

Sub. H. B. No. 96
As Passed by the Senate
DASCD36

_____ moved to amend as follows:

After line 11728, insert:

"Sec. 124.385. (A) An employee is eligible for disability leave benefits under this section if the employee has completed one year of continuous state service immediately prior to the date of the disability and if any of the following applies:

(1) The employee is a full-time permanent employee and is eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code or is entitled to disability benefits under a collective bargaining agreement.

(2) The employee is a part-time permanent employee who has worked at least fifteen hundred hours within the twelve-month period immediately preceding the date of disability and is eligible for sick leave credit under division (B) of section 124.382 of the Revised Code.

(3) The employee is a full-time permanent or part-time permanent employee, is on disability leave or leave of absence for medical reasons, and would be eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code



except that the employee is in no pay status due to the 19
employee's medical condition. 20

(B) The director of administrative services, ~~by rule~~ 21
~~adopted in accordance with Chapter 119. of the Revised Code,~~ 22
shall adopt a rule to establish a disability leave program. The 23
rule shall include, but shall not be limited to, the following: 24

(1) Procedures to be followed for determining disability; 25

(2) Provisions for the allowance of disability leave due 26
to illness or injury; 27

(3) Provisions for the continuation of service credit for 28
employees granted disability leave, including service credit 29
towards retirement, as provided by the applicable statute; 30

(4) The establishment of a minimum level of benefit and of 31
a waiting period before benefits begin; 32

(5) Provisions setting a maximum length of benefit and 33
requiring that employees eligible to apply for disability 34
retirement shall do so prior to completing the first six months 35
of their period of disability. The director's rules shall 36
indicate those employees required to apply for disability 37
retirement. If an employee is approved to receive disability 38
retirement, the employee shall receive the retirement benefit 39
and a supplement payment that equals a percentage of the 40
employee's base rate of pay and that, when added to the 41
retirement benefit, equals no more than the percentage of pay 42
received by employees after the first six months of disability. 43
This supplemental payment shall not be considered earnable 44
salary, compensation, or salary, and is not subject to 45
contributions, under Chapter 145., 742., 3307., 3309., or 5505. 46
of the Revised Code. 47

(6) Provisions that allow employees to utilize available sick leave, personal leave, compensatory time, or vacation leave balances to supplement the benefits payable under this section. The balances used to supplement the benefits, plus any amount contributed by the state ~~as provided in division (D) of this section,~~ shall be paid at the employee's base rate of pay in an amount sufficient to give employees up to one hundred per cent of pay for time on disability.

(7) Procedures for appealing denial of payment of a claim, ~~including the following:~~

~~(a) A maximum of thirty days to file an appeal by the employee;~~

~~(b) A maximum of fifteen days for the parties to select a third-party opinion pursuant to division (F) of this section, unless an extension is agreed to by the parties;~~

~~(c) A maximum of thirty days for the third party to render an opinion.~~

~~(8) Provisions for approving leave of absence for medical reasons where an employee is in no pay status because the employee has used all the employee's sick leave, personal leave, vacation leave, and compensatory time;~~

~~(9)~~ (8) Provisions for precluding the payment of benefits if the injury for which the benefits are sought is covered by a workers' compensation plan;

~~(10) Provisions for precluding the payment of benefits in order to ensure that benefits are provided in a consistent manner.~~

(C) ~~Except as provided in division (B) (6) of this section,~~

~~time off for an employee granted disability leave is not~~ 76
~~chargeable to any other leave granted by other sections~~ 77
~~The~~ 78
~~adjudication hearing requirements prescribed in Chapter 119. of~~ 79
~~the Revised Code do not apply to the procedures for appealing~~ 80
~~denial of payment of a claim that the director adopts by rule~~ 81
~~under division (B) (7) of this section.~~

(D) While an employee is on an approved disability leave, 82
the employee shall be responsible for paying the employee's 83
share of retirement contributions and the employer's share shall 84
be paid by the state. 85

~~(E) The approval for disability leave shall be made by the~~ 86
~~director, upon recommendation by the appointing authority. The~~ 87
~~director may delegate to any appointing authority the authority~~ 88
~~to approve disability benefits for a standard recovery period.~~ 89

~~(F)~~ If a request for disability leave is denied based on a 90
medical determination, the director shall obtain a medical 91
opinion from a third party. The decision of the third party is 92
binding. 93

~~(G)~~ (F) The rule adopted by the director under division (B) 94
of this section shall not deny disability leave benefits for an 95
illness or injury to an employee who is a veteran of the United 96
States armed forces because the employee contracted the illness 97
or received the injury in the course of or as a result of 98
military service and the illness or injury is or may be covered 99
by a compensation plan administered by the United States 100
department of veterans affairs." 101

After line 157527, insert: 102

"Section 124.385 of the Revised Code as amended by both H.B. 1 and 103
H.B. 16 of the 128th General Assembly." 104

Update the title, amend, enact, or repeal clauses accordingly 105

The motion was _____ agreed to.

SYNOPSIS

106

Disability leave benefits

107

R.C. 124.385; Section 830.10

108

Restores, except with respect to adopting rules to specify 109
conditions covered by the state employee disability leave 110
program, the Executive-version proposed changes to the state 111
employee disability leave program that do all of the following: 112

--Makes a full-time permanent state employee with at least 113
one year of service eligible for disability leave benefits if 114
the employee is entitled to disability benefits under a 115
collective bargaining agreement. 116

--Eliminates the requirement that the DAS Director adopt a 117
rule regarding the disability leave program pursuant to the 118
Administrative Procedure Act, thus subjecting the required rule 119
adoption to the abbreviated (R.C. 111.15) rulemaking procedure. 120

--Eliminates the requirement that the rules the DAS 121
Director adopts include timing requirements regarding the 122
procedure for appealing denial of payment of a claim, approving 123
leave of absence for medical reasons where an employee is in no 124
pay status after using all other leave time, and provisions 125
precluding the payment of benefits to ensure they are provided 126
in a consistent manner. 127

--Specifies that the adjudication hearing requirements of	128
the Administrative Procedure Act do not apply to the procedures	129
for appealing denial of payment of a claim.	130
--Eliminates the prohibition against charging time off for	131
an employee granted disability leave to any other leave.	132
--Eliminates the requirement that the DAS Director approve	133
disability leave on the appointing authority's recommendation	134
and eliminates the Director's ability to delegate to the	135
appointing authority the authority to approve disability	136
benefits for a standard recovery period.	137