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Title: AN ORDINANCE related to employee retirement; providing for a voluntary employee beneficiary association for medical expense reimbursement for eligible employees; and amending Ordinance 12014, Section 19, as amended, and K.C.C. 3.12.190 and Ordinance 12014, Section 21, as amended, and K.C.C. 3.12.220.

Sponsors: Larry Phillips, Dow Constantine

Indexes: Employee Benefits, Retirement, VEBA

Code sections: 3.12.247 - ., 3.12.335 - .

Attachments: 1. 16592.pdf, 2. 2009-0327 Fiscal Note.doc, 3. 2009-0327 SR VEBA 7-8-09 ws.doc, 4. 2009-0327 Transmittal Letter.doc

Date	Ver.	Action By	Action	Result
7/13/2009	1	Metropolitan King County Council	Hearing Held	
7/13/2009	1	Metropolitan King County Council	Passed	Pass
7/8/2009	1	Government Accountability and Oversight Committee	Recommended Do Pass	Pass
6/15/2009	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE related to employee retirement; providing for a voluntary employee beneficiary association for medical expense reimbursement for eligible employees; and amending Ordinance 12014, Section 19, as amended, and K.C.C. 3.12.190 and Ordinance 12014, Section 21, as amended, and K.C.C. 3.12.220.

BE IT ORDAINED BY THE COUNTY OF KING COUNTY:

SECTION 1. Ordinance 12014, Section 19, as amended, and K.C.C. 3.12.190 are each hereby amended

to read as follows:

A. Beginning January 1, 1996, employees eligible for leave benefits shall accrue vacation leave benefits as described in and further qualified by this section.

Full Years of Service	Annual Leave in Days
Upon hire through end of Year 5	12

Upon beginning of Year 6	15
Upon beginning of Year 9	16
Upon beginning of Year 11	20
Upon beginning of Year 17	21
Upon beginning of Year 18	22
Upon beginning of Year 19	23
Upon beginning of Year 20	24
Upon beginning of Year 21	25
Upon beginning of Year 22	26
Upon beginning of Year 23	27
Upon beginning of Year 24	28
Upon beginning of Year 25	29
Upon beginning of Year 26 and beyond	30

B. Notwithstanding the vacation leave schedule set forth in ((paragraph)) subsection A. of this section, employees eligible for leave benefits, excluding employees in the former department of metropolitan services, shall accrue vacation leave as follows:

1. Those employees who were employed on or before December 31, 1995, and by that date had completed at least three but less than five full years of service shall begin to accrue fifteen days of vacation leave per year effective January 1, 1996;

2. Those employees who were employed on or before December 31, 1995, and subsequent to that date complete three full years of service shall begin to accrue fifteen days of vacation leave per year effective on the first day of their fourth full year of service.

Beginning on the first day of their sixth full year of service, all such employees shall accrue vacation leave as set forth in subsection A. of this section.

C. Vacation accrual rates for an employee who works other than the full time schedule standard to his or her work unit shall be prorated to reflect his or her normally scheduled work week. No adjustment to reduce vacation accruals rates for a furloughed employee shall be made as a result of an emergency budget furlough.

D. Employees eligible for vacation leave shall accrue vacation leave from their date of hire into a benefit eligible position.

E. Employees eligible for vacation leave may accrue up to sixty days vacation leave, prorated to reflect

their normally scheduled work day. ~~((Such))~~ Those employees shall use vacation leave beyond the maximum accrual amount prior to December 31 of each year. Failure to use vacation leave beyond the maximum accrual amount will result in forfeiture of the vacation leave beyond the maximum amount unless the appointing authority has approved a carryover of ~~((such))~~ the vacation leave because of cyclical workloads, work assignments or other reasons as may be in the best interests of the county.

F. Exempt employees in regular positions, other than provisional or probationary employees, may take and upon leaving county employment be paid for accrued vacation leave as approved by their appointing authorities.

G. Career service employees, provisional, probationary and term-limited temporary employees, shall not be eligible to take or be paid for vacation leave until they have successfully completed their first six months of county service, and if they leave county employment prior to successfully completing their first six months of county service, shall forfeit and not be paid for accrued vacation leave.

H. A furloughed employee shall not be eligible to take or be paid for vacation on an emergency budget furlough day. A furlough administrator may designate that paid vacation leave is available for use by specific groups of employees as may be necessary, as set forth in K.C.C. 3.12F.040.

In lieu of the remuneration for fifty percent of unused accrued vacation leave at retirement, the manager of the human resources division, or the manager's designee, may, with equivalent funds and in accordance with the procedures in K.C.C. 3.12.220.F.2.b, provide eligible employees with a voluntary employee beneficiary association plan that provides for reimbursement of retiree and other qualifying medical expenses.

I. Employees eligible for leave benefits shall be paid for accrued vacation leave to their date of separation up to the maximum accrual amount if they have successfully completed their first six months of county service and are in good standing; provided that, except with the written approval of the executive, the position, if vacated by a nonrepresented employee, shall not be filled until salary savings for ~~((such))~~ the position are accumulated in an amount sufficient to pay the cost of the cash out. Payment shall be the accrued

vacation leave multiplied by the employee's rate of pay in effect upon the date of leaving county employment less mandatory withholdings.

J. Employees shall not use or be paid for vacation leave until it has accrued and ~~((such))~~ the use or payment is consistent with the provisions of this section.

K. No employee shall work for compensation for the county in any capacity during the time that the employee is on vacation leave.

L. For employees covered by the overtime requirements of the Fair Labor Standards Act, vacation leave may be used in one-half hour increments, at the discretion of the appointing authority.

M. In cases of separation from county employment by death of an employee with accrued vacation leave and who has successfully completed his or her first six months of county service, payment of unused vacation leave up to the maximum accrual amount shall be made to the employee's estate, or, in applicable cases, as provided for by state law, Title 11 RCW; provided that, except with the written approval of the executive, the position, if vacated by a nonrepresented employee, shall not be filled until salary savings for ~~((such))~~ the position are accumulated in an amount sufficient to pay the cost of the cashout.

N. If an employee resigns from a full-time regular or part-time regular position with the county in good standing or is laid off and subsequently returns to county employment within two years from ~~((such))~~ the resignation or layoff, as applicable, the employee's prior county service shall be counted in determining the vacation leave accrual rate under subsection A. of this section.

SECTION 2. Ordinance 12014, Section 21, as amended, and K.C.C. 3.12.220 are each hereby amended to read as follows:

A. Except for employees covered by subsection G. of this section, employees eligible for leave benefits shall accrue sick leave benefits at the rate of 0.04616 hours for each hour in pay status exclusive of overtime up to a maximum of eight hours per month; except that sick leave shall not begin to accrue until the first of the month following the month in which the employee commenced employment. No adjustment to reduce sick

leave accruals for furloughed employee shall be made as a result of emergency budget furlough. The employee is not entitled to sick leave if not previously earned.

B. During the first six months of service, employees eligible to accrue vacation leave may, at the appointing authority's discretion, use any accrued days of vacation leave as an extension of sick leave. If an employee does not work a full six months, any vacation leave used for sick leave must be reimbursed to the county upon termination.

C. For employees covered by the overtime requirements of the Fair Labor Standards Act, sick leave may be used in one-half hour increments, at the discretion of the appointing authority.

D. There shall be no limit to the hours of sick leave benefits accrued by an eligible employee.

E. Separation from or termination of county employment except by reason of retirement or layoff due to lack of work, funds, efficiency reasons or separation for nondisciplinary medical reasons, shall cancel all sick leave accrued to the employee as of the date of separation or termination. Should the employee resign in good standing, be separated for nondisciplinary medical reason or be laid off, and return to county employment within two years, accrued sick leave shall be restored, but the restoration shall not apply where the former employment was in a term-limited temporary position.

F.1. Except for employees covered by subsection G. of this section, employees eligible to accrue sick leave and who have successfully completed at least five years of county service and who retire as a result of length of service or who terminate by reason of death shall be paid, or their estates paid or as provided for by Title 11 RCW, as applicable, an amount equal to thirty-five percent of their unused, accumulated sick leave multiplied by the employee's rate of pay in effect upon the date of leaving county employment less mandatory withholdings. This provision is predicated on the requirement that, except with the written approval of the executive, the position, if vacated by a nonrepresented employee, shall not be filled until salary savings for ((such)) the position are accumulated in an amount sufficient to pay the cost of the cash out. For the purposes of this subsection F.1, "retire as a result of length of service" means an employee is eligible, applies for and begins

drawing a pension from the Law Enforcement Officers and Firefighters (LEOFF), Public Employees' Retirement System (PERS), Public Safety Employees' Retirement System (PSERS) or the city of Seattle Retirement Plan immediately upon terminating county employment.

2.a. In lieu of the remuneration for unused sick leave at retirement, the manager of the human resources division, or the manager's designee, may, with equivalent funds, provide eligible employees with a voluntary employee beneficiary association plan that provides for reimbursement of retiree and other qualifying medical expenses. Under K.C.C 3.12.190.H., in lieu of the remuneration for fifty percent of unused vacation leave at retirement, the manager may also fund the voluntary employee beneficiary association plan.

b. The manager shall adopt procedures for the implementation of all voluntary employee beneficiary association plans. At a minimum, the procedures shall provide that:

(1) each group of employees hold an election to decide whether to implement a voluntary employee beneficiary association plan for a defined group of employees. The determination of the majority of voting employees in a group shall bind the remainder. Elections for represented employees shall be conducted by the appropriate bargaining representative. Elections for nonrepresented employees shall be conducted in accordance with procedures established by the manager;

(2) the manager has discretion to determine the scope of employee groups voting on whether to adopt a voluntary employee beneficiary association plan. The manager shall consult with bargaining representatives and elected officials in determining the scope of voting groups;

(3) any voluntary employee beneficiary association plan implemented in accordance with this subsection F.2. complies with federal tax law. Disbursements in accordance with this subsection F.2. shall be exempt from withholdings, to the extent permitted by law; and

(4) employees shall forfeit remuneration under subsections F.1. and 2. of this section if the employee belongs to a group that has voted to implement a voluntary employee beneficiary association plan and the employee fails to execute forms that are necessary to the proper administration of the plan within

twelve months of retirement by reason of length of service, as defined in subsection F.1. of this subsection.

G. Uniformed employees covered under the LEOFF Retirement System-Plan I shall apply for disability retirement under RCW 41.26.120.

H.1. An employee must use all of his or her accrued sick leave and any donated sick leave before taking unpaid leave for his or her own health reasons. If the injury or illness is compensable under the county's workers compensation program, then the employee has the option to augment or not augment time loss payments with the use of accrued sick leave. A furloughed employee shall not be eligible to take or be paid for sick leave on a furlough day.

2. For a leave for family reasons, the employee shall choose at the start of the leave whether the particular leave would be paid or unpaid; but when an employee chooses to take paid leave for family reasons he or she may set aside a reserve of up to eighty hours of accrued sick leave. A furloughed employee who is on county family medical leave as provided for in this section shall retain county benefits while furloughed.

3. An employee who has exhausted all of his or her sick leave may use accrued vacation leave before going on leave of absence without pay, if approved by his or her appointing authority. A furloughed employee shall not be eligible to take or be paid for vacation leave in lieu of sick leave on a furlough day. Sick leave shall be used for the following reasons:

a. the employee's bona fide illness, but an employee who suffers an occupational illness may not simultaneously collect sick leave and worker's compensation payments in a total amount greater than the net regular pay of the employee;

b. the employee's incapacitating injury, but:

(1) an employee injured on the job may not simultaneously collect sick leave and worker's compensation payments in a total amount greater than the net regular pay of the employee, though an employee who chooses not to augment his or her worker's compensation time loss pay through the use of sick leave shall be deemed on unpaid leave status;

(2) an employee who chooses to augment workers' compensation payments with the use of accrued sick leave shall notify the safety and workers' compensation program office in writing at the beginning of the leave;

(3). an employee may not collect sick leave and workers' compensation time loss payments for physical incapacity due to any injury or occupational illness that is directly traceable to employment other than with the county;

c. the employee's exposure to contagious diseases and resulting quarantine;

d. a female employee's temporary disability caused by or contributed to by pregnancy and childbirth;

e. the employee's medical or dental appointments but only if the employee's appointing authority has approved the use of sick leave for ~~((such))~~ those appointments;

f. to care for the employee's child as defined in this chapter if the child has an illness or health condition which requires treatment or supervision from the employee; or

g. to care for other family members, if:

(1) the employee has been employed by the county for twelve months or more and has worked a minimum of nine hundred ten hours for a thirty-five-hour employee or one thousand forty hours for a forty-hour employee in the preceding twelve months;

(2). the family member is the employee's spouse or domestic partner, the employee's child, a child of the employee's spouse or domestic partner, the parent of the employee, employee's spouse or domestic partner or an individual who stands or stood in loco parentis to the employee, the employee's spouse or domestic partner; and

(3). the reason for the leave is one of the following:

i. the birth of a son or daughter and care of the newborn child, or placement with the employee of a son or daughter for adoption or foster care, if the leave is taken within twelve months of the birth, adoption or placement;

ii. the care of the employee's child or child of the employee's spouse or domestic partner whose illness or health condition requires treatment or supervision by the employee; or

iii. care of a family member who suffers from a serious health condition.

I. An employee may take a total of up to eighteen work weeks unpaid leave for his or her own serious health condition, and for family reasons as provided in subsection H.3.f. and g. of this section, combined, within a twelve-month period. The leave may be continuous, which is consecutive days or weeks, or intermittent, which is taken in whole or partial days as needed. Intermittent leave is subject to the following conditions:

1. When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if authorized by the employee's appointing authority;

2. An employee may take leave intermittently or on a reduced schedule when medically necessary due to a serious health condition of the employee or a family member of the employee; and

3. If an employee requests intermittent leave or leave on a reduced leave schedule under subsection I.2. of this section that is foreseeable based on planned medical treatment, the appointing authority may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and that better accommodates recurring periods of leave than the regular position of the employee.

J. Use of donated leave shall run concurrently with the eighteen work week family medical leave entitlement.

K. The county shall continue its contribution toward health care benefits during any unpaid leave taken under subsection I. of this section.

L. Department management is responsible for the proper administration of the sick leave benefit. Verification from a licensed health care provider may be required to substantiate the health condition of the

employee or family member for leave requests.

M. An employee who returns from unpaid family or medical leave within the time provided in this section is entitled, subject to bona fide layoff provisions, to:

- 1.a. the same position he or she held when the leave commenced; or
- b. a position with equivalent status, benefits, pay and other terms and conditions of employment; and
2. The same seniority accrued before the date on which the leave commenced.

N. Failure to return to work by the expiration date of a leave of absence may be cause for removal and result in termination of the employee from county service.