

State of Tennessee

PUBLIC CHAPTER NO. 216

SENATE BILL NO. 276

By Johnson, Yager, Yarbrow, Akbari, Campbell, Crowe, Jackson, Lamar, Massey, Niceley, Reeves

Substituted for: House Bill No. 324

By Lamberth, Cochran, Marsh, Harris, Sherrell, Kumar, Powell, Hardaway, Hawk, Alexander, Beck, Thompson, Jernigan, Miller

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 27 and Title 8, Chapter 50, Part 8, relative to public employment benefits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 50, Part 8, is amended by adding the following as a new section:

(a) In addition to leave granted under §§ 8-50-801, 8-50-802, and 8-50-806, an eligible employee must be granted absence from work with pay for a period of time equal to six (6) workweeks because of the birth of the employee's child or because of the placement of a child with the employee for adoption, and upon the employee giving thirty-days' notice to the appropriate appointing authority. If the eligible employee learns of the birth or adoption less than thirty (30) days in advance, the employee shall give the notice as soon as reasonably possible. For the purpose of calculating service anniversary dates, this absence from work is considered full-time employment.

(b) Leave used by an eligible employee pursuant to this section must not be charged to sick, annual, or other leave the employee may have accumulated.

(c) Leave granted pursuant to this section must count toward the eligible employee's use of leave required to be given by this state as an employer under the federal Family and Medical Leave Act (29 U.S.C. § 2601, et seq.) and § 4-21-408.

(d) An eligible employee must not be granted more than six (6) workweeks of paid leave under subsection (a) during a twelve-month period, but the workweeks do not need to be taken consecutively. An eligible employee may receive no more than six (6) workweeks of paid leave during a twelve-month period, even if there is more than one (1) qualifying birth or adoption under subsection (a). Leave granted pursuant to this section must be used within twelve (12) months of the qualifying birth or adoption.

(e) As used in this section, "eligible employee" means:

(1) An employee who has been employed full-time with the state for at least twelve (12) consecutive months with an entity described in § 8-30-102(a), § 8-30-102(b)(2), § 8-30-102(b)(6)-(7), and § 8-30-102(b)(10)-(13); or

(2) An employee who has been employed full-time with the state for at least twelve (12) consecutive months with an entity described in § 8-30-102(b)(9), except for an employee of any administrative board or commission that is attached to an entity described in § 8-30-102(b)(1) or § 8-30-102(b)(3)-(5).

(f) The department of human resources shall establish policies for implementing this section with regard to executive branch agencies. With regard to nonexecutive branch agencies, the equivalent of the agency's human resources office shall establish policies for implementing this section.

(g) Paid leave under this section must be paid at one hundred percent (100%) of the employee's salary.

(h) If an eligible employee experienced a birth or adoption under subsection (a) prior to the effective date of this act and has not used all of the federal Family and Medical Leave Act leave to which the employee was entitled as a result of the birth or adoption, then the employee is entitled to leave under this section beginning on the effective date of this act for the remainder of the federal Family and Medical Leave Act leave that the employee uses on or after the effective date of this act as a result of the event in subsection (a). The duration of paid leave must not exceed the paid leave available under subsection (d).

SECTION 2. Tennessee Code Annotated, Section 8-50-801(b)(1), is amended by deleting the subdivision and substituting:

(A) An officer or employee described in § 8-30-102(b)(1) who has less than five (5) years of full-time service and was not in the active employment of the state of Tennessee on July 1, 1969, accrues annual leave at the rate of one (1) day for each month of service or major fraction thereof, and may accumulate a maximum of thirty (30) work days; and

(B) An officer or employee other than as described in § 8-30-102(b)(1) who has less than five (5) years of full-time service and was not in the active employment of the state of Tennessee on July 1, 1969, accrues annual leave at the rate of twelve (12) days per year on the date the employee is hired and on each service anniversary date for the employee, and may accumulate a maximum of thirty (30) work days;

SECTION 3. Tennessee Code Annotated, Section 8-50-801(b)(2), is amended by deleting the subdivision.

SECTION 4. Tennessee Code Annotated, Section 8-50-801(b)(3), is amended by deleting the subdivision and substituting:

(A) An officer or employee described in § 8-30-102(b)(1) who has five (5) years and less than ten (10) years of full-time service accrues annual leave at the rate of one and one-half (1 1/2) days for each month of service or major fraction thereof, and may accumulate a maximum of thirty-six (36) work days; and

(B) An officer or employee other than as described in § 8-30-102(b)(1), who has five (5) years and less than ten (10) years of full-time service accrues annual leave at the rate of eighteen (18) days per year on each service anniversary date for the employee, and may accumulate a maximum of thirty-six (36) days;

SECTION 5. Tennessee Code Annotated, Section 8-50-801(b)(4), is amended by deleting the subdivision and substituting:

(A) An officer or employee described in § 8-30-102(b)(1) who has ten (10) years and less than twenty (20) years of full-time service accrues annual leave at the rate of one and three-quarters (1 3/4) days for each month of service or major fraction thereof, and may accumulate a maximum of thirty-nine (39) work days; and

(B) An officer or employee other than as described in § 8-30-102(b)(1) who has ten (10) years and less than twenty (20) years of full-time service accrues annual leave at the rate of twenty-one (21) days per year on each service anniversary date for the employee, and may accumulate a maximum of thirty-nine (39) work days; and

SECTION 6. Tennessee Code Annotated, Section 8-50-801(b)(5), is amended by deleting the subdivision and substituting:

(A) An officer or employee described in § 8-30-102(b)(1) who has twenty (20) years or more of full-time service accrues annual leave at the rate of two (2) days for each month of service or major fraction thereof, and may accumulate a maximum of forty-two (42) work days; and

(B) An officer or employee other than as described in § 8-30-102(b)(1) who has twenty (20) years or more of full-time service accrues annual leave at the rate of twenty-four (24) days per year on each service anniversary date for the employee, and may accumulate a maximum of forty-two (42) work days.

SECTION 7. Tennessee Code Annotated, Section 8-50-801, is amended by deleting subsections (c) and (d) and substituting:

(c)(1) Annual leave requested by an employee is subject to supervisory approval.

(2) For purposes of subdivisions (b)(1)-(5), service anniversary dates must be adjusted to account for gaps in paid employment as a state employee, as applicable.

(d) For individuals holding full-time positions in the department of education that require three (3) years' experience as a certified professional employee in the Tennessee public school system, prior teaching or administrative experience in Tennessee public schools is creditable for purposes of subdivisions (b)(1)-(5), not to exceed three (3) years.

SECTION 8. Tennessee Code Annotated, Section 8-50-802(a)(1), is amended by deleting the subdivision and substituting:

(1) Sick leave may be granted:

(A) To each officer and employee described in § 8-30-102(b)(1) who is scheduled to work one thousand six hundred (1,600) hours or more in a fiscal year, whether compensated on an hourly, daily, monthly, or piecework basis, at the rate of one (1) day for each month of service or major fraction thereof, at the discretion of the head of the department or agency and with the approval of the commissioner of human resources; and

(B) To each officer and employee other than as described in § 8-30-102(b)(1) who is scheduled to work one thousand six hundred (1,600) hours or more in a fiscal year, whether compensated on an hourly, daily, monthly, or piecework basis, at the rate of twelve (12) days per year on the date the employee is hired and on each service anniversary date for the employee, at the discretion of the head of the department or agency and with the approval of the commissioner of human resources. For purposes of this subdivision (a)(1)(B), service anniversary dates must be adjusted to account for gaps in paid employment as a state employee.

SECTION 9. Tennessee Code Annotated, Section 8-50-807(a), is amended by deleting the subsection and substituting:

(a)(1) Each officer and employee entitled to annual leave by this part must be compensated upon termination for the officer's or employee's unused accrued annual leave, based upon the number of months the employee worked beyond the officer's or employee's service anniversary date.

(2) If the termination date is prior to the service anniversary date, the officer or employee's final paycheck must be reduced to account for the number of annual days used that exceed the number of months in which the employee worked.

(3) If the separated employee is rehired by the state within one (1) year of the date of separation, the state shall reinstate any accrued, unused annual leave from the previous period of employment for which the employee was not compensated at separation.

SECTION 10. Tennessee Code Annotated, Section 8-27-104, is amended by deleting the section and substituting:

For the purposes of parts 1, 2, 3, and 7 of this chapter, "voluntary benefits" means those benefits the committees deem necessary and reasonable to afford coverage in addition to the basic health plan or plans, and any fully employer-paid benefits offered by the committees.

SECTION 11. Tennessee Code Annotated, Section 8-27-202(a)(2), is amended by deleting the language "A basic term life insurance benefit and basic accidental death and dismemberment benefit, with defined coverage amounts" and substituting "All benefits with defined coverage amounts fully".

SECTION 12. Tennessee Code Annotated, Section 8-27-202(a)(3), is amended by deleting the language "These benefits include optional life insurance coverage in excess of that offered under subdivision (a)(2). The state insurance committee may provide for voluntary benefits as part of the basic health plans or as separate plans."

SECTION 13. Tennessee Code Annotated, Section 8-27-202(c), is amended by deleting the language ", term life, and accidental death and dismemberment" and substituting "and plans fully paid by the employer".

SECTION 14. Tennessee Code Annotated, Section 8-27-203(b) is amended by deleting the language "the basic term life insurance benefit and basic accidental death and dismemberment benefit" and substituting "all fully employer-funded benefits and all partially employer-funded voluntary benefits".

SECTION 15. Tennessee Code Annotated, Section 8-27-203(c), is amended by deleting the language "fully paid by the enrolled members. The additional costs for participating dependents shall be fully paid by the enrolled members" and substituting "paid in full or in part by the employee".

SECTION 16. Tennessee Code Annotated, Section 8-27-205(a), is amended by deleting the subsection and substituting:

(a) The state insurance committee may establish basic health plan benefits, and voluntary benefits, as the state insurance committee deems necessary and reasonable, for state employees, as defined in § 8-27-204(a)(1), who are retired, and may establish eligibility criteria for the benefits. The health benefit may be available to:

(1) Eligible retired state employees, eligible retired employees of the University of Tennessee, and eligible retired employees of the state university and community college system who are drawing retirement benefits through the Tennessee consolidated retirement system; and

(2) Eligible retired employees of the University of Tennessee and the state university and community college system who are participants in another retirement plan offered through their employment with the University of Tennessee or the state university and community college system, regardless of whether such retired employee is drawing a retirement benefit.

SECTION 17. Tennessee Code Annotated, Section 8-27-209(a), is amended by deleting the subsection and substituting:

(a) The state insurance committee may provide a supplemental medical insurance benefit as the state insurance committee deems necessary and reasonable for retired state employees, as defined in § 8-27-204(a)(1), who are covered by Medicare benefits, and may establish eligibility criteria for the benefit. The supplemental medical insurance benefit may be made available to:

(1) Eligible retired state employees, eligible retired employees of the University of Tennessee, and eligible retired employees of the state university and community college system who are drawing retirement benefits through the Tennessee consolidated retirement system; and

(2) Eligible retired employees of the University of Tennessee and the state university and community college system who are participants in any other retirement plan offered through their employment with the University of Tennessee or the state university and community college system, regardless of whether such retired employee is drawing a retirement benefit.

SECTION 18. Tennessee Code Annotated, Section 8-27-209(b), is amended by deleting the language "supplemental medical insurance program for retirees" and substituting "supplemental medical insurance program for retired employees".

SECTION 19. Tennessee Code Annotated, Section 8-27-209, is amended by deleting subdivisions (c)(2) and (d)(2).

SECTION 20. Tennessee Code Annotated, Section 8-27-209(e), is amended by inserting the language "benefit" after "supplemental medical insurance".

SECTION 21. Tennessee Code Annotated, Section 8-27-209, is amended by adding the following as a new subsection:

(f) As used in this section:

(1) "Retiree" means:

(A) A former state employee, or employee of the University of Tennessee, or the state university and community college system, who is drawing an allowance through the Tennessee consolidated retirement system; and

(B) A former employee of the University of Tennessee, or the state university and community college system, who participates in the optional retirement system established in § 8-25-202, regardless of whether the former employee draws a monthly retirement allowance; and

(2) "Years of service" means only those years of service rendered by the retiree as a state employee, University of Tennessee employee, or state university and community college system higher education employee, or teacher in a local education agency, and upon which the retiree's monthly retirement allowance is based.

SECTION 22. Tennessee Code Annotated, Section 8-27-305(a), is amended by deleting the subsection and substituting:

(a) The local education insurance committee may establish basic health plans and voluntary benefits, as the local education committee deems necessary and reasonable, for retired local education employees. The benefits may be made available to all eligible retired local education employees; provided, that an eligible retired local education employee who is vested in the Tennessee consolidated retirement system must be drawing retirement benefits through that system to be able to also participate in the health benefits authorized by this section.

SECTION 23. Tennessee Code Annotated, Section 8-27-305(b), is amended by deleting the language "retired teachers" and substituting "the benefits authorized in subsection (a)".

SECTION 24. Tennessee Code Annotated, Title 8, Chapter 27, Part 3, is amended by adding the following as a new section:

(a) Subject to the approval of the state insurance committee as created in § 8-27-201 and the local education insurance committee, all retired local education employees participating in the Tennessee consolidated retirement system may participate in the supplemental medical insurance program established in § 8-27-209; provided, that retired employees are covered by Medicare benefits and are also drawing a monthly retirement allowance from the Tennessee consolidated retirement system.

(b) If, pursuant to a contract for insurance coverage authorized by this section, the provider or administrator returns or refunds any amounts by which premiums or fees exceed expenses, the amounts must be used only for the supplemental medical insurance program for retired employees. The returns or refunds must not be used to reduce the amount of state funding that would otherwise be required under subsection (c).

(c)(1) From the appropriations made in the general appropriations act each year for that purpose, the state insurance committee may pay an amount on behalf of each participating retiree toward the cost of supplemental medical insurance provided pursuant to this section at the same level and on the same terms that are established by the state insurance committee pursuant to § 8-27-209(d).

(2) As used in this subsection (c):

(A) "Retiree" means a former teacher employed by a local education agency who is drawing a monthly retirement allowance from the Tennessee consolidated retirement system, and does not include other former local education employees; and

(B) "Years of service" means only those years of service rendered by the retiree as a state employee, University of Tennessee employee, or state university and community college system higher education employee, or teacher in a local education agency, and upon which the retiree's monthly retirement allowance is based.

(d) Except as provided in subsection (c), the state insurance committee shall not pay an amount toward the costs of supplemental medical insurance provided pursuant to this section.

(e) Former local education employees, other than those specified in subsection (c), who elect to participate in the program shall pay the total cost of such coverage. The chief governing body of a local education employer may pass a resolution to make contributions toward the expense of such coverages; provided, that the amount, terms, and conditions of contributions must be, at all times, the same as that established by the state insurance committee pursuant to § 8-27-209(d). As used in this subsection (e), for determining the

employer's contribution level, "years of service" means only those years of service rendered by the retired employee to the resolving employer and upon which the retired employee's monthly retirement allowance is based. The resolution to make contributions on behalf of retired employees must remain in effect until revoked by the chief governing body.

(f) The budget of an employer electing to make contributions must include an amount sufficient to pay contributions on behalf of its retired employees covered by the supplemental insurance program. The employer shall pay the contributions to the insurer in a manner directed by the state insurance committee.

(g) The supplemental medical insurance benefit authorized by this section is not available to a person otherwise qualified under subsection (a) whose initial employment with a participating local education agency or other qualifying employer commenced on or after July 1, 2015. The rights of election, transfer, and enrollment conferred by this section is not available to a person whose initial employment with a participating local education agency, the state, or other governmental agency qualifying the person for plan membership commenced on or after July 1, 2015.

SECTION 25. Tennessee Code Annotated, Section 8-27-705(a), is amended by deleting the subsection and substituting:

(a) The local government insurance committee may establish basic health plan benefits and voluntary benefits, as the local government insurance committee deems necessary and reasonable, for retired local government employees. The health benefits may be made available to all eligible retired local government employees; provided, that an eligible retired local government employee who is vested in the Tennessee consolidated retirement system must be drawing retirement benefits through that system to receive the health benefits authorized by this section.

SECTION 26. Tennessee Code Annotated, Section 8-27-705(b), is amended by deleting the language "retirees" and substituting "the benefits authorized by subsection (a)".

SECTION 27. Tennessee Code Annotated, Section 8-27-706(a), is amended by deleting the language "8-27-201," and substituting "8-27-201 and the local government insurance committee,".

SECTION 28. This act takes effect July 1, 2023, the public welfare requiring it. Section 1 of this act applies to each eligible employee who qualifies for leave under this act on or after July 1, 2023. Sections 2-9 of this act apply to each eligible employee who qualifies for leave under this act on or after January 1, 2024. Sections 10-16 of this act apply to health insurance plan years beginning on or after January 1, 2024.


SENATE BILL NO. 276

PASSED: April 10, 2023


Randy McNally
Randy McNally
SPEAKER OF THE SENATE


Cameron Sexton, Speaker
HOUSE OF REPRESENTATIVES

APPROVED this 25th day of April 2023


Bill Lee, Governor