

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**S. B. No. 274**

**Senator Miller, R.**

**Cosponsors: Senators Miller, D., Smith, Strahorn**

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**A B I L L**

To amend sections 124.391 and 4117.10 and to enact 1  
section 325.192 of the Revised Code to authorize a 2  
county employee to donate paid leave to another 3  
employee of the same county. 4

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

**Section 1.** That sections 124.391 and 4117.10 be amended and 5  
that section 325.192 of the Revised Code be enacted to read as 6  
follows: 7

**Sec. 124.391.** (A) As used in this section, "paid leave" means 8  
sick leave, personal leave, or vacation leave. 9

(B) The director of administrative services may establish a 10  
program under which an employee paid directly by warrant of the 11  
director of budget and management may donate that employee's 12  
accrued but unused paid leave to another employee paid directly by 13  
warrant of the director of budget and management who has no 14  
accrued but unused paid leave and who has a critical need for it 15  
because of circumstances such as a serious illness or the serious 16  
illness of a member of the employee's immediate family. 17

If the director of administrative services establishes a 18  
leave donation program under this division, the director shall 19

adopt rules in accordance with Chapter 119. of the Revised Code to 20  
provide for the administration of the program. These rules shall 21  
include, but not be limited to, provisions that identify the 22  
circumstances under which leave may be donated and that specify 23  
the amount, types, and value of leave that may be donated. 24

~~(C) At the discretion of the appropriate legislative 25  
authority, a county may implement a leave donation program, as 26  
provided in this section, for all county agencies or for one or 27  
more designated agencies within the county. 28~~

Sec. 325.192. A county employee, hereinafter referred to as 29  
the "donor," may donate the county employee's accrued sick, 30  
vacation, compensatory, or personal leave or a combination thereof 31  
to another employee of the same county, hereinafter referred to as 32  
the "donee," who is in critical need of the leave under the 33  
conditions specified later in this section. The donor and donee 34  
shall be employed by the same county but do not need to be 35  
employed by the same appointing authority. A donation of sick, 36  
vacation, compensatory, or personal leave or a combination thereof 37  
is in the sole discretion of a county employee. A county 38  
appointing authority may not solicit or by any means coerce a 39  
county employee to donate sick, vacation, compensatory, or 40  
personal leave to another county employee. But a county appointing 41  
authority, after having obtained written consent from the 42  
potential donee, may inform county employees generally of the 43  
potential donee's critical need for donations of sick, vacation, 44  
compensatory, or personal leave. 45

A donation of sick, vacation, compensatory, or personal leave 46  
shall consist of not less than eight hours of sick, vacation, 47  
compensatory, or personal leave or a combination thereof, and 48  
shall be deducted from the balance of the donor's accrued sick, 49  
vacation, compensatory, or personal leave, as the case may be. A 50

donation may be made for only one pay period at a time. A donation 51  
is void if the intended donee is ineligible to receive a donation 52  
of leave, if the donation exceeds the amount of sick, vacation, 53  
compensatory, or personal leave the donor is entitled to use 54  
during the pay period, or if the deduction results in the donor 55  
having a combined balance of sick, vacation, compensatory, or 56  
personal leave that equals less than eighty hours. To make a 57  
donation of sick, vacation, compensatory, or personal leave or of 58  
a combination thereof, the donor shall certify, to the donor's 59  
appointing authority, the name of the donee, the donee's 60  
appointing authority, the type of leave to be donated, the hours 61  
of leave to be donated, that the donor is donating the leave 62  
voluntarily, that the donor understands that the leave will be 63  
deducted from the donor's accrued balance of sick, vacation, 64  
compensatory, or personal leave, and that the donor will have a 65  
combined balance of accrued sick, vacation, compensatory, or 66  
personal leave equal to at least eighty hours after the donation 67  
is deducted. A separate certification shall be made for each pay 68  
period in which the donor intends to make a donation of leave. 69

A donee is eligible to receive a donation of sick, vacation, 70  
compensatory, or personal leave only if the donee or a member of 71  
the donee's immediate family has a serious illness or injury, the 72  
donee has exhausted all sick, vacation, compensatory, or personal 73  
leave the donee had accrued, the donee is not eligible for any 74  
other paid leave under the circumstances, and the donee has 75  
applied for any workers' compensation or other insurance or 76  
disability benefit for which the donee may be eligible. (A donee's 77  
immediate family consists of any relative or in-law or other 78  
individual with regard to the care of whom the donee may use sick 79  
leave.) A donee may use donated leave for any purpose for which 80  
sick leave may be used. A donee also may use donated leave to 81  
satisfy the waiting period for workers' compensation or another 82  
insurance or disability benefit. And a donee may use donated leave 83

to make up or to help make up the difference between the amount 84  
the donee receives through workers' compensation or another 85  
insurance or disability benefit and the amount the donee would 86  
have received if the donee had not exhausted the donee's sick, 87  
vacation, compensatory, or personal leave. A donee may not convert 88  
donated leave into a cash benefit. And if a donee is in a 89  
probationary period, donated leave does not apply toward 90  
satisfaction of the probationary period. 91

Donated sick, vacation, compensatory, and personal leave 92  
shall be deducted from the donor's accrued sick, vacation, 93  
compensatory, or personal leave and credited to the donee as sick 94  
leave. The donor's appointing authority and the donee's appointing 95  
authority shall provide information to the county auditor as 96  
necessary to facilitate the deduction and crediting. Donated leave 97  
shall be used in hourly increments at the rate that is the lesser 98  
of the rate at which the donor accrued the leave or the rate at 99  
which the donee would have accrued sick leave. Donated leave, 100  
regardless of its source, shall be treated as if it were sick 101  
leave. A donee using donated leave is in active pay status and 102  
accrues leave and is entitled to other benefits the same as any 103  
other comparable employee in active pay status. Any leave thus 104  
accrued shall be used before donated leave is used. Any donated 105  
leave that is unused by the donee remains credited to the donee as 106  
if it were leave accrued by the donee in active pay status. 107

**Sec. 4117.10.** (A) An agreement between a public employer and 108  
an exclusive representative entered into pursuant to this chapter 109  
governs the wages, hours, and terms and conditions of public 110  
employment covered by the agreement. If the agreement provides for 111  
a final and binding arbitration of grievances, public employers, 112  
employees, and employee organizations are subject solely to that 113  
grievance procedure and the state personnel board of review or 114  
civil service commissions have no jurisdiction to receive and 115

determine any appeals relating to matters that were the subject of 116  
a final and binding grievance procedure. Where no agreement exists 117  
or where an agreement makes no specification about a matter, the 118  
public employer and public employees are subject to all applicable 119  
state or local laws or ordinances pertaining to the wages, hours, 120  
and terms and conditions of employment for public employees. Laws 121  
pertaining to civil rights, affirmative action, unemployment 122  
compensation, workers' compensation, the donation of paid leave 123  
pursuant to section 325.192 of the Revised Code, the retirement of 124  
public employees, and residency requirements, the minimum 125  
educational requirements contained in the Revised Code pertaining 126  
to public education including the requirement of a certificate by 127  
the fiscal officer of a school district pursuant to section 128  
5705.41 of the Revised Code, the provisions of division (A) of 129  
section 124.34 of the Revised Code governing the disciplining of 130  
officers and employees who have been convicted of a felony, and 131  
the minimum standards promulgated by the state board of education 132  
pursuant to division (D) of section 3301.07 of the Revised Code 133  
prevail over conflicting provisions of agreements between employee 134  
organizations and public employers. The law pertaining to the 135  
leave of absence and compensation provided under section 5923.05 136  
of the Revised Code prevails over any conflicting provisions of 137  
such agreements if the terms of the agreement contain benefits 138  
which are less than those contained in that section or the 139  
agreement contains no such terms and the public authority is the 140  
state or any agency, authority, commission, or board of the state 141  
or if the public authority is another entity listed in division 142  
(B) of section 4117.01 of the Revised Code that elects to provide 143  
leave of absence and compensation as provided in section 5923.05 144  
of the Revised Code. The law pertaining to the leave established 145  
under section 5906.02 of the Revised Code prevails over any 146  
conflicting provision of an agreement between an employee 147  
organization and public employer if the terms of the agreement 148

contain benefits that are less than those contained in section 149  
5906.02 of the Revised Code. Except for sections 306.08, 306.12, 150  
306.35, and 4981.22 of the Revised Code and arrangements entered 151  
into thereunder, and section 4981.21 of the Revised Code as 152  
necessary to comply with section 13(c) of the "Urban Mass 153  
Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as 154  
amended, and arrangements entered into thereunder, this chapter 155  
prevails over any and all other conflicting laws, resolutions, 156  
provisions, present or future, except as otherwise specified in 157  
this chapter or as otherwise specified by the general assembly. 158  
Nothing in this section prohibits or shall be construed to 159  
invalidate the provisions of an agreement establishing 160  
supplemental workers' compensation or unemployment compensation 161  
benefits or exceeding minimum requirements contained in the 162  
Revised Code pertaining to public education or the minimum 163  
standards promulgated by the state board of education pursuant to 164  
division (D) of section 3301.07 of the Revised Code. 165

(B) The public employer shall submit a request for funds 166  
necessary to implement an agreement and for approval of any other 167  
matter requiring the approval of the appropriate legislative body 168  
to the legislative body within fourteen days of the date on which 169  
the parties finalize the agreement, unless otherwise specified, 170  
but if the appropriate legislative body is not in session at the 171  
time, then within fourteen days after it convenes. The legislative 172  
body must approve or reject the submission as a whole, and the 173  
submission is deemed approved if the legislative body fails to act 174  
within thirty days after the public employer submits the 175  
agreement. The parties may specify that those provisions of the 176  
agreement not requiring action by a legislative body are effective 177  
and operative in accordance with the terms of the agreement, 178  
provided there has been compliance with division (C) of this 179  
section. If the legislative body rejects the submission of the 180  
public employer, either party may reopen all or part of the entire 181

agreement. 182

As used in this section, "legislative body" includes the 183  
governing board of a municipal corporation, school district, 184  
college or university, village, township, or board of county 185  
commissioners or any other body that has authority to approve the 186  
budget of their public jurisdiction and, with regard to the state, 187  
"legislative body" means the controlling board. 188

(C) The chief executive officer, or the chief executive 189  
officer's representative, of each municipal corporation, the 190  
designated representative of the board of education of each school 191  
district, college or university, or any other body that has 192  
authority to approve the budget of their public jurisdiction, the 193  
designated representative of the board of county commissioners and 194  
of each elected officeholder of the county whose employees are 195  
covered by the collective negotiations, and the designated 196  
representative of the village or the board of township trustees of 197  
each township is responsible for negotiations in the collective 198  
bargaining process; except that the legislative body may accept or 199  
reject a proposed collective bargaining agreement. When the 200  
matters about which there is agreement are reduced to writing and 201  
approved by the employee organization and the legislative body, 202  
the agreement is binding upon the legislative body, the employer, 203  
and the employee organization and employees covered by the 204  
agreement. 205

(D) There is hereby established an office of collective 206  
bargaining in the department of administrative services for the 207  
purpose of negotiating with and entering into written agreements 208  
between state agencies, departments, boards, and commissions and 209  
the exclusive representative on matters of wages, hours, terms and 210  
other conditions of employment and the continuation, modification, 211  
or deletion of an existing provision of a collective bargaining 212  
agreement. Nothing in any provision of law to the contrary shall 213

be interpreted as excluding the bureau of workers' compensation 214  
and the industrial commission from the preceding sentence. This 215  
office shall not negotiate on behalf of other statewide elected 216  
officials or boards of trustees of state institutions of higher 217  
education who shall be considered as separate public employers for 218  
the purposes of this chapter; however, the office may negotiate on 219  
behalf of these officials or trustees where authorized by the 220  
officials or trustees. The staff of the office of collective 221  
bargaining are in the unclassified service. The director of 222  
administrative services shall fix the compensation of the staff. 223

The office of collective bargaining shall: 224

(1) Assist the director in formulating management's 225  
philosophy for public collective bargaining as well as planning 226  
bargaining strategies; 227

(2) Conduct negotiations with the exclusive representatives 228  
of each employee organization; 229

(3) Coordinate the state's resources in all mediation, 230  
fact-finding, and arbitration cases as well as in all labor 231  
disputes; 232

(4) Conduct systematic reviews of collective bargaining 233  
agreements for the purpose of contract negotiations; 234

(5) Coordinate the systematic compilation of data by all 235  
agencies that is required for negotiating purposes; 236

(6) Prepare and submit an annual report and other reports as 237  
requested to the governor and the general assembly on the 238  
implementation of this chapter and its impact upon state 239  
government. 240

**Section 2.** That existing sections 124.391 and 4117.10 of the 241  
Revised Code are hereby repealed. 242