

Stricken language would be deleted from and underlined language would be added to present law.
Act 378 of the Regular Session

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S3/1/21
A Bill

SENATE BILL 380

By: Senators K. Hammer, *L. Chesterfield, D. Wallace*

By: Representatives Wooten, *Rye*

For An Act To Be Entitled

AN ACT TO AMEND THE UNIFORM ATTENDANCE AND LEAVE POLICY ACT; AMENDING ARKANSAS LAW CONCERNING ANNUAL LEAVE ACCRUED BY CRITICAL-NEED EMPLOYEES; REQUIRING THAT CERTAIN ANNUAL LEAVE ACCUMULATED IN EXCESS OF THE AMOUNT ALLOWED AT THE END OF A CALENDAR YEAR BE DEPOSITED INTO THE CATASTROPHIC LEAVE BANK; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO AMEND THE UNIFORM ATTENDANCE AND LEAVE POLICY ACT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 21-4-203, concerning definitions applicable to the Uniform Attendance and Leave Policy Act, § 21-4-201 et seq., is amended to add an additional subdivision to read as follows:

(15)(A) "Critical-need employee" means a person employed by any of the following state agencies in a position or classification that is required to be staffed by the state agency twenty-four (24) hours a day and seven (7) days a week:

(i) The Department of Corrections;

(ii) The Department of Health;

(iii) The Department of Human Services;

(iv) The Division of Emergency Management;



- (v) The Division of Arkansas State Police;
- (vi) The Department of Veterans Affairs; or
- (vii) The Department of Agriculture.

(B) A state agency shall:

(i) Determine each position or classification that is required to be staffed twenty-four (24) hours a day and seven (7) days a week under subdivision (15)(A) of this section and submit the position or classification to the Office of Personnel Management for approval;

(ii) Upon the approval of the Office of Personnel Management, notify an employee that he or she is a critical-need employee based upon his or her employment in a position or classification that is required to be staffed twenty-four (24) hours a day and seven (7) days a week; and

(iii) Submit annual reports identifying each position or classification that must be staffed twenty-four (24) hours a day and seven (7) days a week to the Legislative Council or, if the General Assembly is in regular, fiscal, or extraordinary session, the Joint Budget Committee.

SECTION 2. Arkansas Code § 21-4-204(e), concerning the accrual and use of annual leave by state employees, is amended to read as follows:

(e)(1)(A) Annual leave shall be cumulative. ~~No~~ An employee shall not have more than thirty (30) days of annual leave accumulated at the end of each calendar year. However, the thirty-day accumulative annual leave may exceed thirty (30) days prior to the end of the calendar year.

~~(B) No fire or emergency service employee under subdivision (a)(2) of this section~~ The following employees shall not accumulate annual leave in excess of forty-five (45) days at the end of each calendar year, except that the forty-five-day maximum of cumulative annual leave may exceed forty-five (45) days during the calendar year:

(i) A fire and emergency service employee under subdivision (a)(2) of this section; and

(ii) A critical-need employee.

SECTION 3. Arkansas Code § 21-4-204 is amended to add an additional subsection to read as follows:

(g)(1) At the end of the calendar year and except as provided in § 21-4-205(c), an employee's accumulated annual leave that exceeds the maximum allowed under subsection (e) of this section shall be deposited into the catastrophic leave bank administered by the Office of Personnel Management.

(2) If an employee does not want his or her accumulated annual leave that exceeds the maximum allowed under subsection (e) of this section to be deposited into the catastrophic leave bank under subdivision (g)(1) of this section, he or she shall submit a written request to the Office of Personnel Management that the accumulated annual leave in question be forfeited in lieu of being deposited into the catastrophic leave bank.

SECTION 4. Arkansas Code § 21-4-205 is amended to read as follows:
21-4-205. Annual leave – Unused leave.

(a)(1) Except as provided in subdivision (a)(2) of this section, whenever an employee is separated from the state agency by reason of resignation, layoff, termination of appointment, or dismissal, the unused annual leave to his or her credit as of his or her last duty date shall be liquidated by a lump-sum payment, not to exceed thirty (30) working days, inclusive of holidays.

(2) Unused annual leave to the credit of ~~a fire and emergency service employee under § 21-4-204(a)(2)~~ the following shall be liquidated by a lump-sum payment, not to exceed forty-five (45) working days, inclusive of holidays:

(A) A fire and emergency service employee under § 21-4-204(a)(2); and

(B) A critical-need employee.

(b)(1) Unused accumulated annual leave of a deceased employee, not to exceed thirty (30) days, shall be payable either to the estate of the deceased or to an individual authorized to receive such payment.

(2) Payment for services of an employee on leave with pay status at the time of death shall continue through close of business on the day of demise.

(3) No payment shall be made in any case until it shall have been determined that the deceased was not indebted to the agency.

(4) A voucher shall be prepared for the money due to be made payable either to the estate of the deceased or to an individual authorized

to receive such payment.

(c)(1) If at the end of a calendar year the cumulative annual leave of a critical-need employee exceeds forty-five (45) days and one (1) or more written or electronic requests by the critical-need employee to use annual leave were denied in written or electronic form due to the staffing needs of the state agency employing the critical-need employee, then the amount of the annual leave that was requested by the critical-need employee but denied shall be liquidated by a lump-sum payment to the critical-need employee.

(2) The total amount of the lump-sum payment to a critical-need employee under subdivision (c)(1) of this section shall not exceed the value of the cumulative annual leave exceeding forty-five (45) days at the end of the calendar year.

(d)(1) A state agency:

(A) Shall monitor the annual leave balance of a critical-need employee; and

(B) May request that a critical-need employee use annual leave to avoid his or her cumulative annual leave exceeding forty-five (45) days.

(2)(A) If a state agency determines the cumulative annual leave of a critical-need employee will exceed forty-five (45) days at the end of a calendar year, the state agency employing the critical-need employee may instruct the critical-need employee to use annual leave on one (1) or more specified dates prior to the end of the calendar year.

(B) A state agency instructing a critical-need employee to use annual leave under subdivision (d)(2)(A) of this section shall notify the employee at least fourteen (14) days before a specified date to use annual leave.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that critical-need employees provide services to the State of Arkansas that are essential to the preservation of the public peace, health, and safety; that this act provides for revisions to the payment and accrual of annual leave for critical-need employees that promotes their retention; and that this act should become effective at the earliest opportunity to preserve the public peace, health, and safety by aiding in the retention of critical-need employees and

maintaining their valuable contributions to the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/K. Hammer

APPROVED: 3/17/21