

**CHAPTER 97 (HB 265)**

AN ACT relating to an annual leave sharing program for state employees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

- (1) *The Commonwealth of Kentucky annual leave sharing program is created. An employee who has accrued an annual leave balance of more than seventy-five (75) hours may request that the appointing authority of the agency for which the employee works makes available for transfer a specified amount of his or her annual leave balance to another named employee authorized to receive leave under subsection (2) of this section. The employee may not request a transfer of an amount of leave that would result in reducing his or her annual leave balance to less than seventy-five (75) hours.*
- (2) *An appointing authority, with the approval of the secretary of personnel, may permit an employee of the agency to receive leave under this section if:*
  - (a) *The employee suffers from a catastrophic loss to his or her personal property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to go on leave for at least ten (10) consecutive working days;*
  - (b) *The employee has exhausted his or her accumulated annual leave and compensatory leave balances; and*
  - (c) *The employee has complied with administrative regulations governing the use of annual leave.*
- (3) *The appointing authority, with the approval of the secretary of personnel, shall determine the amount of leave, if any, that an employee within his or her agency may receive under subsection (2) of this section. Transfers of leave shall not exceed the amount requested by the recipient.*
- (4) *Leave may be transferred from an employee of one (1) agency to an employee within the same agency. With the approval of the secretary of personnel and of the appointing authorities of both agencies, leave may be transferred from an employee of one (1) agency to an employee of another state agency. The Personnel Cabinet shall maintain records of leave transferred between employees and the utilization of transferred leave.*
- (5) *While an employee is on leave transferred under this section, he or she shall be deemed a state employee and shall receive the same treatment with respect to salary, wages, and employee benefits.*
- (6) *All salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.*
- (7) *Any leave transferred under this section that remains unused shall be returned to the employees who transferred the leave when the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the catastrophic loss for which the leave was transferred to an employee in his or her agency.*
- (8) *No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's right to voluntarily contribute leave when authorized under this section. For*

*the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.*

(9) *The secretary of the Personnel Cabinet shall promulgate procedural administrative regulations to implement the provisions of this section.* Section 2. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Personnel Cabinet the following offices and departments, each of which shall be headed by a commissioner appointed by the secretary, subject to the prior approval of the Governor, pursuant to KRS 12.050, except that the Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:

(a) Office of the Secretary, composed of the:

1. Office of Administrative and Legal Services, which shall:

a. Provide all administrative information systems management, and legal services to the Cabinet; and

b. Coordinate the state's affirmative action plan established in KRS 18A.138;

2. Kentucky Public Employees Deferred Compensation Authority which shall be attached to the Office of the secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of Finance and Administration, ex officio; the secretary of Personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A; and

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(b) Department for Personnel Administration, composed of the:

1. Division of Performance Management, which shall coordinate and implement the employee performance evaluation systems throughout state government;

2. Division of Employee Records, which shall:

a. Maintain the central personnel files mandated by KRS 18A.020;

b. Process personnel documents and position actions;

- c. Operate and maintain a uniform payroll system;
  - d. Implement lay-off plans mandated by KRS 18A.113 to KRS 18A.1132;
  - e. Certify payrolls as required by KRS 18A.125; and
  - f. Monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA);
3. Division of Staffing Services, which shall:
    - a. Operate a centralized applicant and employee counseling program;
    - b. Operate the examination program for State employment;
    - c. Prepare registers of candidate employment;
    - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
    - e. Construct merit examinations; and
  4. Division of Classification and Compensation, which shall:
    - a. Maintain plans of classification and compensation for the State Service; and
    - b. Review and evaluate the plans; and
- (c) Department for Employee Relations, composed of the:
1. Division of Employee Benefits, which shall be responsible for administering and assisting state employees with the following benefits and programs:
    - a. Workers' Compensation (KRS 18A.375);
    - b. Life Insurance (KRS 18A.205 to KRS 18A.220);
    - c. Health Insurance (KRS 18A.225);
    - d. Flexible Benefit Plan (KRS 18A.227);
    - e. Employee Benefit Plan (KRS 18A.2281);
    - f. Sick leave Sharing Program (KRS 18A.197);
    - g. ***Annual Leave Sharing Program***;
    - h. Health and Safety Programs (OSHA); and ~~it~~. Assessment and referral services provided to state employees;
  2. Division of Communications and Recognition, which shall:
    - a. Communicate with state employees about personnel issues and other relevant issues through publications;
    - b. Administer the employee incentive programs established by KRS 18A.202; and
    - c. Provide dispute resolution assistance to state employees and agencies.
- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050, as necessary for the development and implementation of policy. The secretary may

employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. KRS 18A.197 is amended to read as follows:

- (1) The Commonwealth of Kentucky *sick* leave sharing program is created. An employee who has accrued a sick leave balance of more than seventy-five (75) hours may request that the appointing authority of the agency for which the employee works makes available for transfer a specified amount of his *or her* sick leave balance to another named employee authorized to receive leave under subsection (2) of this section. The employee may not request a transfer of an amount of leave that would result in reducing his *or her* sick leave balance to less than seventy-five (75) hours.
- (2) An appointing authority, with the approval of the secretary of personnel, may permit an employee of the agency to receive leave under this section if:
  - (a) The employee or a member of his *or her* immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave for at least ten (10) consecutive working days;
  - (b) The employee's need for absence and use of leave are certified by a licensed practicing physician;
  - (c) The employee has exhausted his *or her* accumulated sick leave, annual leave, and compensatory leave balances; and
  - (d) The employee has complied with administrative regulations governing the use of sick leave.
- (3) The appointing authority, with the approval of the secretary of personnel, shall determine the amount of leave, if any, which an employee within his *or her* agency may receive under subsection (2) of this section. Transfers of leave shall not exceed the amount requested by the recipient.
- (4) Leave may be transferred from an employee of one (1) agency to an employee within the same agency. With the approval of the secretary of personnel and of the appointing authorities of both agencies, leave may be transferred from an employee of one (1) agency to an employee of another state agency. The Personnel Cabinet shall maintain records of leave transferred between employees and the utilization of transferred leave.
- (5) While an employee is on leave transferred under this section, he *or she* shall be deemed a state employee and shall receive the same treatment with respect to salary, wages and employee benefits.
- (6) All salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.
- (7) Any leave transferred under this section which remains unused shall be returned to the employees who transferred the leave when the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the illness or injury for which the leave was transferred to an employee in his agency.
- (8) No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the

employee's right to voluntarily contribute leave when authorized under this section. For the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.

- (9) The secretary of the Personnel Cabinet shall promulgate procedural administrative regulations to implement the provisions of this section.

**Approved March 9, 2000**