



Project title: Amending Ordinance No. 3136-09 which establishes a shared leave program for transferring vacation leave between employees and repealing Ordinance No. 2682-03

City Council Agenda Item Cover Sheet

Council Bill # CB 2204-14

Agenda dates requested:

5/4/22, 5/11/22, 5/18/22

Consideration: Amend Ordinance No. 3136-09 and Repeal Ordinance No. 2682-03

Project: Ordinance establishing a medical and military shared leave program for employees

Briefing

Proposed action 5/4,11/22

Consent

Action 5/18/22

Ordinance - Yes

Public hearing

Partner/Supplier: None

Location: None

Preceding action:

Fund: All funds

Yes x No

Budget amendment:

Yes x No

PowerPoint presentation:

Yes x No

Attachments:

Ordinance Amendment

Department(s) involved:

Human Resources, Legal

Contact person:

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Fiscal summary statement: The purpose of the shared leave program is to permit city employees, at no additional cost to any city fund other than the administrative costs of administering the program, to come to the aid of a fellow city employee has exhausted all paid leave benefits.

Project summary statement: The purpose of amending this Ordinance is to align the shared leave program with current State and Federal leave laws. Certain provisions of the prior ordinance relating to the administration and eligibility for the medical shared leave program have become outdated or require clarification. In addition, to ease administration the repealed military shared leave program Ordinance is now combined with the medical shared leave Ordinance.

Recommendation (exact action requested of Council): Adopt an Ordinance amending Ordinance No. 3136-09 and repealing Ordinance No. 2682-03.

Initialed by:

KB

Department head

Administration

Council President



ORDINANCE NO.

An ORDINANCE Establishing a shared leave program for transferring vacation leave between employees and repealing Ordinance No. 2682-03

WHEREAS,

- A. The City provides vacation leave to its employees as a vested right, in accordance with City ordinance or collective bargaining agreement subject to payment upon termination; and
- B. The City Council finds it appropriate and in the public interest to permit employees to share vacation leave in carefully defined circumstances, and to transfer such leave to and for the benefit of employees who are suffering or have a family member suffering from a serious health condition as defined by state law per RCW 50A.05.010.
- C. The City Council finds it necessary to update the ordinance authorizing shared leave for City employees to ensure consistency and compliance with state law and City policies.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section A Intent. of Ordinance 3136-09[, as amended] (codified at EMC 2.128.010), is amended as follows, with strikeouts deleted and underlining added:

The purpose of shared leave is to permit city employees, at no additional cost to any city fund other than the administrative costs of administering the program, to come to the aid of a fellow city employee who is who has exhausted all paid leave benefits and is:

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A. ~~S~~suffering from or has an immediate family member as defined by state law per RCW 50A.05.010 that is a spouse, state-registered domestic partner, or child (under the age of eighteen who resides with the employee) who is suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition.

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B. ~~A~~ victim of domestic violence, sexual assault or stalking.

C. ~~Called to actively serve in the United States Uniformed Services.~~

D. ~~Serving as an approved emergency worker in a declared national or state emergency.~~ ~~which has caused or is likely to cause the employee to take leave without pay~~The use of shared leave will not significantly increase the cost of any fund, except for those costs which would otherwise be incurred in the administration of this program or which would otherwise be incurred by the employee's department. ~~or to terminate his or her employment.~~

Section 1. Section B Conditions. of Ordinance 3136-09[, as amended] (codified at EMC 2.128.020),

is amended as follows, with strikeouts deleted and underlining added:

An employee may request and be approved to receive shared leave under this article if ~~he or she~~they meets the following eligibility criteria:

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~~A. The employee, or the employee's spouse, state-registered domestic partner, or child (under eighteen who resides with the employee) suffers from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which caused, or is likely to cause, the employee to go on leave without pay status or to terminate his or her employment with the city.~~

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A. The employee or their immediate family member as defined by federal and/or state law that is suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition.

B. The employee is a victim of domestic violence, sexual assault or stalking.

C. The employee who is ordered to report for active military duty for a significant military event during a time of national emergency. This may include an employee who is a member of the Army, Navy, Air Force, Marine Corps, Coast Guard and their reserves, the Army and Air National Guards, the Public Health Service commissioned corps, and other categories designated by the President or Governor in a time of emergency. This provision does not apply to individuals who voluntarily sign up for active military duty.

D. The employee is serving as an approved emergency worker in a declared national or state emergency.

~~B. The employee has completed at least six months of the applicable city probationary period.~~

~~E. C. The employee has depleted or will shortly deplete his or her total available paid leave. Paid leave accrual is defined as vacation leave, sick leave, military leave, accrued compensatory time, or floating holidays. For the purposes of this article, the use of employee sick leave accrual is allowed only in compliance with the city's Washington Family Care policy.~~

~~D. Prior to the use of shared leave, the employee has abided by the city's sick leave policy.~~

~~E. The use of shared leave will not significantly increase the cost of any fund, except for those costs which would otherwise be incurred in the administration of this program or which would otherwise be incurred by the employee's department.~~

Section 1. Section C of Ordinance 3136-09[, as amended] (codified at EMC 2.128.030), is amended as follows, with strikeouts deleted and underlining added:

The donee employee shall submit a request for leave on a shared leave request form. Such request must include appropriate medical justification and documentation of both the necessity of the leave and the time the employee can reasonably be expected to be absent due to the health condition. A donee employee shall not receive more than a total of six months (one hundred thirty-one working days) of shared leave throughout the employee's employment. To the extent possible, shared leave should be used on a consecutive basis.

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Section 1. Section D Donation of Leave. of Ordinance 3136-09[, as amended] (codified at EMC 2.128.040), is amended as follows, with strikeouts deleted and underlining added:

In order for a donor employee to donate accrued vacation leave to a donee employee approved to

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receive the shared leave, the following conditions must be met. The donor employee must:

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- A. ~~Have a total of more than ten days of accrued vacation leave; Have at least 10 days of vacation time off after the donation is deducted. For full-time employees, 10 days will be converted to hours based on regular shift. This amount is prorated for part-time employees. As such leave is donated and reviewed on an hour for hour basis.~~
- B. ~~Have taken at least ten days of vacation leave within the calendar year or have a total of accrued and used vacation leave of greater than ten days for the calendar year;~~
- C. ~~Not reduce his or her total vacation leave in a calendar year to less than ten days as a result of the donation; and~~
- D. ~~Make the donation of leave voluntarily.~~

Section 1. Section E Donation of Leave of Ordinance 3136-09[, as amended] (codified at EMC 2.128.050), is amended as follows, with strikeouts deleted and underlining added:

While a donee employee is using shared leave, ~~they~~he or she will continue to be classified as a city employee and shall receive the same treatment, with respect to salary and benefits, as the employee would otherwise receive if using vacation leave.

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- A. All salary benefit payments made to the donee employee on shared leave shall be made by the department employing the person using shared leave.
- B. The donee employee's salary rate shall not change as a result of being on shared leave, nor, under any circumstances, shall the total of the donee employee's salary and other benefits, including but not limited to state industrial insurance or any other benefit received as a result of payment by the city to an insurer or health care provider, exceed the total salary and benefits which the donee employee would have received had ~~he or she~~they been in regular pay status.
- C. ~~While an employee is using shared leave, the city will continue to pay its portion of the employee and family health insurance benefits, and the employee will pay their portion. Continuation of optional benefit deductions is at the discretion of the employee receiving shared leave.~~
- D. ~~An eligible employee may receive donations to supplement their military pay for a total not to exceed one hundred percent of the employee's city pay up to a period not to exceed six months in duration. The employee must turn over military paycheck stubs to the city so the city can determine the correct supplemental pay and donated leave amounts.~~
- E. ~~Employees will not accrue vacation, sick leave or other leave benefits while receiving shared leave.~~
- F. Employees using shared leave are not entitled to receive state of Washington State retirement service credit during the period they are using the shared leave hours.

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Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerk errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 5. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 6. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

~~Sharon Fuller~~ Marista Jorve, City Clerk

PASSED: _____
VALID: _____
PUBLISHED: _____
EFFECTIVE DATE: _____