

CHAPTER 93

[Substitute Senate Bill No. 5933]

STATE EMPLOYEES—ANNUAL LEAVE SHARING

AN ACT Relating to an annual leave sharing program for state employees; adding new sections to chapter 41.04 RCW; adding a new section to chapter 28A.58 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 41.04 RCW to read as follows:

The legislature finds that: (1) State employees historically have joined together to help their fellow employees who suffer from, or have relatives or household members suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which prevents the individual from working and causes great economic and emotional distress to the employee and his or her family; and (2) these circumstances may be exacerbated because the affected employees use all their accrued sick leave and annual leave and are forced to take leave without pay or terminate their employment. Therefore, the legislature intends to provide for the establishment of a leave sharing program.

NEW SECTION. Sec. 2. A new section is added to chapter 41.04 RCW to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 7 of this act.

(1) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(2) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

(3) "Program" means the leave sharing program established in section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 41.04 RCW to read as follows:

The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual leave, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

NEW SECTION. Sec. 4. A new section is added to chapter 41.04 RCW to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(b) The employee's absence and the use of shared leave are justified;

(c) The employee has depleted or will shortly deplete his or her annual leave and sick leave reserves;

(d) The employee has abided by agency rules regarding sick leave use; and

(e) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than two hundred sixty-one days of leave.

(3) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days.

(4) Transfers of leave made by an agency head under subsection (3) of this section shall not exceed the requested amount.

(5) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

(6) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the annual leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(7) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(8) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

NEW SECTION. Sec. 5. A new section is added to chapter 41.04 RCW to read as follows:

The state personnel board, the higher education personnel board, and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of sections 1 through 4 of this act; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with section 4(5) of this act; (3) establishing procedures to ensure that the program does not significantly increase the cost of providing annual leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.58 RCW to read as follows:

Every school district board of directors and educational service district superintendent may, in accordance with sections 1 through 4 of this act, establish and administer an annual leave sharing program for their certificated and noncertificated employees. For employees of school districts and educational service districts, the superintendent of public instruction shall adopt standards: (1) Establishing appropriate parameters for the program

which are consistent with the provisions of sections 1 through 4 of this act; and (2) establishing procedures to ensure that the program does not significantly increase the cost of providing annual leave.

NEW SECTION. Sec. 7. School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on the effective date of this act so that donated leave may be used in lieu of leave without pay taken after the effective date of this act.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 7, 1989.

Passed the House April 6, 1989.

Approved by the Governor April 20, 1989.

Filed in Office of Secretary of State April 20, 1989.

CHAPTER 94

[Substitute Senate Bill No. 5066]

SELF DEFENSE—SPECIAL VERDICT AND INDEMNIFICATION

AN ACT Relating to defense of person or property; amending RCW 9.01.200; and recodifying RCW 9.01.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 206, Laws of 1977 ex. sess. and RCW 9.01-.200 are each amended to read as follows:

(1) No person in the state shall be placed in legal jeopardy of any kind whatsoever for protecting by any reasonable means necessary, himself or herself, his or her family, or his or her real or personal property, or for coming to the aid of another who is in imminent danger of or the victim of ((aggravated)) assault, ((armed)) robbery, ((holdup)) kidnapping, arson, burglary, rape, murder, or any other heinous crime.

(2) When a substantial question of self defense in such a case shall exist which needs legal investigation or court action for the full determination of the facts, and the defendant's actions are subsequently found justified under the intent of this section, the state of Washington shall indemnify or reimburse such defendant for all loss of time, legal fees, or other expenses involved in his or her defense. This indemnification or reimbursement is an award of reasonable costs which include loss of time, legal fees, or other