. The terms and
23 conditions for donation and use of sick leave to a leave sharing
24 bank shall be subject to the provisions of this section, unless

1 negotiations, entered into pursuant to Section 509.1 et seq. of this
2 title, between district employees and the school district establish
3 terms and conditions for a sick leave sharing bank in excess of
4 those provided for in this section.

5 SECTION 5. This act shall become effective July 1, 2023.

6 SECTION 6. It being immediately necessary for the preservation
7 of the public peace, health, or safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
11 February 22, 2023 - DO PASS
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