

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 364

By: Pugh

AS INTRODUCED

An Act relating to school employees; entitling full-time public school district employees who have worked for a certain amount of time to certain amount of paid maternity leave; directing the leave be used in certain time period; providing for expiration of leave; directing maternity leave be in addition to certain sick leave; prohibiting employee on maternity leave from being deprived of certain compensation or benefits; directing the Legislature to appropriate adequate funding to provide paid maternity leave to certain school employees; providing for allocation of funds if certain appropriation is not made; providing for promulgation of rules; amending 70 O.S. 2021, Section 6-104.1, which relates to leave without pay for teachers; updating statutory reference; allowing maternity leave in addition to certain sick leave and extended leave; updating statutory language; amending 70 O.S. 2021, Section 6-104.5, which relates to pay deductions for certain leave; adding statutory reference; allowing certain deductions after exhausting certain sick leave and maternity leave; amending 70 O.S. 2021, Section 6-104.6, which relates to establishment of leave sharing programs; allowing certain district employees to participate in certain shared leave after exhausting maternity leave; requiring maternity leave and sick leave to be used prior to shared sick leave; making language gender neutral; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 6-104.8 of Title 70, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. A full-time employee of a public school district in this  
5 state who has been employed by the school district for at least one  
6 year and has worked at least one thousand two hundred fifty (1,250)  
7 hours during the preceding twelve-month period shall be entitled to  
8 twelve (12) weeks of paid maternity leave following the birth of the  
9 employee's child. The twelve (12) weeks of paid maternity leave  
10 shall be used in the twelve (12) months following the birth of the  
11 school district employee's child and shall expire at the end of the  
12 twelve-month period.

13 B. Paid maternity leave provided pursuant to this section shall  
14 be in addition to and not in place of sick leave due to pregnancy,  
15 as provided for in Section 6-104 of Title 70 of the Oklahoma  
16 Statutes.

17 C. A school district employee who takes maternity leave  
18 pursuant to the provisions of this section shall not be deprived of  
19 any compensation or other benefits to which the employee is  
20 otherwise entitled.

21 D. Each fiscal year, the Legislature shall appropriate adequate  
22 funding to the State Board of Education for the purpose of providing  
23 paid maternity leave to eligible school district employees pursuant  
24 to this act. If the Legislature does not appropriate adequate

1 funding specifically for the purpose of providing paid maternity  
2 leave to school district employees, the State Board of Education  
3 shall allocate from the funds appropriated to the State Board of  
4 Education for the support of public school activities an amount to  
5 fully fund paid maternity leave.

6 E. The State Board of Education may promulgate rules to  
7 implement the provisions of this section.

8 SECTION 2. AMENDATORY 70 O.S. 2021, Section 6-104.1, is  
9 amended to read as follows:

10 Section 6-104.1. After exhausting sick leave and extended leave  
11 pursuant to Sections 6-104 and 6-104.5 of ~~Title 70 of the Oklahoma~~  
12 ~~Statutes~~ this title and maternity leave pursuant to Section 1 of  
13 this act, a full-time teacher who, with the proper approval of the  
14 district board of education, takes not more than ninety (90) school  
15 days of leave without pay to care for the teacher's child during the  
16 first year of the child's life, shall receive full credit for the  
17 days on leave without pay as though the teacher had been on leave  
18 with pay for purposes of computing experience for the minimum  
19 teacher salary schedule. A teacher on leave without pay pursuant to  
20 this section who pays the actuarial cost, as determined by the Board  
21 of Trustees of the Teachers' Retirement System of Oklahoma, shall  
22 have the period during which such leave without pay is taken,  
23 counted toward retirement service credit as though the teacher had  
24 been on leave with pay. The teacher shall notify ~~their~~ his or her

1 employer and the System in writing within thirty (30) days from the  
2 date he or she returns to service that ~~they~~ he or she will pay such  
3 actuarial cost. The teacher shall have up to twelve (12) months  
4 from the date he or she returns to service to pay such actuarial  
5 cost.

6 SECTION 3. AMENDATORY 70 O.S. 2021, Section 6-104.5, is  
7 amended to read as follows:

8 Section 6-104.5. A. If, after exhausting all sick leave  
9 pursuant to Section 6-104 of this title and maternity leave pursuant  
10 to Section 1 of this act, a teacher is absent from his or her duties  
11 due to personal accidental injury, illness, or pregnancy, the  
12 teacher shall receive for a period of not to exceed twenty (20) days  
13 his or her full contract salary less the amount:

- 14 1. ~~actually~~ Actually paid a certified substitute teacher for  
15 his or her position if a certified substitute teacher is hired; or
- 16 2. ~~normally~~ Normally paid a certified substitute teacher for  
17 his or her position if a certified substitute teacher is not hired.

18 B. The district's plan may provide that the teacher is entitled  
19 to payment for accrued but unused sick leave upon termination of  
20 employment.

21 SECTION 4. AMENDATORY 70 O.S. 2021, Section 6-104.6, is  
22 amended to read as follows:

23 Section 6-104.6. A. The board of education of each school  
24 district may establish a leave sharing program for all district

1 employees. The program shall permit district employees to donate  
2 sick leave to a fellow district employee who is pregnant or  
3 recovering from childbirth or who is suffering from or has a  
4 relative or household member suffering from an extraordinary or  
5 severe illness, injury, impairment, or physical or mental condition  
6 which has caused or is likely to cause the employee to take leave  
7 without pay or to terminate employment.

8 B. As used in this section:

9 1. "Relative of the employee" means a spouse, child, stepchild,  
10 grandchild, grandparent, stepparent, or parent of the employee;

11 2. "Household members" means those persons who reside in the  
12 same home, who have reciprocal duties to and do provide financial  
13 support for one another. This term shall include foster children  
14 and legal wards even if they do not live in the household. The term  
15 does not include persons sharing the same general house, when the  
16 living style is primarily that of a dormitory or commune;

17 3. "Severe" or "extraordinary" means serious, extreme, or life-  
18 threatening including temporary disability resulting from pregnancy,  
19 miscarriage, childbirth, and recovery therefrom; and

20 4. "District employee" means a teacher or any full-time  
21 employee of the school district.

22 C. A district employee may be eligible to receive shared leave  
23 pursuant to the following conditions:

1 1. The board of education determines that the employee meets  
2 the criteria described in this section; and

3 2. The employee has abided by district policies regarding the  
4 use of sick leave.

5 D. A district employee may donate annual leave to another  
6 district employee only pursuant to the following conditions:

7 1. The receiving employee has exhausted, or will exhaust, ~~only~~  
8 maternity leave granted pursuant to Section 1 of this act or sick  
9 leave earned pursuant to Section 6-104 of this title due to  
10 pregnancy, miscarriage, childbirth and recovery therefrom, an  
11 illness, injury, impairment, or physical or mental condition, which  
12 is of an extraordinary or severe nature, and involves the employee,  
13 a relative of the employee, or household member;

14 2. The condition has caused, or is likely to cause, the  
15 employee to go on leave without pay or to terminate employment;

16 3. The board of education of the district permits the leave to  
17 be shared with an eligible employee;

18 4. The amount of leave to be donated is within the limits set  
19 by the board of education of the district; and

20 5. District employees may not donate excess sick leave that the  
21 donor would not be able to otherwise take.

22 E. The board of education of each school district shall  
23 determine the amount of donated leave an employee may receive.  
24

1 F. The board of education shall require the employee to submit,  
2 prior to approval or disapproval, a medical certificate from a  
3 licensed physician or health care practitioner verifying the severe  
4 or extraordinary nature and expected duration of the condition.

5 G. Donated sick leave is transferable between employees of  
6 different school districts in the state with the agreement of both  
7 boards of education of each school district.

8 H. The receiving employee shall be paid the regular rate of pay  
9 of the employee. The sick leave received will be designated as  
10 shared sick leave and be maintained separately from all other sick  
11 leave balances.

12 I. Any donated sick leave may only be used by the recipient for  
13 the purposes specified in this section.

14 J. ~~Only~~ Maternity leave granted pursuant to Section 1 of this  
15 act and sick leave earned pursuant to Section 6-104 of this title  
16 available for use by the recipient ~~must~~ shall be used prior to using  
17 shared sick leave.

18 K. Any shared sick leave not used by the recipient during each  
19 occurrence as determined by the board of education shall be returned  
20 to the donor. The shared sick leave remaining will be divided among  
21 the donors on a prorated basis based on the original donated value  
22 and returned at its original donor value and reinstated to the  
23 annual leave balance of each donor.

1 L. All donated sick leave ~~must~~ shall be given voluntarily. No  
2 employee shall be coerced, threatened, intimidated, or financially  
3 induced into donating sick leave for purposes of the leave sharing  
4 program.

5 M. In addition to the sick leave sharing program provided for  
6 in this section, the board of education of each school district may  
7 establish a sick leave sharing bank for all district employees. A  
8 district employee may donate sick leave to a common fund which may  
9 be used by any district employee who is eligible to receive shared  
10 leave as set forth in subsection A of this section. The terms and  
11 conditions for donation and use of sick leave to a leave sharing  
12 bank shall be subject to the provisions of this section, unless  
13 negotiations, entered into pursuant to Section 509.1 et seq. of this  
14 title, between district employees and the school district establish  
15 terms and conditions for a sick leave sharing bank in excess of  
16 those provided for in this section.

17 SECTION 5. This act shall become effective July 1, 2023.

18 SECTION 6. It being immediately necessary for the preservation  
19 of the public peace, health, or safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

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