

**REPORT OF THE  
DEPARTMENT OF PERSONNEL AND TRAINING**

# **ON LEAVE SHARING**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **House Document No. 18**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1989**



# COMMONWEALTH of VIRGINIA

*Department of Personnel and Training*

December 9, 1988

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TO                                   The Honorable Gerald L. Baliles  
  Governor of Virginia

  and

  The General Assembly of Virginia

The 1988 General Assembly, by House Joint Resolution 121, requested the Department of Personnel and Training to study the feasibility of developing a leave sharing policy for Virginia's state employees

Enclosed for your review and consideration is the report that has been prepared in response to this resolution

Respectfully submitted,

A handwritten signature in cursive script that reads "Chong M. Pak".

Chong M. Pak  
Department of Personnel  
and Training

## REPORT OVERVIEW

House Joint Resolution 121, passed by the 1988 session of the General Assembly (see Appendix A), directed the Department of Personnel and Training to study the feasibility of developing a leave sharing policy for Virginia's state employees. Leave sharing programs typically involve employees voluntarily donating their accumulated leave to a centralized leave bank. If an emergency arises in which additional leave is needed, employees may apply to the bank and withdraw leave to cover the period of absence.

This paper offers an overview of Virginia's current leave system, what other states and entities are doing with regard to leave sharing, cost estimates for implementing a leave sharing program in Virginia, and questions/issues pertinent to the leave sharing concept.

The Commonwealth currently maintains a relatively liberal leave system. Yet, there may be some instances where an employee exhausts all of his/her leave due to medical or other crisis. Establishing a leave sharing program in Virginia is one approach to assist these employees. While a leave sharing program is feasible for Virginia, there does not appear to be a compelling need for the program at this time. DPT has received no requests or inquiries from employees who wish to participate as donors or users of leave. Moreover, there are many policy questions and administrative issues which must be addressed prior to considering the initiation of a leave sharing program for the Commonwealth's employees. A number of these questions and issues are discussed briefly at the end of this report.

## INTRODUCTION

House Joint Resolution 121, passed by the 1988 session of the General Assembly, directed the Department of Personnel and Training (DPT) to study the feasibility of developing a leave sharing policy for Virginia's state employees. To that end, relevant information has been compiled in four areas

- Virginia's Current Leave System
- State Employee Use of Leave Without Pay
- Other Leave Sharing Programs
- Policy and Administrative Questions/Issues

Typical programs researched for this report can be described as "leave banks" which allow employees to contribute voluntarily their accumulated leave to a centralized leave bank. If an emergency arises in which additional leave is needed, an employee may apply to the bank. The application for leave is usually reviewed by a designated committee which uses established criteria to determine if the employee's request is legitimate and justifiable. If a leave sharing program is considered for Virginia, it is assumed the program could be patterned after established leave bank systems which are operational in other states or localities.

### I. VIRGINIA'S CURRENT LEAVE SYSTEMS

State classified employees are currently entitled to several types of paid and unpaid leave which can be used for personal reasons and emergencies. The charts below detail the kinds and amounts of leave allowed for such reasons

#### A. Annual Leave

| <u>Years of Service</u> | <u>Hours Earned</u>   |                 | <u>Days Earned Per Year</u> | <u>Max. Allowed End-of-Year Carryover</u> |             |
|-------------------------|-----------------------|-----------------|-----------------------------|---|-------------|
|                         | <u>Per Pay Period</u> | <u>Per Year</u> |                             | <u>Hours</u>                              | <u>Days</u> |
| 0 - 4                   | 4                     | 96              | 12                          | 192                                       | 24          |
| 5 - 9                   | 5                     | 120             | 15                          | 240                                       | 30          |
| 10 - 19                 | 6                     | 144             | 18                          | 288                                       | 36          |
| 20 & Over               | 7                     | 168             | 21                          | 336                                       | 42          |

Explanation of Annual Leave Policy

- Annual leave is provided so that employees have time for rest and relaxation.
- Earned annual leave may be used by employees for any purpose including vacations, personal needs, illness or other emergencies.
- Employees on annual leave retain all benefits and are guaranteed their position upon return.
- Annual leave amounts which are above the maximum allowed end-of-year carryover are normally forfeited at the end of a calendar year.
- Employees will be paid all their annual leave balance, up to the maximum allowed, upon separation.

B. Sick Leave

| <u>Years of Service</u> | <u>Hours Per Pay Period</u> | <u>Hours Earned Per Year</u> | <u>Days Earned Per Year</u> | <u>Max. Allowed End-of-Year Carryover</u> |
|-------------------------|-----------------------------|------------------------------|-----------------------------|---|
| 0+                      | 5                           | 120                          | 15                          | Unlimited                                 |

Explanation of Sick Leave Policy

- Earned sick leave may be used in case of an employee's personal illness or injury to include medical appointments and pregnancy.
- Family sick leave may be used in case of illness or death in an employee's immediate family. Up to 24 hours of family sick leave may be granted per illness or death, and it may not exceed 48 hours per year. Immediate family is defined by policy as parents, wife, husband, children, brother or sister and, any relative (either by blood or by marriage) living in the household of the employee.
- Employees on sick leave retain all benefits and are guaranteed their position upon return.
- Employees with five years of continuous service will be paid 25% of their sick leave balances up to \$2,500 upon separation.
- Employees with less than five years of continuous service will not be paid for sick leave balances when they separate from state employment.

C. Compensatory Leave

| <u>Years of Service</u> | <u>Hours Earned Per Pay Period</u> | <u>Per Year</u> | <u>Days Earned Per Year</u> | <u>Max. Allowed End-of-Year Carryover</u> |
|-------------------------|------------------------------------|-----------------|-----------------------------|---|
| 0+                      | Dependent upon hours worked        |                 |                             | Established by agency                     |

Explanation of Compensatory Leave Policy

- Compensatory leave may be earned by exempt and non-exempt employees for, among other things, working on a holiday or inclement weather day.
- Compensatory leave must normally be used within one year from the date it was earned or it will be forfeited.
- Employees on compensatory leave retain all benefits and are guaranteed their position upon return.
- Employees will be paid all their compensatory leave balance upon separation.

D. Leave Without Pay Personal

| <u>Years of Service</u> | <u>Duration</u> |
|-------------------------|-----------------|
| 0+                      | Up to 2 years   |

Explanation of Leave Without Pay Personal

- Employees may be granted leave without pay for personal reasons for up to two years. Personal reasons can include family sickness or emergencies.
- Health insurance for employees on leave without pay for personal reasons may be sponsored by the State for up to six months and employees must pay the premium. Employees also may utilize the Consolidated Omnibus Budget Reconciliation Act (COBRA) and continue insurance for up to an additional 12 months after the first six months, and they pay the premium.
- The Commonwealth pays the premium for life insurance for up to two years.
- No contribution is made to retirement.

Leave Without Pay Personal (Continued)

- Service credit cannot be purchased for time on leave without pay.
- Employees who take leave without pay are typically guaranteed their positions upon return. However, if the leave without pay is conditional, employees may return to their former positions if they haven't been filled. If the former position has been filled, they may compete for other positions within the agency once they are able to return to work.

E. Leave Without Pay Sick

| <u>Years of Service</u> | <u>Duration</u> |
|-------------------------|-----------------|
| 0+                      | Up to 2 years   |

Explanation of Leave Without Pay Sick

- Employees may be granted leave without pay for personal illness for up to two years.
- The State will pay its portion of the health insurance premium for up to 12 months. After 12 months, employees can utilize COBRA and continue insurance for up to an additional six months.
- The Commonwealth pays the premium for life insurance for up to two years.
- No contribution is made to retirement.
- Employees may purchase service credit upon return from leave without pay for personal illness.
- Employees who take leave without pay are typically guaranteed their positions upon return. However, if the leave without pay is conditional, employees may return to their former positions if they haven't been filled. If the former position has been filled, they may compete for other positions within the agency once they are able to return to work.

There are other types of leave without pay not directly related to the concept of leave sharing. These include LWOP/Suspension, LWOP/Temporary Layoff, LWOP/Organizational Layoff, LWOP/Military, and LWOP/School.

## II. STATE EMPLOYEE USE OF LEAVE WITHOUT PAY

For this report, an attempt was made to estimate the minimum cost (liability) of a leave sharing program by using information on those employees who took leave without pay (LWOP) in the last fiscal year. The Department of Personnel and Training requires state agencies to report to DPT those employees who take leave without pay for over 14 consecutive calendar days. A computer program run of that information identified those employees who took leave without pay for either health, personal or other reasons during the period of July 1, 1987 through June 30, 1988. It was assumed that these employees would be the most likely users of a leave bank. Summary statistics of employees who took LWOP in FY 87-88 are provided below

| <u>Type Of LWOP</u> | <u>Employees</u> |
|---------------------|------------------|
| LWOP/Health Reasons | 1,312            |
| LWOP/Home Reasons   | 139              |
| LWOP/Other          | <u>636</u>       |
| TOTAL               | 2,087            |

While information was available as to which employees took over 14 consecutive days of leave without pay, currently there is no central record of how many LWOP days were actually taken. (The actual number of days missed by each employee could be obtained through an extensive computer run at an estimated cost of \$5,000.) Since the available data identified these employees as missing at least ten workdays, that figure was used to compute a minimum cost estimate. The 1987-88 average annual employee salary was \$20,727 and the average daily salary was \$79.72.

For purposes of this report, DPT estimated that half of the 636 employees in the "LWOP/Other category (318) would be eligible for leave donation. Adding the 318 to 1,312 in "LWOP/Health Reasons" and 139 in "LWOP/ Home Reasons," DPT arrived at 1,769 employees who might be eligible for a leave sharing program. Multiplying the average daily salary times the ten workdays, times 1,769 employees total to an amount of \$1,410,246 as the estimated minimum cost of leave donations.



State Employee Use of Leave Without Pay (Continued)

Computation of Estimate

1,769 Approx. # of employees eligible for leave  
donations  
X 10 Minimum # of workdays missed  
17,690  
X \$ 79.72 Average daily wage  
\$1,410,246 Estimated minimum cost of leave donations

DPT cautions that the \$1,410,246 amount represents the estimated minimum cost of a leave sharing program. The total cost could be considerably higher since the actual number of days missed is likely to be greater than ten for a significant percentage of those employees who took leave without pay during the past fiscal year.

III. OTHER LEAVE SHARING PROGRAMS

To determine what other governments are doing with regard to developing leave sharing programs, a survey of Southeastern states and the federal government was conducted by the Department of Personnel and Training. Additionally, Virginia's Attorney General's Office provided information about their leave sharing bank. Below is a summary of those findings.

A. Florida

Has guidelines for an employee-run program

- each agency has the option to participate,
- employee committee evaluates requests for leave donations
- employee must be employed for at least one year to be eligible for join,
- donors must have at least 64 hours of sick leave accrued before being allowed to contribute,
- leave recipients must exhaust their own leave before being eligible for leave donations from other employees,

Florida (Continued)

- donated leave can only be used for illness or death of members of the immediate family, i.e., spouse and children,
- employee eligibility for donated leave is based on the nature of the request, the employee's past record, whether or not past leave has been used appropriately,
- in a department of 500, 2-3 requests are averaged per month for donations.

B. Georgia

No leave sharing program.

C. Kentucky

No leave sharing program and indicated no interest in one at this time.

D. Maryland

Recently defeated leave sharing legislation with the justification that they have liberal leave policies which include 12 weeks of unpaid family leave.

Highlights of Maryland's current liberal leave program include

- employees earn 15 sick days per year which can be used for personal or family illness reasons. It can also be used toward retirement.
- if employees use all their paid leave, they can get a maximum of 60 days advanced leave depending on their years of service, e.g., they will get at least one day, as necessary, at the rate of 15 workdays for each year of State service completed. This advanced leave must be paid back with service or money.
- if employees exhaust the 60 days advanced leave, and they have a minimum of five years service, they can receive an additional 12 months of extended sick leave with pay which does not have to be paid back.
- if they exhaust the 12 months extended sick leave, they can be given paid days off from a leave reserve fund.
  1. The leave reserve fund has been created from employees forfeiting days of personal leave.

Maryland (continued)

2. Three days of personal leave are given to employees each year. If an employee does not use his/her personal leave, the balance goes into the leave reserve fund.

- eligibility for leave under the above programs is controlled through the individual agency and the central personnel office. If medical certification needs review, it is handled by the State Medical Director.
- employees can always ask for leave. Whether it is granted depends, in part, upon their work record. If agency management has no documentation regarding attendance problems, approval is typically granted.

E. North Carolina

Looked at the federal program but has no interest in such a program at this time.

F. South Carolina

Recently passed legislation to allow donated leave but has concerns about costs since sick leave, as well as annual leave, can be donated. In the past, sick leave was forfeited if not used.

- regulations are being drafted since new law conflicts with state policies.
- since each agency is responsible for funding its own program out of its existing budget, personnel believes that the costs will be controlled and that review of requests will be stringent.

G. Tennessee

Recently passed legislation establishing a sick leave bank effective April 1, 1988.

- administrative procedures are not yet established.
- employees may volunteer to participate on the condition that they have been employed for one year, have six days of sick leave accrued and have donated a minimum of three days.
- designated trustees administer the program  
Commissioner of Personnel, the Commissioner of Finance and Administration, the State Treasurer, the Executive Director of the Fiscal Committee

Tennessee (continued)

- or their designees, and three employee representatives.
- employees must exhaust their own sick and annual leave balances before applying to the sick leave bank.
- donated leave will be granted only to cover personal disability, illness or quarantine. It cannot be used for elective surgery, family illness or illness compensated by another program such as Workers' Compensation.
- leave will be granted for 20 workdays at a time and no more than 90 days may be authorized.

H. West Virginia

A program was discussed in the last legislative session, however, it did not gain legislative support.

I. Federal Government

The original pilot program allowed employees to transfer their annual or sick leave to other employees in their agency who had an emergency. The pilot was limited to only a certain number of agencies.

For FY88, leave transfer was established for all of those agencies under the auspices of the Office of Personnel Management. However, the law was changed to permit only the transfer of annual leave and not sick leave. This program, according to Public Law 100-440, has been extended into FY89. Highlights include

- generally, employees cannot transfer leave to employees in other agencies. An exception is made when there is insufficient leave donated within the employee's agency and individuals in other agencies want to contribute.
- each agency makes its own decisions on whether to approve leave transfers.
- each agency can develop its own criteria for approval.
- under this program, leave can be transferred to employees for any emergency, medical or otherwise.
- unused transferred leave must be returned to the donors on a prorated basis.

There is pending legislation which would affect the above leave transfer program as well as establish a new pilot program on leave banks.

Federal Government (continued)

- the major change to the existing program would be to allow leave sharing for employees' (and dependents') medical emergencies only.
  
- under the new pilot program, a leave bank would be established as a voluntary system whereby employees must donate their own annual leave to establish the bank.
  - a bank board will be established in each agency to review withdrawal requests.
  - at least three agencies must pilot the bank.
  - it is anticipated that the leave bank system will be adopted as the only program in the future as the administration will be easier and more consistent. This system will alleviate the current administrative function of pay backs to donors.
  - final details of how the leave bank is to be administered are not yet established.

Government-wide usage data is not available for any of the above programs. However, over the past several months, the Office of Personnel Management has transferred 2,300 hours of leave to recipients, and this agency employs fewer than 4,000 employees.

J. Virginia's Attorney General's Office

A leave sharing bank was implemented in the Attorney General's office in July, 1987. Highlights include

- employees may donate up to 40 hours of annual leave per year to a leave sharing bank. If their accrued leave is to be lost at the end of the year, they can also donate the excess balance.
- employees may request leave hours from the bank when all accrued annual, sick, and/or compensatory leave has been exhausted and when the employee's continued absence is necessitated by an emergency situation as determined by the appropriate Deputy Attorney General.
- since inception in July, 1987, 50 of approximately 256 employees have donated leave.
- four employees have requested donated leave and the leave granted thus far has been valued at \$10,000 (hourly rate times the number of hours used plus 24% cost of benefits plus monies paid to one fill-in employee.)

#### IV. POLICY AND ADMINISTRATIVE QUESTIONS/ISSUES

As demonstrated from the survey of other states and governmental entities, a variety of leave sharing programs are available as models for Virginia. However, prior to making a decision to establish a leave sharing program, the following questions and issues should be considered.

1. TO WHAT EXTENT IS A LEAVE SHARING PROGRAM NEEDED?

Computer data identifying employees who took leave without pay last year indicates that approximately 1,769 employees are potential participants in a leave sharing program in FY87-88. Capturing more definitive data at this time would impose a cost on the Department of Personnel and Training for which money has not been budgeted.

2. IS THERE A SUBSTANTIAL INTEREST AMONG STATE EMPLOYEES TO HAVE SUCH A PROGRAM?

DPT has not received requests or inquiries from employees concerning a leave sharing program. The proposal for a leave sharing program did not originate with state employees and there has been no communication with employees to determine if they are interested in participating in one. If a leave bank were adopted to which employees voluntarily donated leave, DPT believes some employees would participate, however, only 20% of the employees in the Attorney General's Office donated leave to their program when they were given the opportunity, and only four employees used donated leave.

DPT recommends that, at a minimum, a random survey of employees be conducted to determine their level of interest and their willingness to participate.

3. IF A LEAVE BANK SYSTEM WERE ADOPTED, SHOULD THE COMMONWEALTH ALLOW SICK AS WELL AS ANNUAL LEAVE TO BE DONATED?

Sick leave is provided by the Commonwealth as a benefit to each employee much like an insurance policy. It is only supposed to be used to pay employees during absences for actual personal or family illness or for death of an immediate family member. If sick leave is not necessitated for one of these reasons, then employees are not entitled to use it. Therefore, agencies do not normally budget for all employee sick leave balances carried in the leave system, only for anticipated sick leave use. As an incentive to employees to encourage

them to maintain sick leave balances for emergency need, the current policy does allow agencies to pay separating employees for 25% of their sick leave balances up to \$2,500 if they have at least five years of state service at the time of separation.

Annual leave is accrued by employees for the purpose of their use for vacations and other needs to include personal and family illness and emergencies. Employees are encouraged to use their annual leave and may not accrue annual leave balances beyond the maximum end-of-year carryover amounts. Therefore, agencies can anticipate these amounts, budget for them, and pay separating employees their accrued balances.

DPT believes that allowing employees to donate sick leave from their sick leave balances violates the premise on which the sick leave system is based and potentially could cost agencies and the State large amounts of money. If a leave sharing program were implemented, DPT recommends that it include annual leave only.

4. IF A LEAVE SHARING SYSTEM IS ESTABLISHED, SHOULD AGENCIES HAVE THE OPTION OF PARTICIPATING?

Agencies may not have sufficient funds to cover withdrawals from a leave bank if sick leave donations are allowed. Additionally, some agencies may not have experienced the need for a leave bank and, therefore, may not favor assuming any administrative burdens or costs incurred from establishing such a program. DPT recommends that agencies be allowed to opt into a program. However, once an agency chooses to participate, they should not have the option of withdrawing until a specified time period has passed. The time period would have to be determined once the details of the policy are established.

5. WHAT CRITERIA MUST BE MET BEFORE A LEAVE WITHDRAWAL COULD BE MADE?

Some surveyed programs allowed donated leave to be used for emergencies of both employees and their families. Others limited donated leave to employees only. Some allowed leave for medical emergencies only, while others allowed leave for any type of emergency. Some fixed a minimum number of years of service before employees could participate, while others allowed participation when the employees accrued enough hours to contribute.

DPT recommends that there be no time constraints on when employees could join a bank since one argument for establishing a bank is that some employees have not worked long enough with the state to accumulate leave.

DPT further recommends that employees be required to retain a minimum amount of annual leave after donation.

Whether the donated leave be limited to employee illness only or expanded to cover any type of emergency needs further review to determine the ramifications. Additionally, there needs to be a review of what participation criteria should be adopted, i.e., has the employee squandered leave in the past, has more than one request been made, is the employee joining the bank at a particular time only because he/she is facing an upcoming medical need, should elective procedures be covered?

#### 6. HOW SHOULD A LEAVE BANK PROGRAM BE ADMINISTERED?

Options range from a totally centralized program administered by DPT to a totally decentralized program administered by the agencies. Regardless of the method of administration, central records would have to be maintained by DPT.

#### 7. ARE THERE MEANS OTHER THAN A LEAVE SHARING PROGRAM TO GRANT ADDITIONAL LEAVE FOR PERSONS IN NEED?

The General Assembly asked that the Department of Personnel and Training look into the feasibility of establishing a leave sharing program. It may be advisable to study the State's current leave programs before mandating the addition of a new program. DPT recognizes there are some problems with the current system, including abuse of sick leave by some employees, insufficient balances accrued by new employees to cover legitimate illnesses due to their limited length of employment, and the possibility that the \$2,500 payment to long-term employees for unused sick leave when they separate may not be an incentive to use leave judiciously.

A possible alternative to leave sharing might be a short-term disability program. Such programs generally take the place of sick leave programs and are integrated with long-term disability programs to insure employees are provided continuous compensation as their medical need continues. Short-term disability policies usually provide employees full or partial pay after an



initial waiting period and upon proper medical certification.

Another possibility would be to advance leave and require payback after the emergency is over. Providing there is a determined need and interest among state employees, it would be recommended that these and several other options be explored further.

### CONCLUSION

This study finds that a leave sharing program is feasible for Virginia. Before a program is implemented, however, the aforementioned questions should be addressed. The most significant questions are the extent of need for and interest in the program by employees, and the possibility of using alternatives other than a leave bank to provide assistance once leave is exhausted.

1988 SESSION  
ENGROSSED

HP2297600

HOUSE JOINT RESOLUTION NO. 121

House Amendments in [ ] - February 10, 1988

Requesting the Department of Personnel and Training to [ ~~develop~~ study the feasibility of developing ] a leave-sharing policy for Virginia's state employees.

Patrons—Woods, Keating, Crenshaw, Orebaugh, Medico, Cunningham, R. K., Purkey, Hagood, Callahan, Rollison, Dillard, Howell, Wilkins, Cunningham, J. W., Hanger, Byrne, Andrews and Almand; Senator Miller, E. F

Referred to the Committee on Rules

WHEREAS, Virginia's state employees are an important asset of the state government; and

WHEREAS, the morale of these employees is vital to the efficient operation of the governmental function; and

WHEREAS, circumstances arise where valued employees are faced with situations such as personal illness, family illness, or medical emergencies; and

WHEREAS, Virginia Congressman Frank Wolf has taken the lead in developing the concept of leave sharing at the federal level; and

WHEREAS, leave sharing is defined as a personal emergency which includes a medical or family emergency or other hardship situation that will require an absence from work and could result in the loss of income; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Personnel and Training is requested to [ ~~develop~~ study the feasibility of developing] a leave-sharing policy for Virginia's state employees [; and, be it

RESOVLED FURTHER, That the state work with local governments to encourage adoption of this policy for local government employees ].

Official Use By Clerks

Agreed to By  
The House of Delegates  
without amendment   
with amendment   
substitute   
substitute w/amdt

Agreed to By The Senate  
without amendment   
with amendment   
substitute   
substitute w/amdt

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Clerk of the House of Delegates

Clerk of the Senate



