

As Passed by the House

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Sub. H. B. No. 48

Representative Ujvagi

**Cosponsors: Representatives Phillips, Murray, Pryor, Harris, Dodd, Lundy,
Book, Letson, Fende, Yuko, Skindell, Goyal, Pillich, Williams, S., Belcher,
Boyd, Brown, Carney, Celeste, Chandler, Daniels, Driehaus, Dyer, Foley,
Garland, Garrison, Hagan, Harwood, Heard, Koziura, Luckie, Mallory,
Newcomb, Okey, Otterman, Patten, Sayre, Schneider, Stewart, Szollosi,
Weddington, Williams, B., Winburn**

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A B I L L

To amend section 4117.10 and to enact sections	1
5906.01, 5906.02, 5906.03, and 5906.99 of the	2
Revised Code to provide up to two weeks of leave	3
for any employee who is the spouse, parent, or a	4
person who has or had legal custody of a member of	5
the uniformed services who is called to active	6
duty or is injured, wounded, or hospitalized while	7
serving on active duty.	8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4117.10 be amended and sections	9
5906.01, 5906.02, 5906.03, and 5906.99 of the Revised Code be	10
enacted to read as follows:	11

Sec. 4117.10. (A) An agreement between a public employer and	12
an exclusive representative entered into pursuant to this chapter	13
governs the wages, hours, and terms and conditions of public	14

employment covered by the agreement. If the agreement provides for 15
a final and binding arbitration of grievances, public employers, 16
employees, and employee organizations are subject solely to that 17
grievance procedure and the state personnel board of review or 18
civil service commissions have no jurisdiction to receive and 19
determine any appeals relating to matters that were the subject of 20
a final and binding grievance procedure. Where no agreement exists 21
or where an agreement makes no specification about a matter, the 22
public employer and public employees are subject to all applicable 23
state or local laws or ordinances pertaining to the wages, hours, 24
and terms and conditions of employment for public employees. Laws 25
pertaining to civil rights, affirmative action, unemployment 26
compensation, workers' compensation, the retirement of public 27
employees, and residency requirements, the minimum educational 28
requirements contained in the Revised Code pertaining to public 29
education including the requirement of a certificate by the fiscal 30
officer of a school district pursuant to section 5705.41 of the 31
Revised Code, the provisions of division (A) of section 124.34 of 32
the Revised Code governing the disciplining of officers and 33
employees who have been convicted of a felony, and the minimum 34
standards promulgated by the state board of education pursuant to 35
division (D) of section 3301.07 of the Revised Code prevail over 36
conflicting provisions of agreements between employee 37
organizations and public employers. The law pertaining to the 38
leave of absence and compensation provided under section 5923.05 39
of the Revised Code prevails over any conflicting provisions of 40
such agreements if the terms of the agreement contain benefits 41
which are less than those contained in that section or the 42
agreement contains no such terms and the public authority is the 43
state or any agency, authority, commission, or board of the state 44
or if the public authority is another entity listed in division 45
(B) of section 4117.01 of the Revised Code that elects to provide 46
leave of absence and compensation as provided in section 5923.05 47

of the Revised Code. The law pertaining to the leave established 48
under section 5906.02 of the Revised Code prevails over any 49
conflicting provision of an agreement between an employee 50
organization and public employer if the terms of the agreement 51
contain benefits that are less than those contained in section 52
5906.02 of the Revised Code. Except for sections 306.08, 306.12, 53
306.35, and 4981.22 of the Revised Code and arrangements entered 54
into thereunder, and section 4981.21 of the Revised Code as 55
necessary to comply with section 13(c) of the "Urban Mass 56
Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as 57
amended, and arrangements entered into thereunder, this chapter 58
prevails over any and all other conflicting laws, resolutions, 59
provisions, present or future, except as otherwise specified in 60
this chapter or as otherwise specified by the general assembly. 61
Nothing in this section prohibits or shall be construed to 62
invalidate the provisions of an agreement establishing 63
supplemental workers' compensation or unemployment compensation 64
benefits or exceeding minimum requirements contained in the 65
Revised Code pertaining to public education or the minimum 66
standards promulgated by the state board of education pursuant to 67
division (D) of section 3301.07 of the Revised Code. 68

(B) The public employer shall submit a request for funds 69
necessary to implement an agreement and for approval of any other 70
matter requiring the approval of the appropriate legislative body 71
to the legislative body within fourteen days of the date on which 72
the parties finalize the agreement, unless otherwise specified, 73
but if the appropriate legislative body is not in session at the 74
time, then within fourteen days after it convenes. The legislative 75
body must approve or reject the submission as a whole, and the 76
submission is deemed approved if the legislative body fails to act 77
within thirty days after the public employer submits the 78
agreement. The parties may specify that those provisions of the 79
agreement not requiring action by a legislative body are effective 80

and operative in accordance with the terms of the agreement, 81
provided there has been compliance with division (C) of this 82
section. If the legislative body rejects the submission of the 83
public employer, either party may reopen all or part of the entire 84
agreement. 85

As used in this section, "legislative body" includes the 86
governing board of a municipal corporation, school district, 87
college or university, village, township, or board of county 88
commissioners or any other body that has authority to approve the 89
budget of their public jurisdiction and, with regard to the state, 90
"legislative body" means the controlling board. 91

(C) The chief executive officer, or the chief executive 92
officer's representative, of each municipal corporation, the 93
designated representative of the board of education of each school 94
district, college or university, or any other body that has 95
authority to approve the budget of their public jurisdiction, the 96
designated representative of the board of county commissioners and 97
of each elected officeholder of the county whose employees are 98
covered by the collective negotiations, and the designated 99
representative of the village or the board of township trustees of 100
each township is responsible for negotiations in the collective 101
bargaining process; except that the legislative body may accept or 102
reject a proposed collective bargaining agreement. When the 103
matters about which there is agreement are reduced to writing and 104
approved by the employee organization and the legislative body, 105
the agreement is binding upon the legislative body, the employer, 106
and the employee organization and employees covered by the 107
agreement. 108

(D) There is hereby established an office of collective 109
bargaining in the department of administrative services for the 110
purpose of negotiating with and entering into written agreements 111
between state agencies, departments, boards, and commissions and 112

the exclusive representative on matters of wages, hours, terms and 113
other conditions of employment and the continuation, modification, 114
or deletion of an existing provision of a collective bargaining 115
agreement. Nothing in any provision of law to the contrary shall 116
be interpreted as excluding the bureau of workers' compensation 117
and the industrial commission from the preceding sentence. This 118
office shall not negotiate on behalf of other statewide elected 119
officials or boards of trustees of state institutions of higher 120
education who shall be considered as separate public employers for 121
the purposes of this chapter; however, the office may negotiate on 122
behalf of these officials or trustees where authorized by the 123
officials or trustees. The staff of the office of collective 124
bargaining are in the unclassified service. The director of 125
administrative services shall fix the compensation of the staff. 126

The office of collective bargaining shall: 127

(1) Assist the director in formulating management's 128
philosophy for public collective bargaining as well as planning 129
bargaining strategies; 130

(2) Conduct negotiations with the exclusive representatives 131
of each employee organization; 132

(3) Coordinate the state's resources in all mediation, 133
fact-finding, and arbitration cases as well as in all labor 134
disputes; 135

(4) Conduct systematic reviews of collective bargaining 136
agreements for the purpose of contract negotiations; 137

(5) Coordinate the systematic compilation of data by all 138
agencies that is required for negotiating purposes; 139

(6) Prepare and submit an annual report and other reports as 140
requested to the governor and the general assembly on the 141
implementation of this chapter and its impact upon state 142
government. 143

Sec. 5906.01. As used in this chapter: 144

(A) "Active duty" means full-time duty in the active military 145
service of the United States or active duty pursuant to an 146
executive order of the president of the United States, an act of 147
the congress of the United States, or a proclamation of the 148
governor. "Active duty" does not include active duty for training, 149
initial active duty for training, or the period of time for which 150
a person is absent from a position of employment for the purpose 151
of an examination to determine the fitness of the person to 152
perform any duty unless such period is contemporaneous with an 153
active duty period. 154

(B) "Benefits" means the employment benefits, other than 155
salary or wages, that an employer regularly provides or makes 156
available to employees, including, but not limited to, medical 157
insurance, disability insurance, life insurance, pension plans, 158
and retirement plans. 159

(C) "Employer" means a person who employs fifty or more 160
employees and includes the state or any agency or instrumentality 161
of the state, and any municipal corporation, county, township, 162
school district, or other political subdivision of the state. 163

(D) "Employee" has the same meaning as in section 4113.51 of 164
the Revised Code. 165

(E) "Uniformed services" means the armed forces, the Ohio 166
organized militia when engaged in full-time national guard duty, 167
the commissioned corps of the public health service, and any other 168
category of persons designated by the president of the United 169
States in time of war or emergency. 170

Sec. 5906.02. (A) Once per calendar year, an employer shall 171
allow an employee to take leave up to ten days or eighty hours, 172
whichever is less, if all of the following conditions are 173

<u>satisfied:</u>	174
<u>(1) The employer has employed the employee for at least</u>	175
<u>twelve consecutive months and for at least one thousand two</u>	176
<u>hundred fifty hours in the twelve months immediately preceding</u>	177
<u>commencement of the leave.</u>	178
<u>(2) The employee is the parent, spouse, or a person who has</u>	179
<u>or had legal custody of a person who is a member of the uniformed</u>	180
<u>services and who is called into active duty in the uniformed</u>	181
<u>services for a period longer than thirty days or is injured,</u>	182
<u>wounded, or hospitalized while serving on active duty in the</u>	183
<u>uniformed services.</u>	184
<u>(3) The employee gives notice to the employer that the</u>	185
<u>employee intends to take leave pursuant to this section at least</u>	186
<u>fourteen days prior to taking the leave if the leave is being</u>	187
<u>taken because of a call to active duty or at least two days prior</u>	188
<u>to taking the leave if the leave is being taken because of an</u>	189
<u>injury, wound, or hospitalization.</u>	190
<u>(4) The dates on which the employee takes leave pursuant to</u>	191
<u>this section occur no more than two weeks prior to or one week</u>	192
<u>after the deployment date of the employee's spouse, child, or ward</u>	193
<u>or former ward.</u>	194
<u>(5) The employee does not have any other leave available for</u>	195
<u>the employee's use except sick leave or disability leave.</u>	196
<u>(B) An employer shall continue to provide benefits to the</u>	197
<u>employee during the period of time the employee is on leave</u>	198
<u>pursuant to this section. The employee shall be responsible for</u>	199
<u>the same proportion of the cost of the benefits as the employee</u>	200
<u>regularly pays during periods of time when the employee is not on</u>	201
<u>leave. The employer is not required to pay salary or wages to the</u>	202
<u>employee during the period of time the employee is on leave</u>	203

pursuant to this section. 204

Upon the completion of the leave taken pursuant to this 205
section, the employer shall restore the employee to the position 206
the employee held prior to taking that leave or a position with 207
equivalent seniority, benefits, pay, and other terms and 208
conditions of employment. 209

(C) An employer may require an employee requesting to use the 210
leave established under this section to provide certification from 211
the appropriate military authority to verify that the employee 212
satisfies the criteria described in divisions (A)(2), (3), and (4) 213
of this section. 214

Sec. 5906.03. (A) An employer shall not interfere with, 215
restrain, or deny the exercise or attempted exercise of a right 216
established under this chapter. 217

(B) An employer shall not discharge, fine, suspend, expel, 218
discipline, or discriminate against an employee with respect to 219
any term or condition of employment because of the employee's 220
actual or potential exercise, or support for another employee's 221
exercise, of any right established under this chapter. This 222
division does not prevent an employer from taking an employment 223
action that is independent of the exercise of a right under this 224
chapter. 225

(C) An employer shall not deprive an employee who takes leave 226
pursuant to section 5906.02 of the Revised Code of any benefit 227
that accrued before the date that leave commences. 228

(D) An employer shall not require an employee to waive the 229
rights to which the employee is entitled pursuant to this chapter. 230

(E) On and after the effective date of this section, an 231
employer shall not enter into a collective bargaining agreement or 232
employee benefit plan that limits or requires an employee to waive 233

the rights established under this chapter. An employer shall 234
comply with any collective bargaining agreement or employee 235
benefit plan that provides leave benefits similar to the type 236
established under this chapter that are greater than the leave 237
benefits established under this chapter. 238

(F) An employer may provide leave benefits greater than those 239
established under this chapter. 240

Sec. 5906.99. Whoever violates this chapter is subject to a 241
civil action for injunctive relief or any other relief that a 242
court finds necessary to secure a right provided by this chapter. 243

Section 2. That existing section 4117.10 of the Revised Code 244
is hereby repealed. 245

Section 3. This act does apply to employers and employees, as 246
defined in section 5906.01 of the Revised Code as enacted by this 247
act, who have entered into a collective bargaining agreement or 248
other contract of employment that is in effect before the 249
effective date of this act and that conflicts with this act, but 250
shall apply to such employers and employees immediately upon the 251
expiration of such conflicting agreement or contract. 252