
A BILL FOR AN ACT

RELATING TO EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 78, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§78- Shared leave program. (a) There is established,
5 within the department of labor and industrial relations, a
6 shared leave program that shall allow state employees to donate
7 accumulated sick leave and vacation leave credits to a shared
8 leave bank or directly to another state employee who meets the
9 conditions set forth in subsection (b).

10 (b) An employee shall meet the following conditions to be
11 eligible to receive shared leave credits:

12 (1) Be employed by the State in a position with at least
13 fifty per cent full-time equivalency, for at least six
14 consecutive months prior to the submittal of the
15 shared leave request;

16 (2) Have no disciplinary record relating to the use of
17 leave credits within the past two years;



- 1 (3) Be suffering from a serious personal illness or injury
2 or caring for a family member suffering from a serious
3 personal illness or injury that has caused the
4 employee to be absent from work for at least thirty
5 consecutive calendar days within the past twelve
6 months; and
- 7 (4) Have exhausted all forms of paid leave available
8 before using any shared leave; provided that sick
9 leave need not be exhausted when the shared leave
10 involves a family member.

11 The director of labor and industrial relations may allow for an
12 exception for an employee whose absence from duty is determined
13 to be caused by circumstances that warrant special
14 consideration.

15 A shared leave recipient shall receive no more than a
16 combined cumulative total of two hundred forty days of shared
17 leave credits while employed by the State. The director of
18 labor and industrial relations may allow for the transfer of up
19 to one hundred twenty additional days of shared leave credits if
20 the director of labor and industrial relations determines that
21 circumstances exist that warrant special consideration. Shared



1 leave shall be applied toward days and hours the employee would
2 normally have worked. The effective date of shared leave shall
3 not be earlier than the date the shared leave application is
4 filed with the department of labor and industrial relations and
5 the date on which all forms of paid leave available to the
6 applicant are exhausted, except as provided in paragraph (4).
7 The director of labor and industrial relations may allow for a
8 retroactive effective date for shared leave should the director
9 of labor and industrial relations determine that circumstances
10 exist that warrant retroactivity.

11 (c) State agencies shall:

12 (1) Ensure that all shared leave applications and donation
13 forms are properly completed and employees meet the
14 specified requirements;

15 (2) Determine if the employee's absence would impose an
16 undue hardship on the agency's operations;

17 (3) Approve or deny shared leave applications when an
18 employee has a life threatening illness or injury that
19 constitutes a serious personal illness or injury;

20 (4) Make recommendations on shared leave applications to
21 the director of labor and industrial relations when an



- 1 employee or an employee's family member has a serious
2 personal illness or injury that is not life
3 threatening;
- 4 (5) Make recommendations on shared leave applications to
5 the director of labor and industrial relations when:
- 6 (A) An employee's absence from duty does not meet the
7 thirty-consecutive-calendar-day eligibility
8 requirement;
- 9 (B) A retroactive shared leave effective date is
10 requested; or
- 11 (C) Additional shared leave is requested;
12 as provided in subsection (b);
- 13 (6) Deduct donated leave from the donor's leave record
14 through payroll, time, and attendance entry;
- 15 (7) Require periodic verification from the employee that
16 the employee's or employee's family member's condition
17 continues to persist to ensure that the shared leave
18 recipient continues to be affected by the serious
19 personal illness or injury;



1 (8) Notify the shared leave recipient when the recipient
2 is about to exhaust two hundred forty shared leave
3 days; and

4 (9) Notify the shared leave coordinator when a shared
5 leave recipient returns to work or separates from
6 employment.

7 (d) The director of labor and industrial relations shall:

8 (1) Establish procedures for the shared leave program;

9 (2) Prescribe and approve or deny shared leave
10 applications for employees who suffer from a serious
11 personal illness or injury and employees with family
12 members who suffer from a serious personal illness or
13 injury;

14 (3) Approve or deny requests and appeals for an exception
15 to the thirty-consecutive-calendar-day requirement
16 under subsection (b) (3);

17 (4) Approve or deny requests for a retroactive effective
18 date as provided in subsection (b) and requests for
19 additional shared leave; provided that the director of
20 labor and industrial relations determines that
21 circumstances exist that warrant such consideration;



- 1 (5) Appoint a shared leave coordinator; and
- 2 (6) Issue a statewide circular to announce that shared
- 3 leave donations may be made by state employees.
- 4 (e) The shared leave coordinator shall:
- 5 (1) Administer the shared leave bank;
- 6 (2) Receive all notices of approved shared leave
- 7 recipients and shared leave donation forms;
- 8 (3) Transmit donated shared leave to respective payroll
- 9 sections;
- 10 (4) Designate the number of shared leave days to shared
- 11 leave recipients who do not receive adequate direct
- 12 donations each pay period;
- 13 (5) Maintain a file on each shared leave recipient;
- 14 (6) Notify the appointing authority when a shared leave
- 15 recipient is about to exhaust two hundred forty shared
- 16 leave days; and
- 17 (7) Administer and review appeals from employees whose
- 18 applications for shared leave were denied;
- 19 (f) Shared leave applicants:
- 20 (1) Shall complete a shared leave application and medical
- 21 certification form prescribed by the director of labor



- 1 and industrial relations and provide necessary
2 supporting documents, as requested by the director of
3 labor and industrial relations;
- 4 (2) May request the director of labor and industrial
5 relations for an exception to the thirty-consecutive-
6 calendar-day requirement, a retroactive effective
7 date, or additional shared leave, as provided in
8 subsection (b), should the medical condition warrant
9 such request; and
- 10 (3) Shall notify the appointing authority of the shared
11 leave recipient's return to work or separation from
12 employment.
- 13 (g) Donors shall:
- 14 (1) Complete a donor form prescribed by the director of
15 labor and industrial relations and designate sick
16 leave or vacation leave credits directly to a specific
17 shared leave recipient or to the shared leave bank;
- 18 (2) Have at least ten days of vacation leave remaining
19 after the donation is made;
- 20 (3) Make donations in eight-hour increments;



1 (4) Donate vacation leave credits subject to forfeiture by
2 December 10 of each year; and

3 (5) Donate vacation leave credits at least twenty calendar
4 days before separation from service.

5 All shared leave donations shall be irrevocable.

6 (h) When a shared leave application is denied in part or
7 whole, the applicant may appeal the decision in accordance with
8 procedures prescribed by the director of labor and industrial
9 relations. The decision on the appeal shall be final and
10 conclusive.

11 (i) A shared leave recipient shall stop receiving shared
12 leave donations when the following occurs:

13 (1) The shared leave recipient's appointment ends on a
14 specified date;

15 (2) The shared leave recipient separates or is separated
16 from service;

17 (3) The appointing authority terminates the shared leave
18 recipient;

19 (4) The shared leave recipient or the shared leave
20 recipient's family member no longer suffers from the



1 serious personal illness or injury for which the
2 shared leave was approved;

3 (5) The shared leave recipient receives retroactive
4 approval for workers' compensation benefits,
5 disability retirement, or other similar benefits; or

6 (6) The shared leave recipient returns to work.

7 An exception shall be made for shared leave recipients
8 undergoing medical treatment and returning to work on a part-
9 time basis. The shared leave recipient shall not receive a lump
10 sum payment for any unused shared leave donated to the
11 recipient.

12 (j) An employee shall not directly or indirectly
13 intimidate, threaten, or coerce, or attempt to intimidate,
14 threaten, or coerce, any other employee for the purpose of
15 interfering with the right of an employee to donate, not to
16 donate, to receive, or to use shared leave under this section.

17 A donor shall not have solicited nor accepted anything of value
18 in exchange for the shared leave donation.

19 For the purposes of this subsection, "intimidate, threaten,
20 or coerce" includes promising to confer or conferring any
21 benefit, such as an appointment, promotion, or compensation, or



1 effecting or threatening to effect any reprisal, such as
2 deprivation of appointment, promotion, or compensation.

3 (k) In the event the shared leave program is terminated, a
4 shared leave recipient shall remain a recipient to the extent
5 all donated leave is exhausted, subject to the limitations of
6 subsection (i). The appointing authorities shall deny all
7 shared leave requests and donations on the effective date of the
8 program's termination. The shared leave bank shall be dissolved
9 after all shared leave recipients have exhausted their donated
10 leave, at which time any remaining shared leave shall be
11 forfeited.

12 (l) For purposes of this section:

13 "Appointing authority" means the head of a state agency or
14 designee, who has the power to make appointments or changes in
15 the status of employees of that state agency.

16 "Competent medical examiner" means a doctor of medicine, a
17 dentist, or an osteopath, as applicable.

18 "Donor" means an employee who voluntarily submits a written
19 shared leave donation form to transfer sick leave or vacation
20 leave credits to a leave recipient or to the leave bank.



1 "Employee" or "state employee" means any regular,
2 probationary, limited term, or exempt employee who has been
3 employed for at least six continuous months by a state agency
4 and is entitled to accrue and use sick leave or vacation leave
5 and does not include individuals employed on a personal service
6 contract basis.

7 "Family member" means a person who requires vigilant
8 medical attention for at least thirty consecutive calendar days
9 and is an employee's:

10 (1) Child, including an adopted child, biological child,
11 or stepchild in a parent-child relationship with the
12 employee; or

13 (2) Parent, parent-in-law, or spouse, who is unable to
14 perform two or more of the following activities of
15 daily living:

16 (A) Going to the toilet, getting on and off the
17 toilet, arranging clothing on one's body, and
18 cleaning oneself;

19 (B) Eating using normal methods;



- 1 (C) Controlling bowel and bladder functions
- 2 voluntarily and maintaining a reasonable level of
- 3 personal hygiene;
- 4 (D) Moving in and out of furniture and a bed with the
- 5 aid of equipment, such as a cane, walker, grab
- 6 bar, or other support devices; or
- 7 (E) Taking proper medication when required; provided
- 8 that the medication is taken during the
- 9 employee's regular working hours and the employee
- 10 is the primary caregiver of the parent, parent-
- 11 in-law, or spouse.

12 "Serious personal illness or injury" means a life
13 threatening, catastrophic, or debilitating illness or injury
14 that:

- 15 (1) Incapacitates the employee or employee's family
- 16 member;
- 17 (2) Prevents the employee from performing the primary
- 18 duties of the employee's position;
- 19 (3) Involves either inpatient care or continuing treatment
- 20 by a health care provider;



1 (4) Is certified by a competent medical examiner as being
2 the cause of the employee's inability to work or the
3 family member's need for vigilant medical attention
4 for at least thirty consecutive calendar days; and

5 (5) Is not covered under chapter 386.

6 "Shared leave" means sick leave and vacation leave credits
7 donated to a shared leave recipient or the shared leave bank,
8 which are approved by the appointing authority.

9 "Shared leave recipient" means an eligible employee who is
10 approved by the appointing authority or director of labor and
11 industrial relations to receive shared leave.

12 "State" or "state agency" means each department, office,
13 commission, board, or other division of the executive,
14 legislative, or judicial branch of state government, and
15 includes the office of Hawaiian affairs."

16 SECTION 2. New statutory material is underscored.

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Shared Leave Program; State Employees

Description:

Establishes a shared leave program within the Department of Labor and Industrial Relations to allow state employees to donate accumulated sick leave and vacation leave credits to a shared leave bank or to another state employee who has a serious personal illness or injury or who has a family member who has a serious personal illness or injury. (HB1402 HD1)

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