

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3332

By: McEntire

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6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.
8 2011, Section 840-2.23, which relates to the Oklahoma
9 Personnel Act; modifying shared leave uses; adding
10 definition; providing for donations of leave;
11 providing for applying for donations; modifying
reception of donations; authorizing use of paid
parental leave; providing for awarding of donated
hours; authorizing promulgation of rules; and
providing an effective date.

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

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

18 Section 840-2.23 A. There is hereby created the state leave
19 sharing program. The purpose of the state leave sharing program is
20 to permit state employees to donate annual or sick leave to a fellow
21 state employee ~~who has exhausted, or will exhaust, all types of paid~~
22 ~~leave and:~~

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

4 2. Who is suffering from or has a relative or household member
5 suffering from an extraordinary or severe illness, injury,
6 impairment, or physical or mental condition which has caused or is
7 likely to cause the employee to take leave without pay or terminate
8 employment;

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

12 4. Who is affected by a presidentially declared national
13 disaster in Oklahoma after May 1, 1999, for a period of eighteen
14 (18) months after the date of the presidentially declared national
15 disaster if:

16 a. the employee suffered a physical injury as a result of
17 the disaster,

18 b. the spouse, relative, or household member of the
19 employee suffered a physical injury or died as a
20 result of the disaster, or

21 c. the domicile of the employee or the home of a relative
22 of the employee was damaged or destroyed as a result
23 of the disaster;

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1 5. During or after the birth of the employee's child or the
2 placement of a child with the employee for adoption; or

3 6. For qualifying exigencies arising out of the fact that the
4 employee's spouse, son, daughter or parent is a military member in
5 the Armed Forces, including the National Guard or Reserves on
6 covered active duty, or has been notified of an impending call or
7 order to covered active duty.

8 B. As used in this section:

9 1. "Relative of the employee" shall be limited to the spouse,
10 child, stepchild, grandchild, grandparent, stepparent, or parent of
11 the employee;

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

18 3. "Severe" or "extraordinary" means extreme or life
19 threatening;

20 4. "State employee" means a permanent classified employee or a
21 regular unclassified employee with one (1) year or more continuous
22 service with the state. The term "state employee" does not include
23 classified employees in probationary status or unclassified
24 employees on temporary or other limited term appointments, except

1 that those employees are eligible to receive shared leave as
2 provided in paragraph 4 of subsection A of this section and the
3 leave with pay authorized by Section 840-2.23A of this title related
4 to a presidentially declared national disaster; ~~and~~

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

7 6. "Leave bank" means the voluntary leave bank, administered by
8 the Human Capital Management Division of the Office of Management
9 and Enterprise Services, consisting of accrued leave donated by
10 state employees and awarded to eligible qualifying regular and part-
11 time employees who are members of the leave bank.

12 C. Donating leave:

13 1. A minimum donation of accrued leave is required for an
14 employee to become a member of the leave bank. All donations are
15 strictly voluntary. Donated hours shall not be returned to the
16 donor. Donations shall be requested through the annual benefit open
17 enrollment period. Each member shall complete a form verifying his
18 or her willingness to join the program on a voluntary basis.

19 Membership will continue until a member:

- 20 a. terminates employment,
- 21 b. retires, or
- 22 c. cancels membership; and

23 2. An employee who fails to become a member during an open
24 enrollment period may become a member during the next open

1 enrollment period. A nonmember who seeks leave from the leave bank
2 due to an unforeseen Family and Medical Leave Act qualifying event
3 may enroll to become a member at any time. Leave bank hours will be
4 available to employees beginning in January following the benefit
5 open enrollment period. Donations shall only be made from accrued
6 sick or annual leave hours. The Human Capital Management Division
7 of the Office of Management and Enterprise Services shall develop a
8 procedure to establish the donation process and define minimum
9 donation requirements.

10 D. Applying for donations:

11 1. The Human Capital Management Division of the Office of
12 Management and Enterprise Services shall develop a procedure and
13 application process so that members of the leave bank may apply for
14 donations from the leave bank program. Members shall submit their
15 application before the requested hours are needed or as soon as
16 practicable. Hours shall not be awarded on a retroactive basis; and

17 2. An employee shall request leave in writing. An employee who
18 intends to take parental, family or medical leave for planned
19 medical treatment shall submit a request to his or her chief
20 administrative officer at least thirty (30) days before the leave is
21 to begin. The request shall state the reason for the leave, the
22 duration of the leave, and the starting and ending dates of the
23 leave. When it is not practicable under the circumstances to
24 provide thirty (30) days advance notice, the employee shall give

1 notice to his or her chief administrative officer as soon as
2 possible after the employee learns of the need for the leave. A
3 chief administrative officer may require satisfactory proof of the
4 proper use of medical leave and may disallow medical leave in the
5 absence of such proof.

6 E. Receiving donations:

7 An employee may be eligible to receive shared leave pursuant to
8 the following conditions:

- 9 1. The chief administrative officer of the employee determines
10 that the employee meets the criteria described in this section; and
- 11 2. The employee has abided by state policies regarding the use
12 of leave.

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

16 ~~E. An employee may donate annual or sick leave to another~~
17 ~~employee provided the donation does not cause the annual leave~~
18 ~~balance of the employee to fall below eighty (80) hours and provided~~
19 ~~the donation does not cause the sick leave balance of the employee~~
20 ~~to fall below eighty (80) hours.~~

21 ~~F. Except as otherwise provided for in this subsection, the~~
22 ~~chief administrative officer of the employee shall determine the~~
23 ~~amount of donated leave an employee may receive and may authorize an~~
24 ~~employee to use up to a maximum of two hundred sixty-one (261) days~~

1 ~~of donated leave during total state employment. If the employee is~~
2 ~~suffering from an illness which has been certified in writing by a~~
3 ~~licensed physician or health care practitioner as being terminal and~~
4 ~~the employee who either has reached or shall reach in the near~~
5 ~~future the maximum amount as set out in this subsection, the chief~~
6 ~~administrative officer of the employee may approve additional~~
7 ~~donated leave upon written request of the employee.~~

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

15 ~~H. F. Donated annual or sick leave is transferable between~~
16 ~~employees in different state entities with the agreement of both~~
17 ~~chief administrative officers of the entities.~~

18 ~~I. G. Donated annual or sick leave is transferable between~~
19 ~~employees on an hour-to-hour basis irrespective of the hourly wage~~
20 ~~of the donating or receiving employee.~~

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

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

1 ~~L. Any donated leave not used by the recipient during each~~
2 ~~occurrence as determined by the chief administrative officer of the~~
3 ~~employee shall be returned to the donor. The donated leave~~
4 ~~remaining will be divided among the donors on a prorated basis based~~
5 ~~on the original donated value and returned at its original donor~~
6 ~~value and reinstated to the original leave balance of each donor.~~

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

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

13 J. The Human Capital Management Division of the Office of
14 Management and Enterprise Services will review and evaluate the
15 applications to determine the number of leave bank hours, if any, to
16 be awarded. Members shall exhaust their own accrued annual leave
17 and compensatory time balances and have a qualifying event, as
18 outlined in subsection A of this section, prior to any award of
19 leave bank hours. Members that are eligible for and have not
20 exhausted workers' compensation benefits, or any other paid
21 benefits, such as long-term or short-term disability, are not
22 eligible to be awarded leave bank hours. Members may be awarded up
23 to two hundred forty (240) leave bank hours for a qualifying
24 condition or event. Leave bank hours shall be taken within the

1 Family and Medical Leave Act period associated with the qualifying
2 event.

3 K. Paid parental leave is available to mothers and fathers for
4 the birth of the employee's child and the placement of a child with
5 the employee for adoption. The paid parental leave benefit is up to
6 thirty (30) working days for a maximum of 240 hours (six weeks) for
7 employees scheduled to work forty (40) hours per workweek. Paid
8 parental leave shall be taken within the Family and Medical Leave
9 Act period associated with the date of the birth or placement of a
10 child for adoption. Employees are not entitled to take paid
11 parental leave intermittently.

12 L. The ability to award donated hours from the leave bank is
13 dependent upon available hours voluntarily donated by employees.
14 Hours awarded are proportionate to the member's budgeted workweek.
15 Leave benefits shall continue to accrue while using leave bank
16 hours. If a member who receives donations terminates employment
17 with the state before the donations are exhausted, any unused
18 donated leave balance will be returned to the leave bank. Members
19 leaving employment with the state are not entitled to payment of
20 awarded but unused leave bank hours. Additionally, the estate of a
21 deceased employee is not entitled to payment of unused leave bank
22 hours.

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1 M. The Office of Management and Enterprise Services shall have
2 the authority to promulgate rules necessary for the implementation
3 of this section of law.

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

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6 56-2-8491 LRB 01/08/18

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