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# STATE OF ALASKA

*State Affairs*

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

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April 15, 1981

### MEMORANDUM

TO: Senator Arliss Sturgulewski

FROM: *J.M.H.* J. M. Hogan, Director  
Legislative Finance Division

SUBJECT: SB 351

You have requested additional information pertaining to the history of SB 351. From my personal knowledge, there have been four different employees of the Legislature who have exhausted their leave and been unable to be assisted by fellow employees with any transfer of leave to their account. This occurred in the middle 1970's in Legislative Finance, somewhat later in Legislative Audit, and fairly recently similar circumstances occurred in Legislative Affairs Agency and again in Legislative Finance. The most recent occurrence prompted me on my own initiative to seek an amendment to the Alaska statutes that would allow employees of the Legislature to donate leave to the account of a fellow employee who was absent from work for bonafide medical reasons and had no leave on account.

As "precedent" for this request I used the example of two of the state's larger bargaining units both of which cover employees whose jobs are similar to ours, namely, the General Government Unit Employees Contract, 1980-1982, and the Supervisory Unit Employees Contract, 1980-1982. The provisions for each are somewhat different. General Government employees fill out a leave slip for the amount of leave they wish to donate and indicate the name of the employee to whom they wish the leave donated. The leave is transferred as follows:

"5. The Employer will, for purposes of computation, convert the leave donated to dollars at the hourly rate of the donor. The dollars will then be converted to leave at the hourly rate of the recipient of the donation and the appropriate hours of sick leave will be added to the recipients sick leave account for use as sick leave."

Supervisory unit employees work from what is called a Sick Leave Bank. Employees donate leave to the bank and member employees are allowed to withdraw up to forty days in any one calendar year or a total of 180 days during his or her entire employment with the State. These two units of government workers cover 7,369 State employees.

In 1978 the statutes affecting leave for "officers and employees of the state", which includes legislative employees, were changed. Under the prior system, we had separate annual and sick leave accounts. As a result of the 1978 amendments, sick leave was abolished and by statute we were "entitled" to personal leave. AS 39.20.225(a) and (b), attached, set out the approved use of personal leave. The first use mentioned is: "An officer or employee may take personal leave for medical reasons, regardless of whether business permits. . ." So, the use of personal leave in lieu of sick leave is perfectly consistent with AS 39.20.225. Should not its donation be the same?

One final point--AS 39.20.245 provides these same officers and employees may donate leave to the memorial scholarship revolving loan fund, and that "The Commissioner of Administration shall pay to the account. . .an amount equal to the value of the day or days of personal leave contributed by the officer or employee." This is the same accounting procedure prescribed in the General Government contract and in SB 351. I submit, if it's a proper to donate the cash value of personal leave to the scholarship revolving loan fund, it's proper to donate the cash value of personal leave to another employee's sick leave account.

JHH/pw

Attachments: Statute sections

**Sec. 39.20.185. State employees who are members of certain boards.** A state official or employee who is a member of the judicial council or a state official or employee appointed by the governor to a state board, commission, or committee established under the authority of law is not entitled to per diem when the meeting or other business takes place in the community of which the member is a resident. (§ 1 ch 139 SLA 1968)

**Sec. 39.20.190. Definitions.** In AS 39.20.110 — 39.20.170

- (1) "employee" or "state employee" means a person employed by a state agency;
- (2) "official" or "state official" means the appointive head of a state agency;
- (3) "official travel" means travel inside or outside the state on official business of the state, for which payment or reimbursement is expected or authorized;
- (4) "per diem allowance" means a daily flat rate of payment instead of actual expenses;
- (5) "state agency," "agency," or "department" means department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government;
- (6) "subsistence" means lodging, meals, and other necessary expenses incidental to the personal sustenance or comfort of the traveler;
- (7) "traveler" means the official or employee engaged in official travel for the state. (§ 3 ch 60 SLA 1957)

**Article 3. Leaves of Absence.**

Section	Section
200. Computation of personal leave	270. Court leave
210. Determining years of service	280. [Repealed]
220. Requirement that employment be continuous	290. Definition of days of leave
225. Use of personal leave	295. Special regulations on leave period
230. [Repealed]	300. Personal and banked medical leave transfers with officer or employee
240. Accumulation of personal leave	310. Exceptions
245. Donation of personal leave	320. Adoption of regulations
250. Terminal leave	330. Departments to keep leave records
255. Conversion of accrued annual leave to personal leave	340. Leave of absence for reserve or auxiliary members of armed forces
256. Transfer of accrued medical leave	350. Restoration of reserve members to former positions
260. [Repealed]	

**Sec. 39.20.200. Computation of personal leave. Officers and employees of the state are entitled to personal leave with pay which accrues as follows:**

- (1) two days for each full monthly pay period in the case of officers and employees with less than two years of service;

(2) two and one-quarter days for each full monthly pay period in the case of officers and employees with two but less than five years of service;

(3) two and one-half days for each full monthly pay period in the case of officers and employees with five but less than 10 years of service;

(4) three days for each full monthly pay period in the case of officers and employees with 10 years or more service. (§ 11-5-6 a ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 10 ch 148 SLA 1976; am § 1 ch 136 SLA 1978)

**Effect of amendments.** — The 1976 amendment rewrote this section.

The 1978 amendment rewrote this section.

Cited in *State v. Worden*, 7 Alas. L.J. No. 9, p. 641 (Sept., 1969).

**Am. Jur. 2d reference.** — 63 Am. Jur. 2d, Public Officers and Employees, §§ 158, 403.

**Sec. 39.20.210. Determining years of service.** In determining years of service for the purpose of computing personal leave, all service with the Territory and State of Alaska is included. A change in the rate of accrual of personal leave by an officer or employee takes effect upon the beginning of the monthly pay period following the monthly pay period in which the officer or employee completes the prescribed period of service. (§ 11-5-6 b ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 2 ch 136 SLA 1978)

**Effect of amendment.** — The 1978 amendment substituted "personal leave"

for "annual leave" in the first and second sentences.

**Sec. 39.20.220. Requirement that employment be continuous.** Notwithstanding AS 39.20.200, an officer or employee is entitled to personal leave only after having been employed currently for a continuous period of 30 days under one or more appointments without break in service. When an officer or employee completes a period of continuous employment of 30 days, an amount of personal leave is credited to him equal to the amount which, but for this section, would have accrued under AS 39.20.200 during the period. (§ 11-5-6 c ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 3 ch 136 SLA 1978)

**Effect of amendment.** — The 1978 amendment substituted "personal leave"

for "annual leave" and "30 days" for "90 days" in the first and second sentences.

**Sec. 39.20.225. Use of personal leave.** (a) An officer or employee may take personal leave at any time business permits upon permission by the head of the department or agency for which he works.

(b) An officer or employee may take personal leave for medical reasons, regardless of whether business permits, upon permission by the head of the department or agency for which he works. A

department or agency head shall grant personal leave for medical reasons if he is satisfied that the officer or employee is absent for medical reasons. The taking of personal leave for medical reasons shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30). The following constitute "medical reasons" and are subject to the conditions noted.

(1) Medical disability of an officer or employee is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(2) Medical disability of a member of an officer's or employee's immediate family is a medical reason for taking personal leave if the disability is such that the attendance of the officer or employee is required. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(3) A medical condition of an officer or employee which makes his presence at work a danger to the health of his fellow employees is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the condition if the absence exceeds three consecutive working days.

(4) Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. A female officer or employee, otherwise qualified for a leave of absence, is entitled to take a maximum of nine weeks leave immediately preceding and following childbirth. If the officer's or employee's accrued personal leave is insufficient for this purpose, she is entitled to take leave without pay for the balance of the nine-week period.

(5) Death of a member of an officer's or employee's immediate family is a medical reason for taking personal leave. No more than five days of personal leave may be taken for this purpose.

(c) Each officer and employee shall, during each 12-month period, take at least five days of personal leave. If the officer or employee does not take at least five days of personal leave during a 12-month period, the difference between five days and the amount of personal leave he did take shall be cancelled without pay unless his department or agency head certifies in writing that he was denied the opportunity to take five days of personal leave during the 12-month period. (§ 4 ch 136 SLA 1978; am § 60 ch 94 SLA 1980)

**Effect of amendment.** — The 1980 amendment substituted "Workers' Compensation Act" for "Workmen's Compensation Act" in the introductory paragraph of subsection (b).

**Sec. 39.20.230. When annual leave may be taken.**

Repealed by § 15 ch 136 SLA 1978.

**Cross reference.** — For present provisions covering the subject matter of the repealed section, see AS 39.20.225.

**Editor's note.** — The repealed section derived from § 11-5-6 d, ACLA 1949; § 1, ch. 182, SLA 1957; § 1, ch. 145, SLA 1960.

**Sec. 39.20.240. Accumulation of personal leave.** Except as provided in AS 39.20.225(c) personal leave which is not taken by an officer or employee during a 12-month period accumulates for use in succeeding 12-month periods. (§ 11-5-6 e ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 37 SLA 1967; am § 1 ch 31 SLA 1971; am § 1 ch 151 SLA 1972; am § 5 ch 136 SLA 1978)

**Effect of amendment.** — The 1978 amendment rewrote this section.

**Sec. 39.20.245. Donation of personal leave.** An officer or employee may donate one or more days of personal leave a year to the memorial scholarship revolving loan fund, or to a scholarship account in the fund, under AS 14.40.810 — 14.40.845. The commissioner of administration shall pay to the account of the memorial scholarship revolving loan fund, or to a scholarship account in the fund, an amount equal to the value of the day or days of personal leave contributed by the officer or employee. § 2 ch 33 SLA 1969; am § 23 ch 136 SLA 1974; am § 6 ch 136 SLA 1978)

**Effect of amendment.** — The 1978 amendment substituted "An officer or" for "A state" in the first sentence, substituted

"personal leave" for "annual leave" in the first and second sentences, and inserted "officer or" in the second sentence.

**Sec. 39.20.250. Terminal leave.** (a) Terminal leave for unused personal leave shall be allowed upon separation from service. The payment equals the compensation that the officer or employee would have received if he had remained in the service until the expiration of the period of unused personal leave. A payment of terminal leave to an employee shall be made as a lump sum payment or in installments over a period of time, as the employee elects.

(b) If the officer or employee is re-employed in the state service before the expiration of the period covered by the balance of the unused leave payment, he shall refund to the state an amount equal to the leave payment covering the period between the date of re-employment and the expiration of the unused leave period which has been paid to him. The leave represented by a refund shall be recreated to the officer or employee by the employing department or agency.

(c) The payment authorized by this section is not considered salary or compensation except for purposes of taxation. (§ 11-5-6 f ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 7 ch 136 SLA 1978; am § 1 ch 16 SLA 1979)