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# 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 human resources development, a shared  
6 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 human resources development 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 human resources development may allow for the transfer of up to  
19 one hundred twenty additional days of shared leave credits if  
20 the director of human resources development determines that  
21 circumstances exist that warrant special consideration. Shared



1 leave credits shall be applied toward days and hours the  
2 employee would normally have worked. The effective date of  
3 shared leave shall not be earlier than the date the shared leave  
4 application is filed with the department of human resources  
5 development and the date on which all forms of paid leave  
6 available to the applicant are exhausted, except as provided in  
7 paragraph (4). The director of human resources development may  
8 allow for a retroactive effective date for shared leave should  
9 the director of human resources development determine that  
10 circumstances 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 determine whether  
14 employees meet the 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 human resources development 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 human resources development 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           persists to ensure that the shared leave recipient  
18           continues to be affected by the serious personal  
19           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 human resources development 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       human resources development 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 human



- 1           resources development and provide necessary supporting  
2           documents, as requested by the director of human  
3           resources development;
- 4        (2) May request the director of human resources  
5           development to grant an exception to the thirty-  
6           consecutive-calendar-day requirement, a retroactive  
7           effective date, or additional shared leave, as  
8           provided in subsection (b), should the medical  
9           condition warrant 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           human resources development and designate sick leave  
16           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 human resources  
9 development. 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 solicit nor accept anything of value in  
18 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 osteopathic physician, 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 human  
 11 resources development 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 Human Resources Development 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 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

