

ORDINANCE No. 114648

implementation of a pilot Sick Leave T...
and to make various technical amendments...
amending S.M.C. 4.28.020 to enlarge the...
of funeral leave.

COUNCIL BILL No. 107342

AN ORDINANCE relating to sick leave and funeral leave use; adding a new chapter to the Seattle Municipal Code ("S.M.C.") to facilitate the identification of an individual as the spouse or "domestic partner" of a City officer or employee and establishing eligibility for the use of leave under S.M.C. Chs. 4.24 and 4.28 for the care or funeral of any such person or specified relatives thereof; amending and adding to S.M.C. Ch. 4.24 to authorize the use of sick leave for the care of a spouse or domestic partner, or of a parent or a dependent child of an officer or employee or his/her spouse or domestic partner, to remove limits on the amount of accumulated sick leave that may be used to care for a dependent child, to authorize

The City of

Law Department

Honorable President:

Your Committee on Finance

to which was referred the within Council Bill...
report that we have considered the same...

COMPTROLLER FILE No. _____

Introduced: MAY 2 2 1989	By: <u>Gralle</u>
Referred: MAY 3 2 1989	To: <u>Finance & Personnel</u>
Referred:	To:
Referred:	To:
Reported: AUG 1 4 1989	Second Reading: AUG 1 4 1989
Third Reading: AUG 1 4 1989	Signed: AUG 1 4 1989
Presented to Mayor: AUG 1 4 1989	Approved: AUG 1 7 1989
Returned to City Clerk: AUG 1 7 1989	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

OK

Pass
Hold one week

Vote 8-1
Smith

on of a pilot Sick Leave Transfer Program,
various technical amendments thereto; and
I.C. 4.28.020 to enlarge the authorized uses
leave.

The City of Seattle--Legislative Department

Public Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on

Finance & Personnel

was referred the within Council Bill No.

107342

we have considered the same and respectfully recommend that the same:

Pass

8/3/89

for one week until Aug 14, 1989

Vote

8-1

Smith Against

Virginia Galle

Committee Chair

ORDINANCE 114648

1
2
3 AN ORDINANCE relating to sick leave and funeral leave use;
4 adding a new chapter to the Seattle Municipal Code
5 ("S.M.C.") to facilitate the identification of an indivi-
6 dual as the spouse or "domestic partner" of a City officer
7 or employee and establishing eligibility for the use of
8 leave under S.M.C. Chs. 4.24 and 4.28 for the care or
9 funeral of any such person or specified relatives thereof;
10 amending and adding to S.M.C. Ch. 4.24 to authorize the
11 use of sick leave for the care of a spouse or domestic
12 partner, or of a parent or a dependent child of an officer
13 or employee or his/her spouse or domestic partner, to
14 remove limits on the amount of accumulated sick leave that
15 may be used to care for a dependent child, to authorize
16 implementation of a pilot Sick Leave Transfer Program, and
17 to make various technical amendments thereto; and
18 amending S.M.C. 4.28.020 to enlarge the authorized uses of
19 funeral leave.

20
21 WHEREAS, The City of Seattle recognizes that families and
22 other long-term committed relationships foster economic
23 stability and emotional and psychological bonds; and

24
25 WHEREAS, the welfare of all residents of The City of
26 Seattle is enhanced by measures that reinforce the
27 bonds of families and long-term committed relationships
28 and that encourage commitment to proper care for
children and parents; and

WHEREAS, The City of Seattle has already established a
sick leave program that may be utilized for the care of
dependent children of an officer or employee, and a
funeral leave program that may be used in the event of a
death of certain relatives, which programs limit the
circumstances in which such leave may be used; and

WHEREAS, Ch. 236, Laws of 1988, invalidated the current
forty-eight (48) hour per year limitation in S.M.C
4.24.035-B on the number of sick leave days that may be
used for the care of dependent children; and

WHEREAS, it is desirable to establish a policy that allows
any City officer or employee to utilize accumulated sick
leave for the care of his or her spouse or domestic
partner or the dependent child or parent of a City
officer or employee or his or her spouse or domestic
partner, consistent with state law, and to define
domestic partners and certain other persons as relatives
for the purpose of utilizing funeral leave; and

WHEREAS, City officers and employees have expressed a
willingness to transfer accumulated sick leave from
their sick leave accounts to the sick leave accounts of
other officers or employees who have used or are about
to use all of their accumulated sick leave because the

1 officers or employees suffer from catastrophic illness-
2 es, injuries, impairments, or physical or mental
conditions; NOW, THEREFORE,

3 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

4 Section 1. Seattle Municipal Code ("S.M.C.") 4.24.005
5 is amended as follows:

6 4.24.005 Definitions.

7 ((As)) Terms used in this chapter (~~(, the following~~
8 ~~terms))~~ shall have the meaning(~~(s))~~ indicated therefor in
9 the Personnel Ordinance (S.M.C. Ch. 4.04) unless another
meaning is clearly indicated below or from the context:

10 A. (~~("Department head" means the head of an employing~~
11 ~~unit as defined in the Personnel Ordinance (SMC 4.04).)~~)

12 "Basic living expenses" means the cost of basic
13 food, shelter and any other expenses of a Domestic Partner
14 which are paid at least in part by a program or benefit for
15 which the partner qualified because of the Domestic
16 Partnership. The individuals need not contribute equally or
17 jointly to the cost of these expenses as long as they agree
that both are responsible for the cost.

18 B. "Dependent child" means a (~~(minor)~~) child under the
19 age of eighteen (for whom the employee is legally
20 responsible or who resides with or) who is:

21 (a) the natural offspring of,

22 (b) an adopted or step child of,

23 (c) under the legal guardianship, legal custody, or foster
care of,

24 (d) financially dependent on, or

25 (e) a resident in the dwelling unit of,

26 (~~(the)~~) an officer or employee or an officer's or
27 employee's spouse or domestic partner.

1 C. "Domestic partner" means an individual designated
2 as such by an officer or employee in an Affidavit of Domestic
3 Partnership or otherwise as provided by S.M.C. 4.30.010.

4 D. "Health care professional" means a person whose
5 services are of a type for which compensation is paid under
6 any City health care plan.

7 E. "Parent" means and includes one's natural or adoptive
8 father or mother, stepfather or stepmother or foster father or
9 foster mother.

10 Sec. 2. S.M.C. 4.24.035 is amended as follows:

11 4.24.035 Paid sick leave - Use.

12 A. An officer's or employee's request for paid sick
13 leave may be granted when the officer or employee is required
14 to be absent from work (~~((fer))~~) because of:

15 1. A personal illness, injury or medical disability
16 incapacitating the officer or employee for the performance of
17 duty, or personal medical or dental appointments; or

18 2. An illness, injury, or medical or dental
19 appointment((s)) of an officer's or employee's spouse,
20 domestic partner, or the parent or dependent child of such
21 officer or employee or his or her spouse or domestic partner
22 when the officer or employee has established his or her
23 eligibility for a non-personal sick leave use as contemplated
24 by S.M.C. Ch. 4.30 and the ((attendance)) absence of the
25 officer or employee from work is required, ((subject to the
26 limitations in subsection B; and)) or when such absence is
27 recommended by a health care professional.

28 ((3. The care of a dependent child when the
employee's presence is recommended by a health care
professional, subject to the limitations in subsection B.

1 B. ~~No more than forty eight (48) hours of accumulated~~
2 ~~sick leave per calendar year may be used by a full time~~
3 ~~regular or probationary employee for the purposes described~~
4 ~~in Section 4.24.035 A2 and A3. Any part time regular or~~
5 ~~probationary employee who works a minimum of twenty (20)~~
6 ~~hours per week may use a proportional amount of sick leave~~
7 ~~equivalent to that allowed full time employees based on the~~
8 ~~percentage of a full time schedule that the part time~~
9 ~~employee works.))~~

9 Sec. 3. S.M.C. 4.24.040, as last amended by Ordinance
10 112088, is further amended as follows:

11 4.24.040 Sick leave reporting - Payment.

12 Compensation for absence of an officer or employee from duty
13 for any reason contemplated in Section 4.24.035 shall be paid
14 upon approval of ~~((the department head, or his/her))~~ such
15 absentee's appointing authority or that authority's designee.
16 In order to receive compensation for such absence, an officer
17 or employee((s)) shall make ~~((themselves))~~ himself or herself
18 available for such investigation, medical or otherwise, as
19 ~~((the department head))~~ such appointing authority or the
20 Personnel Director deems appropriate. Either ~~((the department~~
21 ~~head))~~ such appointing authority or the Personnel Director may
22 require a supporting report of a health care professional from
23 the officer or employee. Compensation for absences beyond
24 four (4) days shall be paid only after approval by ~~((the~~
25 ~~department head, or his/her))~~ such absentee's appointing
26 authority or that authority's designee, of a request from the
27 officer or employee supported by a report of the health care
28 professional treating the officer or employee or ~~((the~~
employee's dependent child,)) an individual identified in S.M.C.

1 4.24.035 A.2, or by a health care professional selected by
2 the Personnel Director.

3 Sec. 4. There is added to S.M.C. Ch. 4.24 a new
4 section, S.M.C. 4.24.100, as follows:

5 4.24.100 Sick Leave Transfer Program.

6 A. The Personnel Director shall implement a pilot Sick
7 Leave Transfer Program allowing for the transfer of
8 accumulated sick leave hours from the account of any officer
9 or employee who desires to participate in such program to
10 the accumulated sick leave hours account of another officer
11 or employee designated by the donor-officer or -employee.
Such Sick Leave Transfer Program shall include at least the
12 following elements:

13 1. The sick leave being transferred shall be
14 translated into a dollar figure based upon the donor-
15 officer's or -employee's straight time rate of pay.

16 2. An officer or employee may receive sick leave
17 from donor-officer or -employee if the Personnel Director
18 finds that:

19 a. The receiving officer or employee suffers
20 from a catastrophic illness, injury, impairment, or physical
21 or mental condition, and it has caused, or is likely to
22 cause, the receiving officer or employee to

23 (1) go on leave without pay; or

24 (2) leave City employment;

25 b. The receiving officer's or employee's
26 absence and the use of contributed leave are justified;

27 c. Depletion of the receiving officer's or
28 employee's available accumulated sick leave has occurred or
is imminent;

1 d. The receiving officer or employee has
2 diligently attempted to accrue sick leave reserves; and

3 e. The receiving officer or employee is
4 not eligible for benefits under S.M.C. Ch. 4.44 or under the
5 State Industrial Insurance and Medical Aid Acts.

6 3. The Personnel Director shall establish, by
7 rule, limits for:

8 a. The maximum number of hours of sick leave
9 a receiving officer or employee may personally have accrued
10 before such officer or employee may receive sick leave hours
11 from another officer or employee;

12 b. The minimum number sick leave hours a
13 donor-officer or -employee must have accrued and must retain
14 if allowed to transfer additional accrued sick leave hours
15 to another officer or employee;

16 c. The maximum number of accrued sick leave
17 hours that a donor-officer or -employee may transfer to
18 another officer or employee; and

19 d. The maximum number of sick leave hours,
20 as equated to the receiving officer's or employee's straight
21 time rate of pay, that a receiving officer or employee may
22 receive, which number, in no event, shall exceed 1040 hours.

23 4. The donor-officer or -employee and the
24 receiving officer or employee shall each file with the
25 appointing authority for their respective employing units
26 their affidavit or declaration, in a form provided by the
27 Personnel Director, acknowledging that such sick leave
28 transfer is intended to be a gift and has been or will be
accomplished for no, or without the exchange of any,
compensation or consideration whatsoever.

1 B. Within fifteen (15) months after its implementa-
2 tion, the Personnel Director shall evaluate such pilot Sick
3 Leave Transfer Program and shall submit a written report to
4 the City Council regarding the effectiveness of such
5 program, given its intended purposes; the extent of its use;
6 and its general impact on use of sick leave together with
7 the Personnel Director's recommendation for the continua-
8 tion, discontinuation, or modification of such program.
9 Such pilot program shall terminate eighteen (18) months
10 after its implementation date unless the program is
11 reauthorized or is extended by the City Council, by
12 ordinance.

13 Section 5. S.M.C. 4.28.020 is amended as follows:

14 4.28.020 Definitions.

15 A. For the purpose of this chapter, the term "close
16 relative" means the spouse or domestic partner, child,
17 mother, father, brother, sister, grandchild, grandfather, or
18 grandmother of ((the)) an officer or employee or of the
19 spouse or domestic partner of such officer or employee.

20 "Relative other than close relative" means the uncle, aunt,
21 cousin, niece, or nephew of such officer or employee; or the
22 spouse or domestic partner of the brother, sister, child or
23 grandchild of such officer or employee; or the uncle, aunt,
24 cousin, niece, nephew, ((or)) spouse or domestic partner of
25 the brother or sister of the spouse or domestic partner of
26 such officer or employee.

27 B. For the purpose of this chapter, the term "domestic
28 partner", when used in reference to a person other than the
domestic partner of an officer or employee, means a person
identified by the officer or employee as the relative's

1 domestic partner in an affidavit or declaration of domestic
2 partnership in form prescribed therefor by the Personnel
3 Director.

4 Sec. 6. A new chapter is added to the Seattle
5 Municipal Code as follows:

6 4.30 Documentation of Eligibility for Certain Uses of
7 Sick Leave and Funeral Leave.

8 4.30.010 Establishment of Eligibility for Certain
9 Funeral Leave and Non-personal Sick Leave Uses.

10 A. Any officer or employee who, on or after the
11 effective date of this ordinance:

- 12 1. Commences service for the City, or
- 13 2. Recommences City service following a break in
14 such service, or
- 15 3. Becomes another person's spouse or domestic
16 partner,

17 may use sick leave under S.M.C. Ch. 4.24 for the care of his
18 or her spouse, domestic partner, parent, or the parent or
19 child of his or her spouse or domestic partner, and funeral
20 leave under S.M.C. Ch. 4.28 in connection with the death of
21 his or her spouse or domestic partner or any other person
22 added by this ordinance, by filing with the appointing
23 authority for his or her employing unit, within a period
24 specified in S.M.C 4.30.010-C, an affidavit as contemplated
25 in S.M.C 4.30.020.

26 B. The Personnel Director shall specify, by rule, what
27 documentation, if any, that a person who is a City officer
28 or employee immediately prior to the effective date of this
ordinance and who is (1) married, or (2) participating in a
domestic partnership, must provide to the appointing
authority of such officer's or employee's employing unit to

1 establish City knowledge of such officer's or employee's
2 participation in a marriage or domestic partnership and the
3 eligibility of that officer or employee to use sick leave
4 under S.M.C. Ch. 4.24 for the care of his or her spouse,
5 domestic partner, or the parent or child of his or her
6 spouse or domestic partner, and funeral leave under S.M.C.
7 Ch. 4.28 in connection with the death of a spouse or
8 domestic partner or any other person added by this
9 ordinance.

9 C. An officer or employee may file the documentation
10 required under S.M.C. 4.30.010-A or -B only:

11 1. Within the first thirty (30) days after the
12 commencement date of his or her marriage or domestic
13 partnership;

14 2. Within the first thirty (30) days after the
15 commencement or recommencement of such officer's or
16 employee's service; and

17 3. During an open enrollment period of ninety (90)
18 days as specified by the Personnel Director following the
19 effective date of this ordinance and, thereafter, during a
20 regular annual open enrollment period as specified by the
21 Personnel Director.

21 4.30.020 Affidavit of Marriage/Domestic Partnership.

22 The documentation sufficient to qualify an officer or
23 employee to use sick leave or funeral leave as contemplated
24 in S.M.C. 4.30.010-A shall consist of an affidavit in a form
25 prescribed and furnished by the Personnel Director, on which
26 such officer or employee dates and signs his or her name
27 and:
28

1 A. Attests:

2 1. If married, that he or she is currently
3 married to the individual identified by name on said form;
4 or

5 2. If participating in a domestic partnership,
6 that:

7 a. He or she and his or her domestic partner
8 (who shall be identified, by name, on said form) share the
9 same regular and permanent residence, have a close personal
10 relationship, and have agreed to be jointly responsible for
11 basic living expenses incurred during the domestic
12 partnership;

13 b. They are not married to anyone;

14 c. They are each eighteen (18) years of age
15 or older;

16 d. They are not related by blood closer than
17 would bar marriage in the State of Washington;

18 e. They were mentally competent to consent to
19 contract when their domestic partnership began;

20 f. They are each other's sole domestic
21 partner and are responsible for each other's common welfare;
22 and

23 g. Any prior domestic partnership in which
24 he or she or his or her domestic partner participated with a
25 third party was terminated not less than ninety (90) days
26 prior to the date of said affidavit or by the death of that
27 third party, whichever was earlier, and, if such earlier
28 domestic partnership had been acknowledged pursuant to
S.M.C. 4.30.010-A or -B, that notice of the termination of
such earlier domestic partnership was provided to the City

1 pursuant to S.M.C. 4.30.030 not less than ninety (90) days
2 prior to the date of said affidavit;

3 B. Agrees to notify the City if there is a change of
4 the circumstances attested to in the affidavit; and

5 C. Affirms, under penalty of law, that the
6 assertions in the affidavit are true.

7 4.30.030 Notice of Termination of Domestic Partnership.

8 For the purposes of this chapter, a domestic partnership
9 that has been acknowledged as contemplated in S.M.C.

10 4.30.010-A or -B shall be effectively terminated upon the
11 death of a domestic partner or on the ninetieth (90th) day
12 after notice of the termination thereof was provided to the
13 City in the form prescribed therefor by the Personnel
14 Director, whichever is earlier.

15 Sec. 7. The Personnel Director is authorized to
16 execute, for and on behalf of the City, an agreement or
17 agreements with labor organizations representing City
18 employees to the extent necessary to implement the changes
19 set forth in this ordinance for those City employees who are
20 eligible for sick leave and funeral leave benefits and who
21 are represented by local unions for purposes of collective
22 bargaining.
23
24
25
26
27
28

(To be used for all Ordinances except Emergency.)

Section 8. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 14th day of August, 1989 and signed by me in open session in authentication of its passage this 14th day of August, 1989.

[Signature]
President of the City Council

Approved by me this 18th day of August, 1989.

[Signature]
Mayor.

Filed by me this 18th day of August, 1989.

Attest: *Norman J. Brooks*
City Comptroller and City Clerk.

(SEAL)

Published.....

By *[Signature]*
Deputy Clerk.

PUBLISH DO NOT PUBLISH
CITY ATTORNEY *[Signature]*

JUN 26 1991

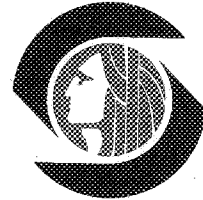
ORD # 114648

10

City of Seattle Personnel Department

Norman B. Rice, Mayor

Dwight K. Imanaka, Personnel Director



June 25, 1991

TO: Dolores Sibonga, Chair
Finance, Budget, and Management Committee

Via: Andrew A. Lofton, Director
Office of Management and Budget

FROM: Dwight K. Imanaka,
Personnel Director

SUBJECT: Sick Leave Transfer Program

RECEIVED

JUL 1 1991

DOLORES SIBONGA
SEATTLE CITY COUNCIL MEMBER

PURPOSE

The purpose of this report is to present, for City Council consideration, a description of the experience with the Sick Leave Transfer Pilot Program and to provide recommendations regarding the implementation of a permanent leave-sharing program for the City. This report, covering 15 months of operation of the Sick Leave Transfer Pilot Program, is a requirement of Ordinance 114648 (adopted August 14, 1989), which authorized the program (Ordinance 114648 is codified in Seattle Municipal Code Chapter 4.24).

BACKGROUND

In late-1988 the City found it desirable to extend the use of an employee's sick leave account to permit the transfer of sick leave from one employee's account to the account of another employee who has used, or is about to use, all of his/her accumulated sick leave because he/she is suffering from a catastrophic illness, injury, impairment, or physical or mental condition. Concurrent with the City's actions in this area, the state of Washington was also investigating the feasibility of such a program.

In early-1989 ex-Mayor Charles Royer urged the Personnel Department to research the feasibility of implementing a leave transfer program in the City. In response, the Personnel Department contacted a number of cities across the United States, and also two federal agencies and the states of Alaska, Connecticut, and Washington, to obtain information about other similar programs that had been implemented (Appendix A).

At that time, the survey showed there were very few leave-sharing programs in operation nationally. Of all the agencies surveyed, there appeared to be an equal philosophical split as to the wisdom of implementing a leave-

RECEIVED OMB

JUN 26 1991

DIRECTOR'S OFFICE

sharing program, and only one public agency had implemented a program permitting the sharing of sick leave. All of the other agencies that had implemented leave-sharing programs had restricted those programs to sharing vacation, annual leave and/or compensatory time.

In the state of Washington SHB 1375, which would have created a sick leave-sharing program for State employees, died in the Senate in 1988 due to a lack of support by that body and by the Governor. However, in 1989 a program permitting the sharing of annual leave was adopted by the state of Washington.

In mid-1989, during the development of the City's Family Leave Ordinance, it was decided to include provisions for a sick leave transfer program on a trial basis. Subsequently such a program, modeled after the proposed program that failed at the State level, was proposed and adopted on August 14, 1989, as part of the Family Leave Ordinance (Ordinance 114648, Appendix B-1). The program authorized by Ordinance 114648 was implemented by rule on February 26, 1990 (Appendix B-2). The Sick Leave Transfer Program has been in effect for 15 months as of May 26, 1991. An evaluation of that program is provided in this report.

CONCLUSIONS

Based upon experience of many City departments, employees, and those organizational units administering the Sick Leave Transfer Program since February 26, 1990, and based upon the data and discussions included in this report, our conclusions are as provided below:

1. The Sick Leave Transfer Program is widely accepted by City management and City employees in general. In response to a direct question in the Citywide survey, every respondent supported continuation of the program, albeit, with certain modifications.
2. The "catastrophic" criterion to establish the sick leave recipient's eligibility cannot be defined in concrete terms that will reduce the amount of judgement necessary by a department head to ensure consistency of application of the criterion on a Citywide basis. The general feeling of departments and employees alike is that this criterion should be substantially relaxed so as to (a) make decisions regarding eligibility easier to reach and more consistent from department to department, and (b) allow more employees to be eligible to receive donated sick leave. While both of these reasons are abound with good intentions, they could drive costs in dollars and time much higher than already experienced.

An alternative is to relax eligibility criteria but at the same time cap the number of sick leave hours that an employee may receive to a level less than the 1040 hours now allowed. This alternative would serve two purposes: (a) hold dollar costs of sick leave usage down

(there would be no impact upon administrative costs), and (b) provide an avenue to shift some burden to the City's Long-Term Disability (LTD) plan.

Another alternative is to permit donations of vacation (or annual leave) hours instead of sick leave hours. There is rationale for this alternative. For instance:

- a. Sick leave is not an entitlement to City employees. It is like an insurance policy in that it is provided by the City to be used by an employee in specific circumstances. Sick leave is an unfunded liability to the City.
 - b. Vacation is an entitlement to employees which is provided by City Charter, Article XVII, Section 2. As such, it is a budgeted part of an employee's wage and benefits package. Vacation can be used by an employee or cashed out if the employee leaves City service. In other words, it belongs to the employee. If the leave-sharing program utilized vacation hours instead of sick leave hours, issues regarding donor eligibility (the second most significant criticism) would cease to exist, and dollar costs of the program to the City would be reduced to administrative costs only.
 - c. Our research shows that nearly all agencies with a leave-sharing program permit transfers only of vacation, compensatory, or annual leave hours. We found only one agency, a County in Florida, that permits donations of sick leave.
3. The general perception of program users is that donor eligibility criteria is too restrictive. Experience with the program tends to bear out this perception. This strongly suggests that relaxation of donor criteria could increase the donor pool while at the same time reduce program administration. Both of these suggestions result in a benefit for program users.

It must be pointed out, however, that increasing the donor pool will lead to more donations, thus greater use of donated sick leave and, therefore, higher unfunded cost to the City for sick leave used. Development and implementation of a program that allows for donations of vacation and compensatory time or donations of annual leave instead of sick leave would eliminate this concern.

No records were kept of the number of employees who wanted to donate sick leave, but were not able to meet the donor eligibility criteria; however, the number of comments we received on this question leads us to believe that the number of donors would have been significantly greater had the donor eligibility criteria been less restrictive.

Also, we found that some department payroll staffmembers had a great deal of difficulty following the steps necessary to determine the number of sick leave hours an employee was eligible to donate. It never became clear, however, why this was so.

From the foregoing, we must conclude that the benefits from relaxing the donor eligibility criteria outweigh the benefits received from the current restrictive criteria. Therefore, we will recommend a relaxation of the donor eligibility criteria.

4. The flowtime involved in processing a sick leave transfer request involving either the recipient or donor employee is too long, resulting in a financial loss/hardship on the recipient employee in many cases. This flowtime can be reduced by relaxing the eligibility criteria for both the recipient and the donor employee(s), and by minor revisions to the application forms and instructions.

In addition, we conclude that the Personnel Department's involvement in the flow of the program is not necessary. Throughout the pilot program, the Personnel Department has attempted to provide some explanatory guidance as to the operation of the program, but has avoided performing an approval function or exercising judgement as to the appropriateness of any sick leave transfer request. Rather, as provided by Ordinance 114648, the Personnel Department's only responsibility has been to monitor the operation of the program through the pilot phase and to report and make recommendations to the City Council regarding the continuation, improvement, or discontinuation of the program upon completion of the pilot program. Therefore, upon completion of the pilot program, there is no further need for the Personnel Department to be directly involved in the flow of each and every sick leave transfer request. Eliminating the Personnel Department from the process should shorten the flowtime by at least seven days because the requesting department would no longer need to prepare materials explaining the request, then routing the package for the Personnel Department's review and authorization for the Comptroller's Office--Payroll Unit to effect the transfer of hours.

5. With respect to suggestions we received that the sick leave transfer program should provide for retroactivity of sick leave hours, "making whole" to eliminate lost wages and application of the program to other family members, we conclude that such provisions could easily be added to the existing program. The caveat to adopting any of these suggestions is to significantly increase costs to the City. As a matter of fact, as this report is being prepared, we have received requests from the City Light Department to authorize retroactive sick leave transfers for four employees. The periods of illness for these employees fell between August 30, 1990 and March 25, 1991. The combined total of sick leave donated is 287.85 hours. The cost is

approximately \$4,502.00. It is our understanding that all of these employees are currently working.

Currently, employers nationwide are tending to place more emphasis on family needs. This is evidenced by trends in family leave regulations, recognition of domestic partners, addressing day care needs, etc. In this respect, a program that addresses extended paid leave for the employee, or to enable the employee to care for his/her immediate family members, and which protects the employee against lost wages, is not unreasonable or impossible. We do not believe, however, that the Sick Leave Transfer Program is the proper approach toward meeting these needs.

RECOMMENDATIONS

The following recommendations are based upon the premise that the City's preference is to implement a sick leave transfer program that is an independent part of the City's existing sick leave plan as provided by Seattle Municipal Code, Chapter 4.24, Sick Leave.

1. The sick leave transfer program authorized by Ordinance 114648 should be adopted on a permanent basis with the program modifications presented in Recommendations 2 through 6, that follow.
2. The "catastrophic" criteria for recipient eligibility should be discontinued. The criteria for recipient eligibility should instead be based upon the following:
 - a. The recipient employee is suffering from an illness, injury, impairment, or physical or mental condition that has caused, or will cause by the end of the current pay period, the employee to go on leave without pay, or to leave City employment;
 - b. All other conditions for the authorized use of sick leave, or for eligibility to receive donated sick leave as provided in S.M.C. 4.24 and applicable sick leave rules and procedures should remain in effect.
3. Receipt of sick leave donations should be limited to a maximum of 560 hours for any qualifying period of disability described in Recommendation 2.a., above. The recommended number of hours (560) is sufficient to cover an employee who has zero hours in any form of paid leave available until such time as the employee completes the required 90-day waiting period for eligibility to receive benefits in accordance with the City's Long-Term Disability (LTD) plan.
4. Donated sick leave should be usable only by a recipient employee and only when the employee is qualified according to the conditions specified in Recommendation 2.a., above; except, once qualified to

receive donated sick leave for a condition, the employee may continue to use donated sick leave through a recovery period relative to that condition even if the employee is cleared by his/her health care practitioner to return to work on a part-time basis, until such time as the employee's use of donated sick leave reaches 560 hours or until the condition ceases to exist, whichever occurs first.

An employee may not receive or use donated sick leave under any circumstances once a condition that may have qualified the employee to receive donated sick leave ceases to exist.

5. Donor eligibility criteria should be revised so that the donating employee may donate any number of sick leave hours, but not less than eight hours, provided that the donation does not cause the donor's sick leave balance to fall below 240 hours.

Of the 29 requests where transfers were authorized, 21 (72.4 percent) were requests to receive 240 hours or less. Theoretically, then, an employee with a sick leave balance of 240 hours has enough hours to cover most employee needs, except perhaps for the severest of circumstances.

As the rules for the pilot program now exist, an eligible donor must have a minimum of three years of City service. In three years, an employee earns 288 hours of sick leave, so the three-year criterion may remain in effect. On the other hand, an employee who uses the Citywide average of 64 hours of sick leave per year, thereby retaining only 32 hours per year, would not accumulate a balance of 240 hours of sick leave until 7.5 years of City service. Therefore, the most judicious sick leave users would attain eligibility the soonest. Even so, this revision should substantially increase the donor pool.

6. As the sick leave transfer program continues beyond the pilot program, the Personnel Department should no longer be involved in the review/approval/processing phases of the program. Sick leave transfer transactions are a payroll function and should be handled directly between the recipient employee's department and the Comptroller's Office--Payroll Unit in accordance with the instructions and the necessary forms specified by the Comptroller. This recommendation is consistent with other sick leave transactions authorized by S.M.C. 4.24.

Of the above recommendations, only Recommendations 2 and 3 require a revision to S.M.C. 4.24. All of the remaining recommendations may be implemented by rule; except, Recommendation 6 may be implemented by procedure.

Dolores Sibonga, Chair
June 25, 1991
Page 7

In our judgement, the above recommendations respond in a reasonable way to most of the concerns expressed by the program users during the pilot program while at the same time maintaining limits and utilizing the LTD plan to hold down City costs.

While we urge your favorable consideration of these recommendations with respect to the current sick leave transfer program, we also urge that the City Council consider the development and implementation of an annual leave plan for City employees which would eventually replace the existing vacation, sick leave, and funeral leave plans. The City already has a good start in this direction with the annual leave program established in the unique personnel system for the Seattle/King County Health Department and with implementation in 1990 of a long-term disability benefit plan.

Since annual leave is funded like vacation, a program similar to the sick leave transfer program could be implemented with no additional cost to the City (except administrative costs) and could include features such as retroactivity and application to other family members. Charitable programs could also be considered, such as conversions to dollars for donations to charitable groups, support for school tutoring, or volunteer work.

DISCUSSION OF PILOT PROGRAM

Program Utilization

Since the Sick Leave Transfer Program began on February 26, 1990, 37 transfer requests have been received by the Personnel Department for processing. Of these, 29 resulted in sick leave transfers. Twenty-two were for female employees and seven were for male employees. Of the eight remaining requests, which did not result in a sick leave transfer, four were untimely, and four were not supported by the appointing authority of the requesting employee. Six of these requests were for female employees and two requests were for male employees.

Even though the Sick Leave Transfer Rule 7.3.400 (Appendix B-2) requires that unused donated sick leave be returned to the donor(s), such a return occurred in only one case.

The tables shown in Appendix C provide a description of the 29 requests processed including the number of hours transferred, number of hours received, and the nature of the "catastrophic" condition.

As shown in Appendix C-1, 215 City employees donated 7241.88 hours of sick leave to 29 other City employees. Adjusted for salary differences, these donated hours equated to 9440.04 hours of sick leave for the recipients. It has been reported that only 53.47 hours of unused donated sick leave was returned to the donors. It must be presumed therefore that the remaining 9386.57 hours were used by the recipient employees. At the current average

City hourly wage rate for permanent employees of \$15.64/hour, the dollar value of used donated sick leave calculates to \$146,809.95. Because it must be assumed that this amount of sick leave would not have been used if it had not been donated to an individual in need of sick leave hours, this dollar amount represents the City's increased cost of sick leave usage over approximately 15 months.

Overall, the average sick leave donation was 33.68 hours per donor. From Appendix C-2B, it can be seen that in 18 of the 29 cases (62.1%) the total donation was for 160 hours or less (average = 33.2 hours per donor). Of the remaining 11 cases (37.9%), nine received donations of 240-960 hours for an average donation of 55.8 hours per donor. Two other cases (6.8%) involved donations totaling more than 960 hours. However, an extraordinarily large number of donors were involved in these two cases. In one case alone, 99 donors participated. In the other case, three donors participated with one employee donating 1,000 hours. Excluding this single donation, the remaining donations averaged 20.2 hours per donor for the two cases.

It is our observation that while the smaller group of cases (approximately 38%) drew the highest participation of donors, plus a more than 65% higher average donation, the cases also consisted of the most demonstrably severe medical situations. In the overall sense, it is apparent that there is a substantial willingness on the part of City employees to assist coworkers who are facing medical and/or hardship situations perceived to be extremely severe.

Program Administration

The Administration of the sick leave transfer program resides mainly with three organizational agencies: the employing department of the recipient employee, the Personnel Department, and the Comptroller's Office--Payroll Unit. The role of each agency is as follows:

- A. The employing department of the recipient employee is responsible for verifying the need of the recipient to receive donated sick leave, assembling the sick leave transfer materials, accounting for donated sick leave usage, returning unused sick leave to donors, and forwarding all relevant materials to the Personnel Department.
- B. The Personnel Department is responsible for reviewing the materials received from the recipient employee's department in order to ensure that all necessary information to effect the transfer is included, and that the materials received respond to the requirements of the rules with respect to qualifications for receiving or donating sick leave. The Personnel Department is also responsible for forwarding the sick leave transfer materials to the Comptroller's Office--Payroll Unit with authorization to proceed with the actual transfer of sick leave hours.

- C. The Comptroller's Office--Payroll Unit is responsible for preparing and administering the Controlled Data Change (CDC) transaction that effects the actual movement of sick leave hours from one employee's account to the account of another employee in the City's payroll system. The Payroll Unit has estimated that approximately one-half hour of staff time is required to prepare a CDC. Since the beginning of this program, the Payroll Unit has prepared 42 CDCs for an estimated staff time expenditure of 21 hours.

"Catastrophic" Criterion

Since it began on February 26, 1990, the concept of a sick leave transfer program has enjoyed a wide range of acceptance amongst the management of City departments and amongst City employees. However, since it began, the program has proven to be excessively difficult and time-consuming to manage. The most outstanding example of this has been the difficulty directors have experienced in determining whether an employee qualifies to receive donated sick leave in accordance with the catastrophic criterion specified in Ordinance 114648 and in Emergency Personnel Rule 7.3.200, Eligibility Conditions for Receiving Employee (Appendix B-2). This is evidenced by the substantial lack of consistency in application of this criterion from department to department and the amount of coordination on this topic that has occurred between the departments and the Personnel Department. In addition, from a survey distributed to all City departments on February 26, 1991, the leading criticism regarding this program was with respect to the "catastrophic" criterion for eligibility to receive donated sick leave. Overwhelmingly, departments supported reducing this requirement to something less stringent. Some examples of actual practice with the catastrophic criterion are:

- One department interpreted "catastrophic" to mean life-threatening or terminal in the beginning of the program, but at the beginning of 1991, the department reversed its interpretation and commenced approving sick leave transfer requests that were reasonable. This Department processed five requests in the last seven months of 1990 (an annualized equivalent of nine requests for one full year), but has submitted eight transfer requests in the first five months of 1991 (an annualized equivalent of 19 requests for one full year). Therefore, the submittal rate for this Department has more than doubled so far in 1991.

Interestingly, the above department is one of several respondents to the Citywide survey to suggest that sick leave transfer should apply retroactively in qualifying cases to make the recipient employee "whole" for any time loss due to the qualifying medical situation.

- One department approved a case where the employee had completed a serious medical situation which was covered by the employee's own sick leave balance. The employee had returned to work on a part-time

basis, had never missed a paycheck, and had a spouse who was employed. He was concerned because his savings were being depleted and he had a shortage of money to pay bills and college graduating expenses for his daughter.

This case came to the attention of several sources outside the employee's department. The Personnel Department, and we believe also the employee's department, received several comments urging approval of this employee's request. We believe that this activity substantially influenced the decision to approve the request even though supporting documentation appeared weak.

- One case was approved where the employee's medical condition would allow her to work only part-time. The condition was treatable and expected to last approximately four months, but was not life-threatening. The employee's request was denied at the department level (Personnel Department concurred), denied upon investigation and resolution of an employee grievance, but approved, with the concurrence of the City Council, upon production of additional medical information by the employee.
- Several cases were approved based upon perceived catastrophic financial hardship.
- Several requests were not submitted and/or not approved because the request was based upon a long recovery period for a medical condition that was considered major but could not be considered catastrophic. The most prominent example of this is gynecological surgery for women.

The term "catastrophic" defies clear definition. The guidance provided in Emergency Personnel Rule 7.3.100A was derived from legal definitions found in the book Words and Phrases (Permanent Edition), copyright 1966, West Publishing Company, and from Webster's New World Dictionary. According to these references, the term tends to describe a terminal event or a hardship to the extent that homelessness is imminent. While some of the cases addressed in this program may have met such a level of severity, most certainly did not, nor did it appear that any of those involved in making the call with regard to qualification intended to apply the term at such a high degree of severity. Unfortunately, even though "catastrophic" may be viewed as too extreme, no other term of lesser severity lends itself to any greater degree of definition. Any other term still requires a judgement call with the degree of judgement required becoming less and less as the level of severity described by the term becomes less and less. Consequently, some inconsistency of application will occur as long as any judgement is required in order to apply this qualifying criterion.

From information gathered through the Personnel Department's coordination of this program, as well as from responses received through the Citywide survey, it is clear that the "catastrophic" criterion is the most

troublesome aspect of the program. Yet, some level of severity criteria must be specified. It can be expected, however, that as the level of severity of the condition decreases, the number of qualifying cases will certainly increase. In addition, if criteria is also established so that recovery time becomes a factor regardless of the severity of the medical condition, the number of cases qualifying can be expected to at least double over the next 12- to 15-month period.

Retroactive and/or "Making-Whole" Issue

Another very significant issue that arose during the trial period was retroactivity of the program provisions and the "making-whole" of an employee who has experienced a loss of income due to a time lag between the date of the request for donated sick leave and the actual receipt of donated sick leave. Another scenario of the "making-whole" argument is when the recipient employee is able to work a reduced schedule and, therefore, is receiving some income, but not full income. The "making-whole" argument was mentioned briefly in the section entitled Catastrophic Criterion, above.

Throughout the trial period the Personnel Department has consistently declined to forward to the Comptroller's Office--Payroll Unit any request for retroactive application of the program provisions because no such application is authorized by the enabling ordinance or the program rules. In fact, such an application of the program provisions is contradictory to the existing program concept which is to provide help to an employee who is experiencing a catastrophic medical situation. The program rules require that the employee be currently suffering from a catastrophic medical condition, be out of any form of paid leave or is expected to be during the current pay period, and that unused donated sick leave (except a maximum of 40 hours) be returned to the donor(s) when the catastrophic situation ceases to exist (reference Appendix B-2). None of these conditions fit if the recipient employee's case has been resolved to the extent that it is no longer catastrophic, or if, in fact, the employee has returned to work on a full- or part-time basis.

The main argument in favor of permitting retroactivity is to relieve the administering department from the burden of rushing an immediate response to a sick leave transfer request. This is a genuine concern for the department because as now written, the rules require an immediate response in order that the recipient employee does not suffer a loss of pay pending completion of the transfer process. The time and cost involved in processing a sick leave transfer request will be discussed in the next section of this report.

The "make-whole" argument has been a consideration in at least four of the cases where sick leave transfer was approved. However, in three of those cases, a strong showing was made of extreme financial hardship. While this argument overlaps the retroactivity argument somewhat, it comes into play more often in cases where an employee using donated sick leave recovers to

a level where the employee can return to work but only on a reduced work schedule; thus, substantially reducing the employee's level of income. In some cases, financial hardship can qualify as catastrophic. The legal publication Words and Phrases (Permanent Edition) provides a precedent for this interpretation with its references to certain cases heard by California courts. In our opinion, the argument for "making whole" is much stronger than the argument for retroactivity. To apply these program provisions retroactively is to change the existing program from an emergency-assistance concept to a "hold-harmless" concept.

Administrative Time/Cost

Considering its relatively simple concept, the Sick Leave Transfer Program seems to be inordinately time-consuming and costly to administer. We estimate the cost of processing an initial transfer request through the procedure to effect a transfer of hours from one account to another to be approximately \$78.00. This is based upon an estimated four hours of staff time to prepare the request in the recipient employee's department, plus approximately one-half hour of processing time in both the Personnel Department and the Comptroller's Payroll Unit, all multiplied by the average City pay rate of \$15.64 per hour.

Follow-up CDCs for an already approved transfer request would cost less (approximately \$47.00) because less administrative processing is needed in the recipient employee's department.

In the 15-month period covered by this report, 37 transfer requests were processed through the step involving the Personnel Department. Of these, 29 were processed through the step involving the Comptroller's Office--Payroll Unit and there were 13 follow-up CDCs processed. Using the cost figures provided above, the administrative cost of the program was approximately \$3,442.00 for the period.

Aside from the above dollar amount, the program has significant impact in terms of time spent for program administration. For instance, during a typical 31-working-day period from April 10, 1991, to May 16, 1991, Personnel Department staff responded to 33 telephone calls, prepared two memorandums, and processed five requests relative to the Sick Leave Transfer Program. This has constituted approximately ten percent of one employee's workload. Also, during the 15-month trial period, the Comptroller's Office--Payroll Unit had processed CDCs at the rate of approximately three per month. While the time spent in these activities may not represent a significant number of hours, the continual disruption of regular work activities over a long period of time is significant for these two organizational agencies. With respect to this issue, we anticipate that if the eligibility requirements are relaxed, then the coordination time expended by the Personnel Department will decrease while the processing time by the Comptroller's Office--Payroll Unit will increase.

The Comptroller's Office has reported to us that an increase in program activity due to a relaxation of eligibility requirements is not expected to significantly impact the workload of the Payroll Unit. However, this is based upon the Comptroller's expectation that the Personnel Department will continue to ensure that the transfer requests are ready for CDC processing before the requests are sent to the Payroll Unit.

Donor Criteria

The most frequently mentioned issue from the Citywide survey was with regard to the eligibility of employees to donate sick leave. In general, it was felt that the donor criteria were too stringent and unnecessarily eliminated many employees from being eligible to donate.

The method for determining donor eligibility which is specified in the emergency Sick Leave Transfer Program rules was borrowed from a federal program that was being reviewed during the data gathering phase for development of the City program. The purpose of this provision is to ensure that the donating employee retains enough sick leave to cover his/her needs should he/she have a serious need to use a large amount of sick leave. (In fact, in one case, a City employee donated so much of her own sick leave to another employee that she later found it necessary to request donations to cover an illness of her own.) While the current rule provision does serve the purpose, it appears to be too stringent and burdensome to administer. Since the provision is basically arbitrary, this administrative criticism can be easily corrected.

Other Criticisms of the Program

Of the remaining criticisms that arose during the program trial period or from the Citywide survey, the most significant involved the time required to process a sick leave transfer request. While this criticism arose numerous times, it appears from our analysis that reduced processing time would be a fallout as a result of adjustments that can be made with respect to the more critical concerns discussed above. Therefore, we will not address this issue to any greater extent now.

The remaining issue that must be addressed is relative to the application of the Sick Leave Transfer Program to family members of the employee. As now provided in the City's Sick Leave Ordinance the employee may use his/her accumulated sick leave for himself/herself or for the care of his/her child(ren), spouse, domestic partner or parents, or for the care of the child(ren) or parents of his/her spouse or domestic partner. Sick leave may also be used for funeral leave in some cases. However, as now provided, the Sick Leave Transfer Program is applicable only to the employee.

The suggestion to expand the program to include other family members was made by one major City department in response to our survey, and was made in letters we received from two City employees who were concerned about this

Dolores Sibonga, Chair
June 25, 1991
Page 14

issue. On a national level, the current trends lead us to believe that this will become the next major issue with respect to the Sick Leave Transfer Program.

In accordance with Ordinance 114648, the Sick Leave Transfer Pilot Program will expire on August 26, 1991. No leave-sharing program will be authorized for City employees after that date except by specific action by the City Council.

If you have any questions or need further information regarding this report, please let me know, or you may direct your questions to Ron Tegard of my staff at 684-7886. Thank you.

DKI:rtb
Attachments

cc: Bob Watt, Deputy Mayor
David Della, Executive Assistant to the Mayor
Andrew Lofton, Director, OMB
Norward Brooks, City Comptroller
City Councilmembers

Appendix A

AGENCIES SURVEYED DURING
INITIAL RESEARCH PHASE
FOURTH QUARTER 1988

Association of Washington Cities, Olympia, Washington
League of Oregon Cities, Salem, Oregon
City of Kennewick, Washington
City of Everett, Washington
City of Alexandria, Virginia
Municipality of Metropolitan Seattle (METRO)
State of Alaska
State of Connecticut
State of Washington
U.S. Department of Labor
U.S. Veteran's Administration

ORDINANCE 114648

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AN ORDINANCE relating to sick leave and funeral leave use; adding a new chapter to the Seattle Municipal Code ("S.M.C.") to facilitate the identification of an individual as the spouse or "domestic partner" of a City officer or employee and establishing eligibility for the use of leave under S.M.C. Chs. 4.24 and 4.28 for the care or funeral of any such person or specified relatives thereof; amending and adding to S.M.C. Ch. 4.24 to authorize the use of sick leave for the care of a spouse or domestic partner, or of a parent or a dependent child of an officer or employee or his/her spouse or domestic partner, to remove limits on the amount of accumulated sick leave that may be used to care for a dependent child, to authorize implementation of a pilot Sick Leave Transfer Program, and to make various technical amendments thereto; and amending S.M.C. 4.28.020 to enlarge the authorized uses of funeral leave.

WHEREAS, The City of Seattle recognizes that families and other long-term committed relationships foster economic stability and emotional and psychological bonds; and

WHEREAS, the welfare of all residents of The City of Seattle is enhanced by measures that reinforce the bonds of families and long-term committed relationships and that encourage commitment to proper care for children and parents; and

WHEREAS, The City of Seattle has already established a sick leave program that may be utilized for the care of dependent children of an officer or employee, and a funeral leave program that may be used in the event of a death of certain relatives, which programs limit the circumstances in which such leave may be used; and

WHEREAS, Ch. 236, Laws of 1988, invalidated the current forty-eight (48) hour per year limitation in S.M.C. 4.24.035-B on the number of sick leave days that may be used for the care of dependent children; and

WHEREAS, it is desirable to establish a policy that allows any City officer or employee to utilize accumulated sick leave for the care of his or her spouse or domestic partner or the dependent child or parent of a City officer or employee or his or her spouse or domestic partner, consistent with state law, and to define domestic partners and certain other persons as relatives for the purpose of utilizing funeral leave; and

WHEREAS, City officers and employees have expressed a willingness to transfer accumulated sick leave from their sick leave accounts to the sick leave accounts of other officers or employees who have used or are about to use all of their accumulated sick leave because the

1 officers or employees suffer from catastrophic illness-
2 es, injuries, impairments, or physical or mental
conditions; NOW, THEREFORE,

3 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

4 Section 1. Seattle Municipal Code ("S.M.C.") 4.24.005
5 is amended as follows:

6 4.24.005 Definitions.

7 ((As)) Terms used in this chapter (~~(, the following~~
8 ~~terms)~~) shall have the meaning((s)) indicated therefor in
9 the Personnel Ordinance (S.M.C. Ch. 4.04) unless another
meaning is clearly indicated below or from the context:

10 A. (~~("Department head" means the head of an employing~~
11 ~~unit as defined in the Personnel Ordinance (SMC 4.04).)~~)

12 "Basic living expenses" means the cost of basic
13 food, shelter and any other expenses of a Domestic Partner
14 which are paid at least in part by a program or benefit for
15 which the partner qualified because of the Domestic
16 Partnership. The individuals need not contribute equally or
17 jointly to the cost of these expenses as long as they agree
that both are responsible for the cost.

18 B. "Dependent child" means a ((~~minor~~)) child under the
19 age of eighteen ((for whom the employee is legally
20 responsible or who resides with or)) who is:

21 (a) the natural offspring of,

22 (b) an adopted or step child of,

23 (c) under the legal guardianship, legal custody, or foster
care of,

24 (d) financially dependent on, or

25 (e) a resident in the dwelling unit of,

26 ((~~the~~)) an officer or employee or an officer's or
27 employee's spouse or domestic partner.

1 C. "Domestic partner" means an individual designated
 2 as such by an officer or employee in an Affidavit of Domestic
 3 Partnership or otherwise as provided by S.M.C. 4.30.010.

4 D. "Health care professional" means a person whose
 5 services are of a type for which compensation is paid under
 6 any City health care plan.

7 E. "Parent" means and includes one's natural or adoptive
 8 father or mother, stepfather or stepmother or foster father or
 9 foster mother.

10 Sec. 2. S.M.C. 4.24.035 is amended as follows:

11 4.24.035 Paid sick leave - Use.

12 A. An officer's or employee's request for paid sick
 13 leave may be granted when the officer or employee is required
 14 to be absent from work (~~((for))~~) because of:

15 1. A personal illness, injury or medical disability
 16 incapacitating the officer or employee for the performance of
 17 duty, or personal medical or dental appointments; or

18 2. An illness, injury, or medical or dental
 19 appointment(~~(s)~~) of an officer's or employee's spouse,
 20 domestic partner, or the parent or dependent child of such
 21 officer or employee or his or her spouse or domestic partner
 22 when the officer or employee has established his or her
 23 eligibility for a non-personal sick leave use as contemplated
 24 by S.M.C. Ch. 4.30 and the (~~(attendance)~~) absence of the
 25 officer or employee from work is required, (~~(subject to the~~
 26 limitations in subsection B; and)) or when such absence is
 27 recommended by a health care professional.

28 ~~((3. The care of a dependent child when the~~
~~employee's presence is recommended by a health care~~
~~professional, subject to the limitations in subsection B;~~

1 B. ~~No more than forty eight (48) hours of accumulated~~
2 ~~sick leave per calendar year may be used by a full time~~
3 ~~regular or probationary employee for the purposes described~~
4 ~~in Section 4.24.035 A2 and A3. Any part time regular or~~
5 ~~probationary employee who works a minimum of twenty (20)~~
6 ~~hours per week may use a proportional amount of sick leave~~
7 ~~equivalent to that allowed full time employees based on the~~
8 ~~percentage of a full time schedule that the part time~~
9 ~~employee works.)~~

10 Sec. 3. S.M.C. 4.24.040, as last amended by Ordinance
11 112088, is further amended as follows:

12 4.24.040 Sick leave reporting - Payment.

13 Compensation for absence of an officer or employee from duty
14 for any reason contemplated in Section 4.24.035 shall be paid
15 upon approval of ~~((the department head, or his/her))~~ such
16 absentee's appointing authority or that authority's designee.
17 In order to receive compensation for such absence, an officer
18 or employee((s)) shall make ((themselves)) himself or herself
19 available for such investigation, medical or otherwise, as
20 ((the department head)) such appointing authority or the
21 Personnel Director deems appropriate. Either ((the department
22 head)) such appointing authority or the Personnel Director may
23 require a supporting report of a health care professional from
24 the officer or employee. Compensation for absences beyond
25 four (4) days shall be paid only after approval by ((the
26 department head, or his/her)) such absentee's appointing
27 authority or that authority's designee, of a request from the
28 officer or employee supported by a report of the health care
professional treating the officer or employee or ((the
employee's dependent child,)) an individual identified in S.M.C.

1 4.24.035 A.2, or by a health care professional selected by
 2 the Personnel Director.

3 Sec. 4. There is added to S.M.C. Ch. 4.24 a new
 4 section, S.M.C. 4.24.100, as follows:

5 4.24.100 Sick Leave Transfer Program.

6 A. The Personnel Director shall implement a pilot Sick
 7 Leave Transfer Program allowing for the transfer of
 8 accumulated sick leave hours from the account of any officer
 9 or employee who desires to participate in such program to
 10 the accumulated sick leave hours account of another officer
 11 or employee designated by the donor-officer or -employee.
 12 Such Sick Leave Transfer Program shall include at least the
 13 following elements:

14 1. The sick leave being transferred shall be
 15 translated into a dollar figure based upon the donor-
 16 officer's or -employee's straight time rate of pay.

17 2. An officer or employee may receive sick leave
 18 from donor-officer or -employee if the Personnel Director
 19 finds that:

20 a. The receiving officer or employee suffers
 21 from a catastrophic illness, injury, impairment, or physical
 22 or mental condition, and it has caused, or is likely to
 23 cause, the receiving officer or employee to

24 (1) go on leave without pay; or

25 (2) leave City employment;

26 b. The receiving officer's or employee's
 27 absence and the use of contributed leave are justified;

28 c. Depletion of the receiving officer's or
 employee's available accumulated sick leave has occurred or
 is imminent;

1 d. The receiving officer or employee has
2 diligently attempted to accrue sick leave reserves; and

3 e. The receiving officer or employee is
4 not eligible for benefits under S.M.C. Ch. 4.44 or under the
5 State Industrial Insurance and Medical Aid Acts.

6 3. The Personnel Director shall establish, by
7 rule, limits for:

8 a. The maximum number of hours of sick leave
9 a receiving officer or employee may personally have accrued
10 before such officer or employee may receive sick leave hours
11 from another officer or employee;

12 b. The minimum number sick leave hours a
13 donor-officer or -employee must have accrued and must retain
14 if allowed to transfer additional accrued sick leave hours
15 to another officer or employee;

16 c. The maximum number of accrued sick leave
17 hours that a donor-officer or -employee may transfer to
18 another officer or employee; and

19 d. The maximum number of sick leave hours,
20 as equated to the receiving officer's or employee's straight
21 time rate of pay, that a receiving officer or employee may
22 receive, which number, in no event, shall exceed 1040 hours.

23 4. The donor-officer or -employee and the
24 receiving officer or employee shall each file with the
25 appointing authority for their respective employing units
26 their affidavit or declaration, in a form provided by the
27 Personnel Director, acknowledging that such sick leave
28 transfer is intended to be a gift and has been or will be
accomplished for no, or without the exchange of any,
compensation or consideration whatsoever.

1 B. Within fifteen (15) months after its implementa-
 2 tion, the Personnel Director shall evaluate such pilot Sick
 3 Leave Transfer Program and shall submit a written report to
 4 the City Council regarding the effectiveness of such
 5 program, given its intended purposes; the extent of its use;
 6 and its general impact on use of sick leave together with
 7 the Personnel Director's recommendation for the continua-
 8 tion, discontinuation, or modification of such program.
 9 Such pilot program shall terminate eighteen (18) months
 10 after its implementation date unless the program is
 11 reauthorized or is extended by the City Council, by
 12 ordinance.

13 Section 5. S.M.C. 4.28.020 is amended as follows:

14 4.28.020 Definitions.

15 A. For the purpose of this chapter, the term "close
 16 relative" means the spouse or domestic partner, child,
 17 mother, father, brother, sister, grandchild, grandfather, or
 18 grandmother of ((the)) an officer or employee or of the
 19 spouse or domestic partner of such officer or employee.

20 "Relative other than close relative" means the uncle, aunt,
 21 cousin, niece, or nephew of such officer or employee; or the
 22 spouse or domestic partner of the brother, sister, child or
 23 grandchild of such officer or employee; or the uncle, aunt,
 24 cousin, niece, nephew, ((or)) spouse or domestic partner of
 25 the brother or sister of the spouse or domestic partner of
 26 such officer or employee.

27 B. For the purpose of this chapter, the term "domestic
 28 partner", when used in reference to a person other than the
domestic partner of an officer or employee, means a person
identified by the officer or employee as the relative's

1 domestic partner in an affidavit or declaration of domestic
2 partnership in form prescribed therefor by the Personnel
3 Director.

4 Sec. 6. A new chapter is added to the Seattle
5 Municipal Code as follows:

6 4.30 Documentation of Eligibility for Certain Uses of
7 Sick Leave and Funeral Leave.

8 4.30.010 Establishment of Eligibility for Certain
9 Funeral Leave and Non-personal Sick Leave Uses.

10 A. Any officer or employee who, on or after the
11 effective date of this ordinance:

- 12 1. Commences service for the City, or
- 13 2. Recommences City service following a break in
14 such service, or
- 15 3. Becomes another person's spouse or domestic
16 partner,

17 may use sick leave under S.M.C. Ch. 4.24 for the care of his
18 or her spouse, domestic partner, parent, or the parent or
19 child of his or her spouse or domestic partner, and funeral
20 leave under S.M.C. Ch. 4.28 in connection with the death of
21 his or her spouse or domestic partner or any other person
22 added by this ordinance, by filing with the appointing
23 authority for his or her employing unit, within a period
24 specified in S.M.C 4.30.010-C, an affidavit as contemplated
25 in S.M.C 4.30.020.

26 B. The Personnel Director shall specify, by rule, what
27 documentation, if any, that a person who is a City officer
28 or employee immediately prior to the effective date of this
ordinance and who is (1) married, or (2) participating in a
domestic partnership, must provide to the appointing
authority of such officer's or employee's employing unit to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

establish City knowledge of such officer's or employee's participation in a marriage or domestic partnership and the eligibility of that officer or employee to use sick leave under S.M.C. Ch. 4.24 for the care of his or her spouse, domestic partner, or the parent or child of his or her spouse or domestic partner, and funeral leave under S.M.C. Ch. 4.28 in connection with the death of a spouse or domestic partner or any other person added by this ordinance.

C. An officer or employee may file the documentation required under S.M.C. 4.30.010-A or -B only:

- 1. Within the first thirty (30) days after the commencement date of his or her marriage or domestic partnership;
- 2. Within the first thirty (30) days after the commencement or recommencement of such officer's or employee's service; and
- 3. During an open enrollment period of ninety (90) days as specified by the Personnel Director following the effective date of this ordinance and, thereafter, during a regular annual open enrollment period as specified by the Personnel Director.

4.30.020 Affidavit of Marriage/Domestic Partnership.

The documentation sufficient to qualify an officer or employee to use sick leave or funeral leave as contemplated in S.M.C. 4.30.010-A shall consist of an affidavit in a form prescribed and furnished by the Personnel Director, on which such officer or employee dates and signs his or her name and:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A. Attests:

1. If married, that he or she is currently married to the individual identified by name on said form; or

2. If participating in a domestic partnership, that:

a. He or she and his or her domestic partner (who shall be identified, by name, on said form) share the same regular and permanent residence, have a close personal relationship, and have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership;

b. They are not married to anyone;

c. They are each eighteen (18) years of age or older;

d. They are not related by blood closer than would bar marriage in the State of Washington;

e. They were mentally competent to consent to contract when their domestic partnership began;

f. They are each other's sole domestic partner and are responsible for each other's common welfare; and

g. Any prior domestic partnership in which he or she or his or her domestic partner participated with a third party was terminated not less than ninety (90) days prior to the date of said affidavit or by the death of that third party, whichever was earlier, and, if such earlier domestic partnership had been acknowledged pursuant to S.M.C. 4.30.010-A or -B, that notice of the termination of such earlier domestic partnership was provided to the City

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

pursuant to S.M.C. 4.30.030 not less than ninety (90) days prior to the date of said affidavit;

B. Agrees to notify the City if there is a change of the circumstances attested to in the affidavit; and

C. Affirms, under penalty of law, that the assertions in the affidavit are true.

4.30.030 Notice of Termination of Domestic Partnership.

For the purposes of this chapter, a domestic partnership that has been acknowledged as contemplated in S.M.C. 4.30.010-A or -B shall be effectively terminated upon the death of a domestic partner or on the ninetieth (90th) day after notice of the termination thereof was provided to the City in the form prescribed therefor by the Personnel Director, whichever is earlier.

Sec. 7. The Personnel Director is authorized to execute, for and on behalf of the City, an agreement or agreements with labor organizations representing City employees to the extent necessary to implement the changes set forth in this ordinance for those City employees who are eligible for sick leave and funeral leave benefits and who are represented by local unions for purposes of collective bargaining.

Section 8. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 14th day of August, 1989
and signed by me in open session in authentication of its passage this 14th day of August, 1989.
[Signature]
of the City Council

Approved by me this 18th day of August, 1989.
[Signature]
Mayor.

Filed by me this 18th day of August, 1989.

Attest: Howard J. Brooks
City Comptroller and City Clerk.

(SEAL)

Published _____

By Thomas J. Dunbar
Deputy Clerk.

PUBLISH DO NOT PUBLISH
CITY ATTORNEY [Signature]

City of Seattle Personnel Department

Norman B. Rice, Mayor Dwight K. Imanaka, Personnel Director



April 27, 1990

TO: All Department Heads and Personnel Representatives

FROM: Dwight K. Imanaka
Personnel Director *[Signature]*

SUBJECT: Emergency Personnel Rules Regarding Sick Leave Transfer Program

Attached is a copy of the revised Emergency Personnel Rules 7.3.100, 7.3.200, 7.3.300, and 7.3.400 regarding the Sick Leave Transfer Program. These revised rules will be effective April 30, 1990, and will remain in effect through June 28, 1990.

Specifically, revisions were made as follows:

- o Rule 7.3.100A — Revised to include clarification of the term "catastrophic."
- o Rule 7.3.100B — Revised to delete the requirement for approval by the Director and to clarify the implementation process.
- o Rule 7.3.100C — Revised to delete the requirement for approval by the Director and to clarify the implementation process.
- o Rules 7.3.200 and 7.3.300 — no revisions.
- o Rule 7.3.400A — Revised to permit recipient employee to retain up to 40 hours of donated sick leave hours which shall be nonrefundable.

Of the above rule revisions, Rule 7.3.400A may affect your department's payroll process if donated sick leave hours are refunded to the donors.

We would like to receive your comments regarding the Sick Leave Transfer Program and these revised rules. Comments should be submitted in writing to Ron Tegard of my staff at mail stop code #13-04-30.

Thank you in advance for your comments.

DKI:rtb
Attachment

SECTION 3 - Sick Leave Transfer Program
(Emergency - Adopted 4/30/90, Expires 6/28/90)

7.3.100 GENERAL PROVISIONS:

- A. All City employees who are included in the City's sick leave plan (S.M.C. Chapter 4.24) are eligible to participate as a recipient or donor in the Sick Leave Transfer Program. The purpose of the Sick Leave Transfer Program is to permit City employees to donate sick leave to another City employee who is suffering a catastrophic illness, injury, impairment, or physical or mental condition, and it has caused, or is likely to cause, the receiving employee to go on leave without pay, or to leave City employment. (NOTE: For purpose of this rule the term "catastrophic" means a notable disaster; a final event; a more serious, extreme misfortune bringing great loss and sorrow; ruinous; no elements of human design.)
- B. A City employee may request to receive donated sick leave. Such request must be made in writing to the appointing authority of the receiving employee. If the appointing authority of the receiving employee finds that the receiving employee meets the eligibility conditions described in Rule 7.3.200, such appointing authority may approve the receiving employee's request and forward such request to the Director for authorization to implement. If the Director concurs with the request the Director shall forward such request to the Office of the Comptroller with authorization to implement.
- C. A City employee may request to donate sick leave to another City employee who has been authorized to receive such sick leave. Such request to donate sick leave shall be made in writing by the donor-employee to his/her appointing authority. If the donor-employee's request meets the conditions specified in Rule 7.3.300, such request may be recommended for approval by the appointing authorities of the donor-employee and the receiving employee and forwarded to the Director. If the Director concurs with the request the Director shall authorize implementation and forward the request to the Office of the Comptroller to be implemented.

- D. The donor-employee and the receiving employee each shall file with the appointing authority for their respective employing units their personal affidavit or declaration acknowledging that such sick leave transfer is intended to be a gift and has been or will be accomplished for no, or without the exchange of any, compensation or consideration whatever.
- E. The Director may prescribe forms that shall be used by City employees for the purpose of requesting to receive or to donate sick leave.
- F. All sick leave being transferred shall be converted to a dollar value based upon the donor-employee's straight-time rate of pay. The receiving employee shall be paid at his or her regular straight-time rate of pay for all donated sick leave used.
- G. Any donated sick leave may only be used by the recipient for the purpose specified in this Rule.
- H. Any donated sick leave not used by the receiving employee during each incident/occurrence as determined by the appointing authority of the recipient employee shall be returned to the donors according to the provisions of Rule 7.3.400.

7.3.200

ELIGIBILITY CONDITIONS FOR RECEIVING EMPLOYEE:

An employee may receive sick leave donated by another City employee under the following conditions:

- (1) The receiving employee has exhausted, or will exhaust in the current pay period, his or her vacation and sick leave due to an illness, injury, impairment, or physical or mental condition which is catastrophic in nature and the condition is likely to cause the employee to go on leave without pay, or to leave City employment; and,
- (2) The receiving employee has filed with the appointing authority of his or her employing unit a medical certificate from his or her health care practitioner verifying the catastrophic nature and expected duration of the condition; and,
- (3) The receiving employee has used his or her sick leave reserves judiciously and within the guidelines of the Citywide Sick Leave Administrative Review Policy; and,

- (4) The receiving employee is not eligible for benefits under S.M.C. Chapter 4.44 or under the State Industrial Insurance and Medical Aid Acts; and,
- (5) The receiving employee's personal sick leave balance does not exceed forty (40) hours, the excess of which shall be used by the receiving employee before any donated sick leave is used; and,
- (6) The receiving employee shall not receive more than 1040 hours of donated sick leave based upon the dollar value of such leave which shall be converted from the donor to the recipient.

7.3.300

CONDITIONS FOR DONATING SICK LEAVE TO ELIGIBLE RECIPIENT:

- (1) An employee may request to donate any number of sick leave hours to an approved recipient employee provided the donation does not cause the donor-employee's sick leave balance to fall below fifty percent (50%) of the donor-employee's accrual based upon years of service, beginning with a minimum of three (3) years of service while covered under the City's sick leave plan (S.M.C. 4.24).
- (2) A donor-employee shall not donate fewer than eight (8) hours of sick leave converted at the donor-employee's straight rate of pay.
- (3) A donor-employee may not donate sick leave hours that the donor would not be able to take due to a separation from City service.

7.3.400

RESTORATION OF TRANSFERRED SICK LEAVE:

- (A) Any transferred sick leave remaining to the credit of a recipient employee when that individual's personal emergency terminates shall be restored, to the extent administratively feasible, by transfer to the sick leave accounts of the appropriate donors, who are on City payroll on the date the personal emergency terminates; except, the recipient employee shall be permitted to retain a maximum of 40 hours of sick leave which may include donated hours and which shall not be refundable.

- (B) The amount of unused transferred sick leave to be restored to each donor shall be determined as follows:
- (1) divide the number of hours of unused transferred sick leave by the total number of hours of sick leave transferred to the recipient employee with respect to the recipient employee's straight-time rate of pay.
 - (2) multiply the ratio obtained in (1) above, by the number of hours of sick leave transferred by each donor-employee eligible for restoration under subparagraph A of this paragraph; and
 - (3) round the result obtained in paragraph (2) to the nearest increment of time with respect to the donor employee's straight-time rate of pay.
- C. If the total number of donor-employees eligible to receive restored sick leave exceeds the total number of hours of sick leave to be restored, no unused transferred sick leave shall be restored. In no case shall the amount of sick leave restored to a donor-employee exceed the amount transferred to the recipient employee by the donor-employee.

PPS BULLETIN

April 20, 1990

PAYROLL

90-07

SICK LEAVE TRANSFERS

The sick leave transfer program is now in effect city-wide as a pilot program authorized for a period of fifteen months. Attached are two application forms to be used for this new program, one to apply to receive sick leave and one to apply to donate sick leave. Please make your own copies for departmental use. A copy of the Emergency Personnel Rules implementing the sick leave transfer program are also attached. Some of the rules which affect payroll are summarized below:

- DONOR:**
1. must have 3 or more years of service to be eligible
 2. donation cannot cause the employee to fall below 50% of his sick leave accrual (ETD Hours X .046 X 50%)
 3. minimum amount of donation is 8 hours
 4. hours must be converted to dollars at the donor's primary rate of pay
- RECIPIENT:**
1. must have exhausted or will exhaust in the current pay period all vacation and sick leave (unpaid leave situation)
 2. maximum amount of donated sick leave that can be received per incident is 1040 hours at the recipient's straight-time, primary rate of pay
 3. Dollar value of donor hours are converted to recipient sick leave hours by dividing donor dollar value (#4 above) by recipient's primary rate of pay to arrive at additional sick leave hours available

Example:

	<u>Donated Hours</u>		<u>Primary Rate</u>		<u>Dollar Value</u>
Donor	8	X	\$ 7.50	=	\$60.00
	<u>Dollar Value</u>		<u>Primary Rate</u>		<u>Recipient Hours</u>
Recipient	\$60.00	÷	\$ 6.00	=	10

PPS BULLETIN
Page Two

The donor's and recipient's sick leave hours available must be adjusted using a Controlled Data Change Form (see attached). The CDC should be submitted to Personnel along with the application forms at least a week before the pay period ending date on which the CDC is to become effective.

Instructions for completing the CDC form:

1. Fill in the employee number, employee name, and total hours donated or received. If the hours are donor hours, the amounts should be bracketed to decrease the sick leave balance. If the hours are recipient hours, the amounts are positive to increase the sick leave balance.
2. Total the adjustment column.
3. No PPS batch ticket is necessary.

Any donated sick leave not used by a recipient during an occurrence will be returned to the donors. The recipient may keep the remaining balance up to a maximum of 40 hours, any excess must be prorated back among the donors. See Emergency Personnel Rule #7.3.400 for a more detailed explanation of this. If you have any questions, please contact Ron Tegard, Personnel at Ext. 4-7886 or Ann Hatstrup, Comptroller's Payroll at Ext. 4-8349.

PAY7/AH107.2

CONTROLLED DATA CHANGES FOR SICK LEAVE TRANSFERS

DEPARTMENT NAME: _____

PAY PERIOD ENDING: _____

Employee Number	Employee Name	New Control SICK LEAVE AVAILABLE	Adjustment Hours <Donated>/Received
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
TOTALS			

PREPARED BY _____

DATE _____

PERSONNEL DEPARTMENT APPROVAL



City of Seattle

**APPLICATION TO DONATE
SICK LEAVE**

Donating Employee's Name _____

Donating Employee's Job Title _____

Donating Employee's Department _____

I hereby request that _____ hours of my sick leave reserve
be transferred to:

Receiving Employee's Name _____

Receiving Employee's Department _____

I hereby certify that this transfer request is intended to be a
gift and has been or will be accomplished for no, or without the
exchange of any, compensation or consideration whatever.

Employee Signature _____ Date _____

DO NOT WRITE BELOW THIS LINE

=====
Last Date of Hire: _____

Total Sick Leave Hours Earned To Date _____

Sick Leave Balance _____

50% of Total Earned to Date - _____

Donatable Sick Leave Hours = _____
=====

APPROVED: _____
Director

PPS BULLETIN

April 20, 1990

PAYROLL

90-07

SICK LEAVE TRANSFERS

The sick leave transfer program is now in effect city-wide as a pilot program authorized for a period of fifteen months. Attached are two application forms to be used for this new program, one to apply to receive sick leave and one to apply to donate sick leave. Please make your own copies for departmental use. A copy of the Emergency Personnel Rules implementing the sick leave transfer program are also attached. Some of the rules which affect payroll are summarized below:

- DONOR:**
1. must have 3 or more years of service to be eligible
 2. donation cannot cause the employee to fall below 50% of his sick leave accrual (ETD Hours X .046 X 50%)
 3. minimum amount of donation is 8 hours
 4. hours must be converted to dollars at the donor's primary rate of pay
- RECIPIENT:**
1. must have exhausted or will exhaust in the current pay period all vacation and sick leave (unpaid leave situation)
 2. maximum amount of donated sick leave that can be received per incident is 1040 hours at the recipient's straight-time, primary rate of pay
 3. Dollar value of donor hours are converted to recipient sick leave hours by dividing donor dollar value (#4 above) by recipient's primary rate of pay to arrive at additional sick leave hours available

Example:

	<u>Donated Hours</u>		<u>Primary Rate</u>		<u>Dollar Value</u>
Donor	8	X	\$ 7.50	=	\$60.00
	<u>Dollar Value</u>		<u>Primary Rate</u>		<u>Recipient Hours</u>
Recipient	\$60.00	÷	\$ 6.00	=	10

PPS BULLETIN

Page Two

The donor's and recipient's sick leave hours available must be adjusted using a Controlled Data Change Form (see attached). The CDC should be submitted to Personnel along with the application forms at least a week before the pay period ending date on which the CDC is to become effective.

Instructions for completing the CDC form:

1. Fill in the employee number, employee name, and total hours donated or received. If the hours are donor hours, the amounts should be bracketed to decrease the sick leave balance. If the hours are recipient hours, the amounts are positive to increase the sick leave balance.
2. Total the adjustment column.
3. No PPS batch ticket is necessary.

Any donated sick leave not used by a recipient during an occurrence will be returned to the donors. The recipient may keep the remaining balance up to a maximum of 40 hours, any excess must be prorated back among the donors. See Emergency Personnel Rule #7.3.400 for a more detailed explanation of this. If you have any questions, please contact Ron Tegard, Personnel at Ext. 4-7886 or Ann Hattrup, Comptroller's Payroll at Ext. 4-8349.

PAY7/AH107.2



City of Seattle

APPLICATION TO DONATE SICK LEAVE

Donating Employee's Name _____

Donating Employee's Job Title _____

Donating Employee's Department _____

I hereby request that _____ hours of my sick leave reserve be transferred to:

Receiving Employee's Name _____

Receiving Employee's Department _____

I hereby certify that this transfer request is intended to be a gift and has been or will be accomplished for no, or without the exchange of any, compensation or consideration whatever.

Employee Signature _____ Date _____

DO NOT WRITE BELOW THIS LINE

Last Date of Hire: _____

Total Sick Leave Hours Earned To Date _____

Sick Leave Balance _____

50% of Total Earned to Date - _____

Donatable Sick Leave Hours = _____

APPROVED: _____

Director



City of Seattle

APPLICATION TO RECEIVE DONATED SICK LEAVE

Employee's Name _____

Payroll Job Title _____

Department _____

I hereby request donation of _____ hours of sick leave to my sick leave reserve.

I will exhaust the balance of my sick leave and vacation on _____, and will be unable to return to work until _____.

THIS REQUEST CANNOT BE PROCESSED WITHOUT AN ATTACHED CERTIFICATE FROM THE ATTENDING PHYSICIAN STATING THE NATURE AND EXPECTED DURATION OF YOUR CONDITION.

I hereby certify that all statements made on this request are true to the best of my knowledge and that this transfer request is intended to be a gift and has been or will be accomplished for no, or without the exchange of any, compensation or consideration whatever.

Employee Signature _____ Date: _____

APPROVED: _____, Director

Sick Leave Transfer Program
Utilization
(As of 5/10/91)

Recipient Employee	Number of Donors	Hours Donated	Equivalent Hours Received	Catastrophic Need
1	99	999	1041.02	cancer
2	3	96	152.88	involuntary commitment
3	2	80	144.10	cancer
4	1	160	406.13	leukemia
5	2	148	148.00	gynecologic hemorrhaging
6	3	1040	1040.00	"high-risk" pregnancy
7	1	19	64.36	pulmonary edema
8	6	240	243.41	organ transplants
9	9	350	432.33	cancer
10	3	360	451.70	cancer
11	3	28	79.45	brain tumor
12	5	80	191.06	hip surgery (sr. citizen)
13	2	125	301.44	severe asthma
14	4	144	144.00	cancer
15	4	324	234.00	cancer
16	8	701	847.00	heart transplant
17	10	343.88	638.91	intracranial pressure
18	5	90	110.80	systemic lupus erythematosus with nephritis and Bell's palsy**
19	2	48	56.00	neurological disorder
20	5	106	145.95	tumor removal
21	3	96	128.48	psychological disorder
22	2	64	129.52	bowel obstruction surgery
23	15	612	746.61	cancer
24	5	144	205.00	coronary bypass
25	8	244	518.40	pregnancy-induced hypertension
26	2	80	89.79	chronic cholecystitis
27	1	80	83.93	spinal surgery
28	1	400	506.67	hyperemesis
29	1	40	69.10	hardship
Totals	215	7241.88	9440.04	

SICK LEAVE TRANSFER PROGRAM

A. Utilization by Department

Department	Number of Incidents	Total Hours to Recipients
Administrative Services	1	847.00
City Council	1	638.91
City Light	8	3002.35
Fire	2	1473.35
Human Services	9	1765.15
Parks and Recreation	2	449.44
Police	5	1020.43
Water	1	243.41
TOTAL	29	9440.04

B. Utilization by Pay Periods (Hours)

Pay Periods (Hours)	Number of Cases	Number of Donors	Number of Donated Hours	Average Donation (Hours)
80 hours or less	9	19	519	27.3
81-160 hours	9	30	1109	37.0
161-240 hours	1	6	240	40.0
241-480 hours	6	35	2022	57.8
481-960 hours	2	23	1313	57.1
961-1040 hours	2	102	2039	20.0
TOTAL	29	215	7242	*

*Overall average donation for 215 donors in 29 cases = 33.68 hours per donor.



Seattle City Council

Memorandum

Date: July 26, 1989
To: All Councilmembers
From: Paul Matsuoka
Subject: Family Leave Ordinance (C.B. 107342) -- Executive Summary

Description of Issue

C.B. 107342 amends the City's rules for use of sick and funeral leave, defines domestic partnership, and establishes a pilot sick leave transfer program to provide for employees' catastrophic illnesses or injuries. The ordinance provides for an affidavit process whereby employees attest that they are married or involved in a domestic partnership for purposes of receiving employment benefits. Domestic partnerships include unmarried heterosexual couples as well as lesbian and gay couples in a committed relationship, involving economic, personal, and social bonds.

The ordinance allows an employee to use sick leave for the care of the employee's spouse or domestic partner or the parent or dependent child of the employee or the employee's spouse or domestic partner. It also allows the use of funeral leave for the bereavement of an employee's domestic partner or close relative of a domestic partner. The legislation eliminates prior restrictions on the use of sick leave for dependent children, making City rules consistent with newly-enacted state law. Finally, the ordinance establishes a pilot sick leave transfer program under which an employee may transfer sick leave to a fellow employee who has exhausted all of his/her sick leave due to catastrophic illness or injury, thereby averting a leave without pay situation.

Public Hearing/Written Testimony

In public hearings and through written correspondence, employees are overwhelmingly supportive of several provisions of C.B. 107342; namely, removal of the restrictions for care of a dependent child, expansion of sick leave usage for the care of parents, and establishment of the sick leave transfer program. The ordinance is controversial because of the provisions surrounding domestic partnership benefits. These issues are summarized below.

Existing Ordinance Authority

Seattle's Fair Employment Practices Ordinance (FEPO) declares that it is the policy of the City to assure equal opportunity to all persons, "free from restrictions because of race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap." "Marital status" is defined as "the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabitating."

Need for Legislation

The City currently offers a comprehensive benefits package to its employees and their spouses and dependent children. Benefits are not now extended to those employees' families who are not involved in a legally-defined spousal relationship. Thus, employees' domestic partners are not recognized and treated in a manner similar to employees' spouses. Given existing City ordinances, the Law Department and the Human Rights Department agree that the City must begin extending benefits, such as those included in C.B. 107342, to employees' domestic partners in order to comply with FEPO.

Alternative Policy Choices With Respect to Domestic Partnership

Because this issue involves the implementation of a previously-made Council policy decision, the Council has only two basic options from which to choose:

- (1) Enact C.B. 107342, extending sick and funeral leave benefits to employees' domestic partners, and bring City practices into conformance with the Fair Employment Practices Ordinance; or,
- (2) Reject C.B. 107342 and direct that legislation be prepared that amends provisions of the Fair Employment Practices Ordinance so that City laws are made consistent with City practices.

Staff Recommendations

Staff recommends that the Council enact C.B. 107342 as a first step towards extending a broad range of benefits to employees' domestic partners. This action is consistent with existing City law and signals a positive, tangible commitment to implementing FEPO as it applies to the area of domestic partnership and equal employment practices.

Staff also recommends approval of other non-controversial aspects of C.B. 107342 including removal of current restrictions on use of sick leave for dependent children, expansion of sick leave usage for the care of parents, and establishment of a pilot sick leave transfer program.

2. It defines the term "domestic partner" and authorizes the Personnel Director to develop necessary affidavits for implementation of this ordinance.
3. It authorizes use of sick leave for additional family members, including an employee's domestic partner, or a parent or dependent child of an employee or the employee's spouse or domestic partner.
4. It authorizes use of funeral leave for an employee's domestic partner, relative of a domestic partner, or domestic partner of a relative.
5. It authorizes a pilot sick leave transfer program, allowing for the transfer of accumulated sick leave by a donor employee to benefit the account of a recipient employee who is suffering from a catastrophic illness or injury and who has exhausted his/her own sick leave.

II. Summary of Staff Recommendations

Council staff recommends concurrence on all five of the major changes proposed by the Executive in C.B. 107342.

III. Non-Controversial Issues of C.B. 107342

Of all the issues raised by C.B. 107342, three have received overwhelming public support in public hearings and in written correspondence to Council. Those three issues include the elimination of current restrictions on use of sick leave for children, the expansion of sick leave usage for the care of parents, and the establishment of a pilot sick leave transfer program.

A. Unrestricted Use of Sick Leave for Dependent Children

In the 1988 state legislative session, the state passed a law invalidating the current 48 hour per year limitation on the number of sick leave hours that may be used for the care of dependent minor children who are ill. Under state law, there is no longer any hourly restriction for this purpose. C.B. 107342 would bring Seattle into conformity with this new state law.

Should City law be revised to conform to state law by eliminating the current 48 hour per year restriction on the use of sick leave for the care of ill dependent children?

_____ Yes, conform with state law.

_____ Other (specify desired action) _____



Seattle City Council

Memorandum

Date: July 26, 1989
To: All Councilmembers
From: Paul Matsuoka
Subject: Family Leave Ordinance (C.B. 107342)

Outline

Executive Summary (blue paper)

- I. Proposed Legislation
- II. Summary of Staff Recommendations
- III. Non-Controversial Issues of C.B. 107342
 - A. Unrestricted Use of Sick Leave for Dependent Children
 - B. Use of Sick Leave for Parents
 - C. Pilot Sick Leave Transfer Program
- IV. Issues of Controversy
 - A. Statement of the Issue
 - B. Statutory Requirements of FEPO
 - C. Other Legal Issues
 - D. Definition of Domestic Partnership
 - E. Reasons Put Forth in Opposition to Domestic Partnership
 - F. Reasons Put Forth in Support of Domestic Partnership
 - G. Other Cities' and Agencies' Experience
 - H. Council Staff Recommendation
 - I. Decision Agenda

Attachments

- o Correspondence on Legal Issues (gold paper)
- o Sample Domestic Partnership Affidavits (green paper)

I. Proposed Legislation

C.B. 107342 proposes five major changes to the City's practices regarding the use of sick and funeral leave:

1. It brings the sick leave ordinance into conformance with State law by removing the existing 48 hour annual limitation on use of sick leave for an ill dependent child.

B. Use of Sick Leave for Parents

C.B. 107342 proposes to expand an employee's usage of sick leave in order to care for a parent. This extension is proposed in recognition of the desire to maintain independent living situations for parents and to provide care that would otherwise be provided by stretched social service agencies, be purchased expensively through outside agencies, or not be provided at all.

This provision received strong support by employees. In fact, some argued that the City should do even more. For example, it was suggested that sick leave should be permitted so an employee could care for whomever he/she wants to care, be it a friend or anyone else in need.

Should the City extend the use of sick leave for the care of parents?

Yes, revise sick leave policies to permit care of parents.

No, do not expand sick leave usage for care of parents.

Other (specify desired action) _____

C. Pilot Sick Leave Transfer Program

Currently there are City employees who are suffering from catastrophic illnesses or injuries who have exhausted all of their sick leave and who face unpaid leave during a stressful period. Those employees may have co-workers with hundreds of unused sick leave hours who would be willing to donate hours to the ill co-worker, but who are prohibited from doing so by current policies. C.B. 107342 proposes to establish an 18 month Pilot Sick Leave Transfer Program to permit such a transfer of hours to occur. The Personnel Director would be authorized to set up the program and promulgate implementation rules and procedures consistent with the proposed ordinance. In order to prevent abuses and problems, rules would be set up to limit the number of hours given and received by donors and recipients of sick leave hours. After 15 months, the pilot program would be evaluated and changes made, as necessary.

At public hearings and in written correspondence, this pilot program has proven to have strong employee support. In fact, criticisms of it deal with the fact that it does not go far enough. Some have urged the transfer of hours to a well employee who then can use the hours transferred for the care of a family member with a catastrophic illness or injury. Others argue for no limitations on how much may be transferred or received by donor or recipient employees, respectively. Another suggestion was to implement this as a permanent, not a pilot, project.

Council staff recommends that the pilot program as proposed be established initially. At the 15 month evaluation period, the Executive should determine if expansions to the program, as described above, should be made if the initial pilot period proves successful.

Should the pilot sick leave transfer program be implemented by the Personnel Department?

_____ Yes, implement the program as proposed; in section 4.A, substitute the verb "shall" for "may" in the phrase "The Personnel Director may implement a pilot Sick Leave Transfer Program...."

_____ No, do not implement the program.

_____ Yes, but implement the program with the following modifications (specify desired modifications) _____

IV. Issues of Controversy

A. Statement of the Issue

The controversial issue before the Council in C.B. 107342 involves the provision of sick and funeral leave benefits to employees' domestic partners. Domestic partners include unmarried heterosexual couples as well as lesbian and gay couples in a committed relationship, involving economic, personal and social bonds. This ordinance breaks new ground for the City in that it defines "domestic partnership" for the first time and establishes an affidavit process for the registration of such families. The ordinance also extends sick and funeral leave benefits to employees for use for domestic partners and their close relatives in what may be the first step in a series of actions to provide a complete benefits package to these families.

The City offers to its employees a benefits package in addition to salary. An attractive salary/benefits package is commonly seen as a way to recruit and retain qualified applicants for City positions and to motivate them to be productive while working. If benefits are provided to stabilize families in times of sickness, bereavement, and the like, the employee should be more productive on the job, yielding direct job benefits for the employer.

Many of the City's benefits use marriage as a criterion for the granting of benefits to employees. Some examples include sick leave, funeral leave, health insurance, parenting leave, disability benefits, retirement and death benefits, family memberships offered by various City facilities, dental insurance, etc.

However, it is a well-documented phenomenon that the "traditional" family, defined as husband, wife, and dependent children, is statistically declining. At the same time, there has been an increase in alternative family structures, such as single-parent families, unmarried cohabitant families, and gay/lesbian families. The changes seen in the general population are no doubt reflected among the employees of the City of Seattle.

Since City law prohibits discrimination on the basis of marital status and sexual orientation, among others, should benefits be provided to families of all kinds? Since a rationale for providing a benefits package is to stabilize and support families, yielding direct job benefits for the employer, should the City now recognize "non-traditional" families in the same manner as it recognizes "traditional" families?

(Recently, the extension of health care benefits was discussed by the Mayor and Council. Because of the unclear nature of the income tax ramifications involved, the Council suspended the law as it relates to health care while waiting for a formal opinion by the Internal Revenue Service on the tax aspects of extending health care coverage to domestic partners. That issue is expected to be back before the Council in early 1990.)

B. Statutory Requirements of FEPO

In the early 1970s, the City enacted the Fair Employment Practices Ordinance (FEPO) which banned discrimination in employment practices on several grounds. In 1986, FEPO was amended to prohibit employment discrimination against a broader spectrum of the population. The existing ordinance says:

"It is declared to be the policy of the City, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to assure equal opportunity to all persons, free from restrictions because of race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap." [emphasis added]

"Marital status" is defined as "the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabitating."

The Human Rights Department is charged with enforcement of FEPO. HRD and the Law Department agree that under the existing ordinance, the City should extend benefits to domestic partners in order to comply with FEPO. The Law Department advises,

"If the Council decides not to alter the City's sick leave and funeral leave ordinances to correct this apparent violation of

the FEPO, the City's antidiscrimination ordinances should be amended. The FEPO should be amended to provide that it is not a violation of that ordinance for an employer to discriminate on the basis of marital status in providing employee benefits."

C. Other Legal Issues

In public hearings on C.B.107342 and the health insurance suspension, several other legal issues were raised. In response to a request for a legal opinion, the Law Department has concluded:

1. If the City were to extend benefits to employees' domestic partners, would there be any impact on private sector employers in the City?

Law Department response: "The City's decision to provide to domestic partners of its employees the types of benefits you have enumerated . . . would have no legal impact on private employers' duties to similarly extend such benefits to the domestic partners of their employees."

2. Does the extension of benefits like sick and funeral leave raise the taxation issues that were raised by the health care benefits issue?

Law Department response: "The short answer to the questions you ask . . . is 'no'." The Law Department later noted that dental benefits would raise the same taxation issue as health benefits.

3. Given the definitions in FEPO regarding marital status, do you agree with public comment that the City would also have to extend benefits to those who are divorced from, separated from, or engaged to City employees if benefits were granted to employees' domestic partners?

Law Department response: "The short answer to the questions . . . is 'no'. . . . The City may lawfully choose to provide benefits to employees and to persons with whom they are living and refuse to provide benefits to persons with whom the employee is not living without violating the marital status antidiscrimination provisions of the FEPO."

4. Do you have any additional legal advice to give the Council on this general subject matter?

Law Department response: The response described the recent New York court ruling in the Braschi case which decided that a long-term gay relationship had the hallmarks of a household with "normal familial characteristics." The Law Department writes, "We believe . . . that the Braschi case and the similar lower

court cases relied upon by the Court in Braschi, which involved both heterosexual and homosexual unmarried relationships, represent a trend in the law towards recognizing such relationships as the lawful equivalent of marriage for many purposes."

The full text of the request for legal opinion and the Law Department responses are included as attachments to this memorandum.

D. Definition of Domestic Partnership

C.B. 107342 defines "domestic partner" as "an individual designated as such by an officer or employee in an Affidavit of Domestic Partnership or otherwise as provided by S.M.C. 4.30.010." The affidavit would require an employee to attest that:

- a. He or she and his or her domestic partner (who shall be identified, by name, on said form) share the same regular and permanent residence, have a close personal relationship, and agree to be jointly responsible for basic living expenses incurred during the domestic partnership;
- b. They are not married to anyone;
- c. They are each eighteen (18) years of age or older;
- d. They are not related by blood closer than would bar marriage in the State of Washington;
- e. They were mentally competent to consent to contract when their domestic partnership began;
- f. They are each other's sole domestic partner and are responsible for each other's common welfare; and
- g. Any prior domestic partnership in which either he or she or his or her domestic partner participated with a third party was terminated not less than ninety (90) days prior to the date of said affidavit or by the death of that third party, or whichever was earlier, and, if such earlier domestic partnership had been acknowledged pursuant to S.M.C. 4.30.010-A or -B, that notice of the termination of such earlier domestic partnership was provided to the City pursuant to S.M.C. 4.30.030 not less than ninety (90) days prior to the date of said affidavit.

In addition, the employee must agree to notify the City if there was any change of circumstance attested to above, and must affirm, under penalty of law, that the assertions in the affidavit are true.

The proposed ordinance specifies that the Personnel Director will prescribe the form of the affidavit which would include the above provisions. For Councilmembers' information, two sample affidavits

are attached to this memorandum. One is a form developed by the Mayor's Lesbian/Gay Task Force; the other is the form in use at the Seattle Public Library. A telephone survey of six cities and four private employers who have instituted domestic partnerships reveals that almost all define domestic partnership and use forms substantially similar to these samples.

E. Reasons Put Forth in Opposition to Domestic Partnership

A number of employees voiced or wrote objections to the extension of benefits to domestic partners in the public hearing or in letters to the Council. Some of the reasons cited include:

- The City would incur increased costs for benefits and would attempt to save money by not being as generous in future union contract negotiations.
- The system would be subject to abuse. For example, casual housemates could qualify as domestic partners to obtain City benefits.
- It was argued that the City should not approve of certain lifestyles which the employee personally found immoral, offensive, or objectionable.

F. Reasons Put Forth in Support of Domestic Partnerships

Employees in support of this legislation made the following remarks in response to the criticisms above:

- The experience of other cities and agencies has not been characterized by excessive costs attributable to domestic partnership policies. Even if costs could be proven to increase, this is a civil rights issue in which the cost issue should not be the overriding criterion.
- The affidavits in use in other cities include strong language to deter abuse. Signers read a warning that their community property rights could be affected, that others suffering any loss because of a fraudulent statement may bring civil action against either or both domestic partners, and they sign under penalty of perjury that their statements are true.
- Supporters are not seeking an approval of lifestyle. They argue they seek to fulfill a practical need for financial/emotional security for committed relationships that are equivalent to marriage.

G. Other Cities' and Agencies' Experience

Currently, there are only a few cities and companies that provide sick leave and funeral leave for employees' domestic partners. These entities were surveyed by telephone for information on their experience. Figure 1 shows the relevant information on the experiences of others. As is shown, approximately 3% of total employees have registered domestic partners where this option is available. Entities universally reported that the number of affidavits filed was less than the number they expected. The table also shows that most of the domestic partnerships involve heterosexual couples rather than same sex couples.

Figure 1
 Survey of Other Cities and Agencies

<u>Entity</u>	<u># Employees</u>	<u># Domestic Partners</u>	<u>% Domestic Partners</u>	<u>Same Sex</u>	<u>Opposite Sex</u>	<u>Unk.</u>
Seattle Mental Health Inst.	115	2	2%	0	2	0
Seattle Public Library	590	15	3%	7	8	0
West Hollywood, CA.	150	13	9%	10*	3*	0
Madison, Wisconsin	2200	2	0.1%	1	0	1
Santa Cruz, CA.	650	33	5%	-	-	33**
Amer.Friends Service Cmte.	388	3	1%	2	1	0
Berkeley, CA.	1450	108	7%	19	89	0
	<u>5543</u>	<u>176</u>	<u>3%</u>	<u>39+</u>	<u>103+</u>	<u>34**</u>

* if reflective of citywide statistics.

** majority reported to be heterosexual

H. Council Staff Recommendation

Staff recommends that the Council approve the definition of domestic partnership, authorize the Personnel Director to prescribe an affidavit which will be used to register domestic partnerships, and extend sick leave and funeral leave benefits to domestic partnerships in the same manner as provided to married employees.

Staff believes that benefits are provided by employers to create, in part, a stable and supportive living environment for employees, which in turn helps to improve employee productivity and morale. These benefits have been offered to married employees and their families and should now be extended to persons living in "non-traditional" family situations. Use of sick leave and funeral leave for the care/bereavement of domestic partners and the close relatives of domestic partners is no less valid than such use for spouses and relatives of spouses.

In addition, evidence from other progressive cities and agencies who have recognized domestic partnerships indicates that the number of affidavits filed is small and not financially burdensome. Although alarm has been raised about significantly rising City costs, other entities surveyed do not attribute rising costs to recognition of domestic partners. In fact, the universal response is that costs have not risen markedly at all.

While improvements to employee productivity and a lack of demonstrated evidence of rising cost are important to consider in coming to a decision on this issue, they are not the most important issues in staff's opinion. Rather, domestic partnerships should be recognized and benefits extended because this is consistent with existing City law as embodied in the Fair Employment Practices Ordinance. Simply stated, the existing laws of the City require that C.B. 107342 be enacted. If the Council does not intend to provide equal employment treatment to its employees, then FEPO should be amended in the manner described by the Law Department.

I. Decision Agenda

Should the City recognize domestic partnerships by defining the term, establishing an affidavit for their registration, and by extending sick and funeral leave benefits?

_____ Yes, comply with the provisions of the Fair Employment Practices Ordinance.

_____ No, do not recognize domestic partnerships; direct the Law Department to submit new legislation amending the Fair Employment Practices Ordinance.

_____ Other (specify desired action) _____

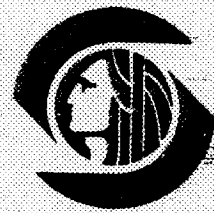
Correspondence on Legal Issues

-- Request for Legal Opinion
June 23, 1989

-- Law Department Opinion
July 12, 1989

-- Law Department Correspondence
July 21, 1989

Seattle City Council



June 23, 1989

Sam Smith
President of the City Council
684-8800

MEMORANDUM

George E. Benson
Chair
Environmental Management
Committee
684-8801

Virginia Galle
Chair
Finance and Personnel
Committee
684-8805

Paul Kraabel
Chair
Urban Redevelopment
Committee
684-8807

Jane Noland
Chair
Housing and Human
Services Committee
and Public Safety
Committee
684-8803

Norman B. Rice
Chair
Energy Committee
684-8806

Dolores Sibonga
Chair
Parks and Public
Grounds
Committee
684-8802

Jim Street
Chair
Land Use and Community
Development Committee
684-8808

Jeanette Williams
Chair
Transportation
Committee
684-8804

To: Doug Jewett, City Attorney

From: Virginia Galle, Chair
Finance and Personnel Committee

Subject: Request for Legal Opinion

As a result of a review of the proposed "family leave" legislation currently before the Finance and Personnel Committee, copy attached, several legal issues arise which prompt me to request that the Law Department render an opinion on these issues. Please provide your legal opinion on these matters by July 12, 1989, in anticipation of Council action on the legislation in late summer.

- I. Public policies - private benefits: The recent events surrounding HRD's preliminary decision on the provision of health benefits to domestic partners led to a confusing environment in which it was not initially clear whether private sector employers were affected by City actions. The Executive has also recently forwarded legislation that would extend sick and funeral leave for City employees' domestic partners or relatives of domestic partners. In the long term, the City might logically consider extension of other employee benefits, including but not limited to parenting leave, dental insurance, disability benefits, death benefits, retirement benefits, family memberships offered by various City facilities, etc.

The Law Department's May 26, 1989 opinion spoke specifically to ERISA preemption as it relates to health benefits. In your opinion, do the provisions of ERISA similarly apply to other areas of employee benefits as enumerated above? If the City were to extend benefits to employees' domestic partners, would there be any impact on private sector employers in the City?

2. IRS issues: Does the extension of any of the benefits noted in question #1 raise the taxation issues that were raised by the health care benefits issue? Will any benefit plan be deemed non-excludable by the IRS and therefore be subject to taxation as ordinary income?
3. Amendments to FEPO: If the Council were to reject the extension of sick leave and funeral leave benefits to employees' domestic partners, would the Fair Employment Practices Ordinance need to be amended to strike the marital status provisions? Why or why not?
4. Eligibility: The rationale for extending benefits to domestic partners is to recognize the evolving nature of family relationships. In the Council's public hearing on the temporary suspension of FEPO as it applies to health benefits, a concern was voiced that the City would need to consider extending benefits to persons divorced from, separated from, or engaged to City employees as well. Given the definitions in FEPO regarding marital status, do you agree with this interpretation? Do you see any need to amend the definition to be inclusive of traditional and non-traditional families but to exclude non-family situations such as those described at the public hearing?
5. Other issues: Are there any other significant legal issues raised that are not covered by the above questions? Do you have any additional legal advice to give the Council on this general subject matter?

LAW DEPARTMENT

THE CITY OF SEATTLE

DOUGLAS N. JEWETT, CITY ATTORNEY
10TH FLOOR MUNICIPAL BUILDING
SEATTLE, WASHINGTON 98104

(206) 684-8200

July 12, 1989

UTILITIES DIVISION
1015 THIRD AVE., SUITE 902
SEATTLE, WA 98104
(206) 684-3361

CRIMINAL DIVISION
1414 DEXTER HORTON BLDG.
SEATTLE, WA 98104
(206) 684-7751

RECEIVED

JUL 18 1989

EXECUTIVE DIRECTOR
SEATTLE CITY COUNCIL

Honorable Virginia Galle, Chair
Finance and Personnel Committee
City Council
The City of Seattle

RECEIVED

JUL 12 1989

VIRGINIA GALLE
SEATTLE CITY COUNCIL MEMBER

Re: Tax, ERISA, and other issues regarding the extension of certain benefits to the "domestic partners" of City employees.

Dear Councilmember Galle:

By memorandum of June 23, 1989, you asked our opinion regarding the legal effects of the passage of Council Bill 107342, which is currently pending before the Finance and Personnel Committee. Your questions are answered below. The numbers of our answers correspond to the numbered paragraphs of your memorandum.

1. Our opinion of May 26, 1989, referred to in your memorandum, points out that the City's welfare benefit plans are not regulated by the Employee Retirement Income Security Act of 1974 ("ERISA"). The "Coverage" section of ERISA specifically exempts "governmental" benefit plans. See 29 U.S.C. 1003(b)(1). For that reason, the answer to the first question you ask in paragraph 1 of your memorandum is that ERISA does not apply to any of the benefits you have enumerated as possibly being extended to the domestic partners of City employees. ERISA does not apply to any benefits the City extends to its employees or to their dependents, spouses or domestic partners.

The City's decision to provide to domestic partners of its employees the types of benefits you have enumerated in your question would have no legal impact on private employers' duties to similarly extend such benefits to the domestic partners of their employees. The situation is analogous to the City deciding to pay higher wages to its employees than are currently being paid by some private sector employers. Decisions regarding pay and benefits for City employees may have economic or precedent-setting implications for private sector employers, but the City's decision to pay certain wages or to provide certain benefits

Honorable Virginia Galle
July 12, 1989
page -2-

to its employees does not require private sector employers to provide the same wages or benefits.

From discussions between Council staff and the undersigned Assistant City Attorney, it appears that you are concerned about whether the City's antidiscrimination ordinances may be enforced against private employers to require them to extend to domestic partners of their employees the types of benefits you have enumerated. Generally, under the interpretation of the Fair Employment Practices Ordinance ("FEPO") adopted by the Director of the Human Rights Department, if an employer provides an employment benefit to the spouses of employees, he or she violates the FEPO unless the benefit is provided to the cohabitants of other employees. This interpretation of the FEPO follows from the definition of "marital status" in that ordinance and has nothing to do with whether the City decides to extend some or all of its employment benefits to the domestic partners of City employees.

If your question is intended to ask whether ERISA preempts the City from enforcing the FEPO and the public accommodations sections of S.M.C. Chapter 14.08 against private employers and against sellers of employee insurance policies, the answer depends on whether the benefit provided to employees' spouses but not to other employees' domestic partners is one of the types of benefits regulated by ERISA. If it is, the City may not enforce its marital status antidiscrimination laws against the private employer or against the provider of the subject insurance policy; if the benefit is not one of the types of benefits regulated by ERISA, the City's marital status antidiscrimination laws may be enforced against the employer or against the insurance provider.

Whether ERISA regulates a type of benefit provided by a private sector employer to its employees depends on if the benefit is among those described in the statute (see 29 U.S.C. 1001(b), quoted on pages 1-2 of our May 26, 1989 opinion) and on whether the benefit is provided through a funded "plan" or through insurance, or if it is paid out of the employer's general assets, i.e., is "unfunded." If, for example, sick leave benefits are paid out of an employer's general assets, rather than through a funded plan, the sick leave benefit policy of the employer would not be regulated by ERISA. See 29 C.F.R. 2510.3-1(b)(2). The City could, therefore, enforce the marital status

Office of the Comptroller
City of Seattle



Norward J. Brooks, Comptroller

September 7, 1989

CERTIFIED MAIL

Ilona Fogassy
P.O. Box 28486
Seattle, Washington 98118


Dear Ms. Fogassy:

This is to confirm the conversation that you had on August 16, 1989, with Theresa Dunbar of the City Clerk's Section. After consultation with Don Stout, Assistant City Attorney, Ms. Dunbar advised you of the following suggestions for changes to the form of the petition. As she told you at the time, these suggestions were advisory only, since there is no statutory requirement the City Comptroller approve the form or content of a referendum petition.

1. On the second line of the first paragraph, under the salutation: "To the City Council of The City of Seattle:", strike the word "entitled" and insert the words "commonly known as the";
2. On the third line of the same paragraph, strike the words "at the next municipal election" and insert the words: "pursuant to Article IV, Section 1 of the City Charter.";
3. The size of the "Warning" at the bottom of the petition was not of sufficient type size. As you pointed out to Ms. Dunbar at the time, the sample she was looking at was a reduction and the actual type size on the final petition would match that found on Initiative Measure 31, already approved by the Comptroller.

If you have any questions, please feel free to call me at 684-8383.

Sincerely,


Norward J. Brooks, Ph.D.
City Comptroller

Office of the Comptroller
City of Seattle



Norward J. Brooks, Comptroller

September 14, 1989

FOR IMMEDIATE RELEASE

For Information Contact:
Norward J. Brooks, City Comptroller
684-8383

Referendum to Repeal the City's New Sick Leave and Funeral Leave Policy

City Comptroller Norward Brooks announced today that the deadline for petitioners to turn in signatures on the Referendum seeking to place the City's new sick leave and funeral leave use ordinance (Ordinance No. 114649) on the ballot is Saturday, September 16, 1989, at 6:00 p.m.

Gail Keefe, Assistant City Clerk for the City, will be in the City Clerk's Office at that time to receive petitions. The Clerk's Office is located in Room 101, Seattle Municipal Building, 600 Fourth Avenue. Petitioners wishing to turn in signatures must use the Fifth Avenue entrance to the Municipal Building.

A tentative count will be done at the time of submittal to ensure that a minimum of 10,921 signatures is received. If the minimum amount of signatures is submitted, the ordinance will be held in abeyance and the petitions will be forwarded to the King County Records and Elections Department for registration verification on Monday, September 18, 1989. If less than 10,921 signatures are received, the ordinance will go into effect as originally scheduled at 12:01 a.m., Sunday, September 17, 1989.


If, after verification by the Elections Department, the number of registered voter signatures is sufficient, the effective date of the ordinance will be suspended until the issue can be voted on by the electorate. The City Council will, at its discretion, determine the date of the election.

* * * * *
"An Equal Employment Opportunity - Affirmative Action Employer"

City of Seattle - Office of the Comptroller, 101 Seattle Municipal Bldg., Seattle, WA 98104 - (206)684-8300

"Printed on Recycled Paper"

File

 NORWARD J. BROOKS Seattle City Comptroller RECEIVED						
AUG 25 1989 <input type="checkbox"/>						
	ADM	ACCT	CLK	SYS	AUD	FIR
ACT						
INFO						

August 25, 1989

Hon. Norward Brooks
City Comptroller
City of Seattle

Dear Mr. Brooks:

The Citizens For Family is officially notifying you that signatures are being collected for a Referendum Vote on the Family Leave Ordinance (# 114649).

We expect to submit sufficient signatures to your office before the 30-day deadline.

Sincerely,

D. Simmons
Doug Simmons
Vice Chairman
Citizens For Fam

File: Family Leave Ordinance
Int 34

- o The ordinance requires all new employees who wish to use sick or bereavement leave for a domestic partner or spouse to complete an affidavit of legal marriage/domestic partnership within 30 days of commencement of employment; within 30 days of commencement of the partnership or marriage; or during a specified open enrollment period. The ordinance allows the Personnel Director to determine, by rule, what current employees must do to establish eligibility for use of sick or bereavement leave in this manner.
- o A new section authorizes the Personnel Director to implement a pilot sick leave transfer program allowing for the transfer of accumulated sick leave hours from the account of one City employee to the accumulated sick leave hours account of another City employee suffering from a catastrophic illness or injury. I will evaluate the impact of this program in a written report to City Council within 15 months of implementation.
- o Finally, the Personnel Director is authorized to execute agreements with labor organizations representing City employees relative to the implementation of this ordinance as it affects the membership of a given labor organization.

This legislation was initiated because of (1) the change in State Law relative to sick leave usage for dependent children, (2) a desire to assist employees in their responsibilities toward the care of elderly parents, (3) recommendations by the Mayor's Gay and Lesbian Task Force for sick leave and funeral leave usage for domestic partners, and (4) a desire to allow employees to assist a fellow employee who has used all of his/her accumulated sick leave because of a catastrophic illness or injury. It is intended to reflect the changing nature of the American family and our work force, and support the familial responsibilities of City workers.

ESR:sfb

Enclosure

City of Seattle
Personnel Department

Everett S. Rosmith, Personnel Director
Charles Royer, Mayor



May 2, 1989

TO: City Council
City of Seattle

VIA: Mayor Charles Royer

841998

ATTN: Ken Bounds
Acting Budget Director

FROM: Everett S. Rosmith *ESR*
Personnel Director

SUBJECT: Ordinance Amending Sick and Funeral Leave Ordinances
to Include Extended Family Members

This memorandum forwards an ordinance amending the City's sick leave and bereavement (funeral) leave ordinances, and defining the term "domestic partner". The provisions of the ordinance are outlined below:

- o It amends the sick leave ordinance to remove the 48 hour limitation on the use of sick leave for an ill dependent child, in conformance with the Washington State Family Leave Act (SHB 1319, Ch. 236).
- o It authorizes use of sick leave for additional family members; including the employee's spouse or domestic partner; or a parent or a dependent child of an employee or his/her spouse or domestic partner.
- o It amends the "definitions" section of the funeral leave ordinance to allow use of funeral leave for the employee's domestic partner, relative of a domestic partner, or domestic partner of a relative.
- o The ordinance defines the term "domestic partners" and authorizes the Personnel Director to develop necessary affidavits and procedures for implementation. The affidavit will certify that the individuals share the same regular and permanent residence, have a close personal relationship, and are economically interdependent; are not married to anyone, are each 18 years of age or older, not related by blood closer than would bar marriage in the State of Washington; that they were mentally competent to consent to contract when their domestic partnership began, are each other's sole domestic partner and responsible for their common welfare, and have terminated any prior domestic partnership at least 90 days prior to filing the affidavit.

Sam Smith
June 30, 1989
Page 2

e. Change definition of "dependent child" to reflect the definition provided in the new state regulations, and include the more expansive City definition. See SMC 4.24.005-B.

Attached is a copy of the original Council Bill 107342 with the affected sections highlighted and a new typed version incorporating all the changes. I believe these are worthwhile, and should be incorporated.

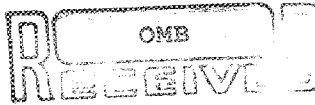
Please let me know if you have any questions.

SF:sg

Attachments

City of Seattle
Personnel Department

Everett S. Rosmith, Personnel Director
Charles Royer, Mayor



JUL 17 1989

June 30, 1989

842817

TO: Sam Smith, President
City Council

ATTN: Virginia Galle, Chair
Finance and Personnel Committee

VIA: Mayor Charles Royer

ATTN: Ken Bounds
Budget Director

FROM: Everett S. Rosmith *ESR*
Personnel Director

SUBJECT: Proposed Revisions to Family Leave Ordinance

The Law Department has proposed several amendments to the Family Leave Ordinance subsequent to the introduction of Council Bill 107342. These changes clarify some provisions of the ordinance and change slightly the definition of a dependent child.

Specifically, the changes were made to:

- a. Include single employees who become married or form a domestic partnership after the effective date of the ordinance (the ordinance seems to restrict coverage to those who are changing relationships). See SMC 4.30.010-A.3.
- b. Make an exception to the 90-day waiting period between partnerships when the partnership is terminated by the death of one of the individuals. See SMC 4.30.020-A.2.g.
- c. Include death as a reason for termination of a partnership. See SMC 4.30.030.
- d. Change the provision in the Affidavit of Marriage/Domestic Partnership from "economically interdependent" to "agree to be jointly responsible for basic living expenses incurred during the domestic partnership" and define basic living expenses. See SMC 4.30.020-A.2.a. and 4.24.005A.

APPENDIX B

SEATTLE PUBLIC LIBRARY
DOMESTIC PARTNERSHIP APPLICATION/AFFIDAVIT

Employee Name	Social Security Number	Work Location
Home Address	Home Phone	Work Phone

Domestic Partner Name	Social Security Number	Date of Birth	Sex
Name and Address of Employer			Work Phone

DOMESTIC PARTNERSHIP POLICY AND DEFINITIONS

A Domestic Partnership shall exist between two persons regardless of their gender, and each of them shall be the domestic partner of the other if both complete, sign, and file with the Seattle Public Library Personnel Department this affidavit which attests to the following:

1. The two parties reside together and share the common necessities of life;
2. The two parties are: not married to anyone, eighteen (18) years of age or older, not related by blood closer than would bar marriage in the state of Washington, and mentally competent to consent to contract;
3. The two parties declare that they are each other's sole domestic partner and they are responsible for each other's common welfare;
4. The two parties agree to notify the Library if there is a change of the circumstances attested to in the affidavit;
5. The two parties affirm, under penalty of law, that the assertions in the affidavit are true to the best of their knowledge.

I declare under penalty of perjury that all the foregoing information provided by me is true and correct and that all provisions of the Domestic Partnership eligibility and policy have been met.

Employee Signature	Date	Domestic Partner Signature	Date
Witness Signature, Personnel Manager		Date	

TERMINATION OF DOMESTIC PARTNERSHIP: I affirm, under penalty of perjury, that the Domestic Partnership Affidavit attested to and signed by me on _____ shall be and is terminated as of this date and that I shall cause notice of this termination by mailing via the United States Postal Service a copy of this signed statement to my aforesated partner.

Signature	Date
Witness Signature, Personnel Manager	
	Date

against either or both of us to recover their losses, including reasonable attorney fees and costs.

6. We certify under penalty of perjury under the laws of the State of Washington that the statements contained herein are true and correct to the best of my knowledge and information.

SIGNED at Seattle, Washington. this _____ day of _____, 19__.

EMPLOYEE

SPOUSE/DOMESTIC PARTNER

CONFIDENTIAL INFORMATION

**CITY OF SEATTLE
AFFIDAVIT OF LEGAL MARRIAGE/DOMESTIC PARTNERSHIP**

Community Property Implications. You should be aware that some courts have recognized non-marriage relationships as the equivalent of marriage, for the purpose of establishing and dividing community property. You may wish to consult with an attorney before participating in this program to determine how it might affect the property arrangements of you and your partner.

1. _____ (Employee) and _____
(Spouse/Domestic Partner) certify that:

_____ We are legally married in accordance with the laws of the State of Washington. (If this item is checked, proceed to Item 2.)

_____ We are domestic partners in accordance with the following criteria:

- we reside together and share the common necessities of life;
- we are not married to anyone;
- we are over 18 years of age and mentally competent to consent to contract;
- we are each other's sole domestic partner and we are responsible for our common welfare;
- neither of us has filed a termination of domestic partnership within the last 90 days.

2. The effective date of the marriage/domestic partnership is _____.
3. The information provided in this Affidavit is to be used by the City for the sole purpose of determining eligibility for City employment benefits.
4. We agree to notify the City within thirty (30) days of any change of circumstances attested to in this Affidavit.
5. We understand that any person/employer/company who suffers any loss because of a fraudulent statement contained in this Affidavit of Legal Marriage/Domestic Partnership may bring a civil action

Sample Domestic Partnership Affidavits

- Mayor's Lesbian/Gay Task Force
sample affidavit
- Seattle Public Library affidavit

Honorable Virginia Galle
July 12, 1989
page -3-

antidiscrimination provisions of the FEPO against the employer if he or she paid sick leave to employees to care for their spouses but failed to pay sick leave to other employees to care for their domestic partners. Similarly, if pregnancy leave, vacation, military leave, jury duty leave or educational leave is paid out of the employer's general assets rather than from a "funded" or insured plan, the benefits are not covered by ERISA (see 29 C.F.R. 2510.3-1(b)(3)) and the City may enforce the marital status antidiscrimination provisions of the FEPO against the employer to assure that the benefits are provided nondiscriminatorily.

We emphasize that whether the City may enforce the marital status antidiscrimination provisions of the FEPO against a private employer regarding the provision of employee benefits depends on the application of ERISA to the benefit provided by the employer. The City's decision to extend benefits to its employees' domestic partners does not affect the legal analysis of whether certain benefits provided by private employers are subject to the FEPO.

2. The short answer to the questions you ask in paragraph 2 of your memorandum is "no." Section 89 of the Internal Revenue Code ("IRC") applies only to accident and health plans, to employer provided group-term life insurance plans (see IRC subsections 89(k)(2)(A) and 89(i)(1)), to tuition reduction programs (see IRC subsection 89(k)(2)(B)), to cafeteria plans (see IRC subsections 89(k)(2)(C) and 125(c)), to employee discount plans covered by section 132 of the IRC (see IRC subsection 89(k)(2)(D)), and to certain benefits provided by voluntary employees' beneficiary associations (see IRC subsections 89(k)(2)(E) and 505(a)). The income tax questions presented by the proposed extension of City-provided health insurance benefits to the domestic partners of City employees would not arise if the benefits you list in paragraph 1 of your memorandum were provided to City employees' domestic partners.

3. The City's failure to provide sick leave and funeral leave benefits to City employees when their domestic partners are ill or when the partner dies when, at the same time, it provides sick leave to employees whose spouses are ill or funeral leave when the spouse dies violates the FEPO as it has been interpreted by the Director of the Human

Honorable Virginia Galle
July 12, 1989
page -4-

Rights Department. See the enclosed letter to Council President Sam Smith of July 5, 1989.

If the Council decides not to alter the City's sick leave and funeral leave ordinances to correct this apparent violation of the FEPO, the City's antidiscrimination ordinances should be amended. The FEPO should be amended to provide that it is not a violation of that ordinance for an employer to discriminate on the basis of marital status in providing employee benefits. Such an amendment could be added as an additional exclusion to be stated in S.M.C. 14.04.050. Similarly, the public accommodations provisions of S.M.C. Chapter 14.08 should be amended by providing an additional exclusion to S.M.C. 14.08.190 to the effect that it is not an unfair practice to sell insurance policies to employers that discriminate in determining the eligibility for benefits on the basis of marital status.

4. The short answer to the questions stated in paragraph 4 of your memorandum is "no." The FEPO defines "discriminate" in pertinent part as "any act . . . which . . . results in different treatment or differentiates between or among groups of individuals or groups of individuals by reason of . . . marital status" S.M.C. 14.04.030 F. The key phrase of this definition is "by reason of." The Human Rights Department interprets this phrase, as other civil rights agencies interpret similar phrases, to require that, for an unfair practice to be found, the protected status must be the "but for" cause of the complained of differential treatment.

For example, a woman who has no qualifications for a job she has been denied cannot show that the FEPO has been violated. Her sex would not be the cause of her failure to get the job for which she applied.

Similarly, a City employee who cannot obtain benefits for his or her divorced or separated spouse or for a fiancé or fiancée with whom he or she is not cohabiting could not show that the City's refusal to provide the benefits was due to the marital relationship of the employee and the other person. The City may lawfully choose to provide benefits to employees and to persons with whom they are living and refuse to provide benefits to persons with whom the employee is not living without violating the marital status antidiscrimination provisions of the FEPO. In such a

Honorable Virginia Galle
July 12, 1989
page -5-

situation, the refusal to provide benefits is not "by reason of" the employee's marital status but rather is due to the difference that some employees live with their spouses, fiancés, fiancées and domestic partners and other employees do not.

5. The final paragraph of your memorandum asks if we have any additional legal advice to give the Council on this general subject matter. We wish only to point out that last week, the highest court of the State of New York held that a gay male life partner was not legally precluded from demonstrating that he was a "family member" of his domestic partner under the provisions of New York's rent control laws. See Braschi v. Stahl Associates Company, ___ N.Y.S.2d ___ (Court of Appeals, July 6, 1989) (available on the WESTLAW Dct database, 1989 WL 73109). The Court's decision meant that Mr. Braschi could continue to occupy the couple's rent controlled apartment if "an objective examination" of "the totality of the relationship as evidenced by the dedication, caring and self-sacrifice of the parties" showed they lived in a household with "normal familial characteristics." The Court suggested that the ten-year relationship between Mr. Braschi and his partner had all the hallmarks of such a relationship, including commingled finances, holding themselves out as a couple and "interwoven social lives."

The Braschi case does not directly impact the City's choices of what it may do regarding the extension of benefits to the domestic partners of City employees. We believe, however, that the Braschi case and the similar lower court cases relied upon by the Court in Braschi, which involved both heterosexual and homosexual unmarried relationships, represent a trend in the law towards recognizing such relationships as the lawful equivalent of marriage for many purposes.

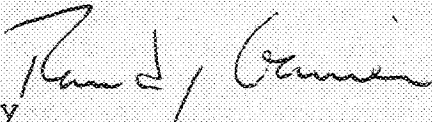
The details of extending such recognition to unmarried couples, such as how to define "domestic partner" and the tax effects of extending benefits to such partners, can be addressed over time. However, the legal recognition of such relationships is, as an earlier New York trial court stated, "consistent with both evolving notions of morality and the realities of contemporary urban society" Hudson View Properties v. Weiss, 431 N.Y.S.2d 632, 637 (N.Y.Civ.Ct. 1980), reversed, 442 N.Y.S.2d 367 (Supreme Ct., Appellate

Honorable Virginia Galle
July 12, 1989
page -6-

Term)(per curiam), reversed, 448 N.Y.S.2d 649 (Supreme Ct., Appellate Division)(per curiam). If the Council chooses to extend City employee benefits to the domestic partners of City employees, we will be pleased to continue to assist the Council and the Executive to solve any problems that may arise in the implementation of this policy.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney



By
RANDY GAINER
Assistant City Attorney

enclosure

LAW DEPARTMENT

THE CITY OF SEATTLE

DOUGLAS N. JEWETT, CITY ATTORNEY

10TH FLOOR MUNICIPAL BUILDING

SEATTLE, WASHINGTON 98104

(206) 684-8200

CRIMINAL DIVISION
1414 DEXTER HORTON BLDG.
SEATTLE, WA 98104
(206) 684-7757

UTILITIES DIVISION
1015 THIRD AVE., SUITE 902
SEATTLE, WA 98104
(206) 684-3361

July 5, 1989

Honorable Sam Smith, President
City Council
The City of Seattle

Attention: Racquell Oliver

Re: Funeral Leave for Domestic Partners

Dear President Smith:

As you may know, by letter of December 15, 1987 we advised the Director of the Human Rights Department that a strong argument could be made in support of his determination that the City's Fair Employment Practices Ordinance would be violated if an employer who provides funeral leave to employees to attend in-laws' funerals refused to provide funeral leave to an employee to attend the employee's domestic partner's parent's funeral. A copy of that letter is enclosed for your information.

In our opinion addressed to you of May 26, 1989, we explained that private sector employers are exempted by federal law from any effort by the City to enforce its antidiscrimination ordinances against private employers regarding their federally regulated employee benefits. That same opinion further explained that the City's benefit plans are not covered by the subject federal statute and that therefore the City's employee benefit plans must be administered consistently with the Fair Employment Practices Ordinance.

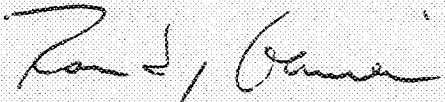
The City's Funeral Leave Ordinance requires City departments to allow employees one day of paid leave to attend the funeral of a spouse. See S.M.C. 4.28.010 and 4.28.020. The Engineering Department Director's decision to provide funeral leave to an employee for the employee to attend the funeral of his or her domestic partner is required by the Fair Employment Practices Ordinance as that law has been interpreted by the Director of the Human Rights Department. If leave were denied to the employee, the employee could successfully claim the Engineering Department had violated the marital status antidiscrimination provisions of the Fair Employment Practices Ordinance.

Honorable Sam Smith
July 5, 1989
page 2

We trust these comments respond to your concerns.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

BY 
RANDY GAINER
Assistant City Attorney

enclosure

cc: Gary Zarker
Bill Hilliard

LAW DEPARTMENT

THE CITY OF SEATTLE

CRIMINAL DIVISION
1414 DEXTER HORTON BLDG
SEATTLE, WA 98104
(206) 684-7757

DOUGLAS N. JEWETT, CITY ATTORNEY
10TH FLOOR MUNICIPAL BUILDING
SEATTLE, WASHINGTON 98104

UTILITIES DIVISION
1015 THIRD AVE., SUITE 902
SEATTLE, WA 98104
(206) 684-3361

(206) 684-8200

July 21, 1989

Honorable Virginia Galle, Chair
Finance and Personnel Committee
City Council
The City of Seattle

Re: Correction to Letter of July 12, 1989

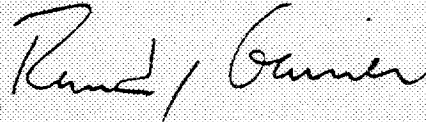
Dear Councilmember Galle:

On July 12, 1989, we responded to your request for a legal opinion regarding Council Bill 107342, a bill which would extend some benefits to domestic partners of City employees. On page three of that letter, after listing the types of benefits to which section 89 of the Internal Revenue Code ("IRC") applied, we stated that none of the types of benefits listed in your letter as possibly being extended in the future to domestic partners would be covered by section 89. This was incorrect.

Your list of benefits that may be extended to employees' domestic partners included dental benefits. Dental benefits are a category of "health plan" under the applicable sections of the IRC. Extending dental benefits to the domestic partners of City employees will raise the income tax issues that were raised by the proposed extension of health care benefits to employees' domestic partners.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By 
RANDY GAINER
Assistant City Attorney

cc: Paul Matsuoka
Judy Beddell

City of Seattle
Personnel Department

Everett S. Rosmith, Personnel Director
Charles Royer, Mayor



August 4, 1989

RECEIVED

AUG 4 1989

TO: Virginia Galle, Chair
Finance and Personnel Committee

FROM: Everett S. Rosmith *ER*
Personnel Director *for*

VIRGINIA GALLE
SEATTLE CITY COUNCIL MEMBER

SUBJECT: Administrative Costs Associated with Implementation of
Family Leave Ordinance, C.B. 107342

This memo responds to the question raised in the Finance and Personnel Committee meeting on August 3rd regarding the administrative costs associated with implementing the family leave ordinance.

There are two major tasks associated with administering this new family leave ordinance; (1) the development and dissemination of information and procedures to employees and personnel representatives prior to the effective date, and (2) actual collection of signed affidavits from employees.

The first task will require a substantial amount of staff time and resources over the next few months. It should be a one time only, start up expenditure. Staff will have to write rules, prepare procedures and communication materials for employees, write training materials for personnel representatives, and prepare correspondence and contract modifications for the unions and revise policies and forms. It will require a significant amount of an analyst's time (perhaps full time for four weeks), as well as benefits manager and support staff involvement. Once the procedures are in place, however, future administrative costs should be minimal.

The second major task involves the collection of signed affidavits, and could conceivably involve a significant amount of staff time depending upon the number of affidavits required. As you know, the ordinance permits the Director to "specify, by rule, what documentation -- if any, that a person who is a City officer or employee immediately prior to the effective date of this ordinance, must provide..." In order to ease the administrative paperwork involved in canvassing over 10,000 employees to obtain signed affidavits, I plan to use the medical enrollment cards (which provide marital status) as documentation of the marital status of current employees. Current City employees who wish to register a domestic partner, as well as all employees hired after the effective date of the ordinance, will be required to complete an affidavit of marriage/domestic partnership. This administrative requirement will consume a minimal amount of time as it will be incorporated into the routine procedures for new employee orientation.

Virginia Galle
August 4, 1989
Page 2

In summary, while there may be a significant amount of staff time required during the start up of this program, the future administrative costs are incremental and can be absorbed into the administrative processes currently in place if our projections of enrollment (roughly 3% of the workforce) are fairly accurate. Please let me know if you need any additional information.

ESR:sfg

cc: Dolores Sibonga, Councilmember

1 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

2 Section 1. Seattle Municipal Code ("S.M.C.") 4.24.005
3 is amended as follows:

4 4.24.005 Definitions.

5 ((As)) Terms used in this chapter (~~(, the following~~
6 ~~terms)) shall have the meaning((s)) indicated therefor in
7 the Personnel Ordinance (S.M.C. Ch. 4.04) unless another
8 meaning is clearly indicated below or from the context:~~

9 A. (~~"Department head" means the head of an employing~~
10 ~~unit as defined in the Personnel Ordinance (SMC 4.04).~~

11 B.) "Dependent child" means a minor for whom ((the)) an
12 officer or employee or the officer's or employee's spouse or
13 domestic partner is legally responsible or who resides with
14 or is financially dependent on the officer or employee or
15 the officer's or employee's spouse or domestic partner. The
16 term includes a step child and foster child.

17 B. "Domestic partner" means an individual designated
18 as such by an officer or employee in an Affidavit of
19 Domestic Partnership or otherwise as provided by S.M.C
20 4.30.010.

21 C. "Health care professional" means a person whose
22 services are of a type for which compensation is paid under
23 any City health care plan.

24 D. "Parent" means and includes one's natural or
25 adoptive father or mother, stepfather or stepmother or
26 foster father or foster mother.

27 Sec. 2. S.M.C. 4.24.035 is amended as follows:

28 4.24.035 Paid sick leave - Use.

A. In officer's or employee's request for paid sick
leave may be granted when the officer or employee is

1 required to be absent from work ((for)) because of:

2 1. A personal illness, injury or medical
3 disability incapacitating the officer or employee for the
4 performance of duty, or personal medical or dental
5 appointments; or

6 2. An illness, injury, or medical or dental
7 appointment((s)) of an officer's or employee's spouse,
8 domestic partner, or the parent or dependent child of such
9 officer or employee or his or her spouse or domestic partner
10 when the officer or employee has established his or her
11 eligibility for a non-personal sick leave use as
12 contemplated by S.M.C. Ch. 4.30 and the ((attendance))
13 absence of the officer or employee from work is required,
14 ((subject to the limitations in subsection B, and)) or when
15 such absence is recommended by a health care professional.

16 ((3. The care of a dependent child when the
17 employee's presence is recommended by a health care
18 professional, subject to the limitations in subsection B.

19 B. ~~No more than forty eight (48) hours of accumulated~~
20 ~~sick leave per calendar year may be used by a full time~~
21 ~~regular or probationary employee for the purposes described~~
22 ~~in Section 4.24.035 A2 and A3. Any part time regular or~~
23 ~~probationary employee who works a minimum of twenty (20)~~
24 ~~hours per week may use a proportional amount of sick leave~~
25 ~~equivalent to that allowed full time employees based on the~~
26 ~~percentage of a full time schedule that the part time~~
27 ~~employee works.))~~

28 Sec. 3. S.M.C. 4.24.040, as last amended by Ordinance
112088, is further amended as follows:

1 4.24.040 Sick leave reporting - Payment.

2 Compensation for absence of an officer or employee from duty
3 for any reason contemplated in Section 4.24.035 shall be
4 paid upon approval of ((the department head, or his/her))
5 such absentee's appointing authority or that authority's
6 designee. In order to receive compensation for such absence,
7 an officer or employee((s)) shall make ((themselves))
8 himself or herself available for such investigation, medical
9 or otherwise, as ((the department head)) such appointing
10 authority or the Personnel Director deems appropriate.
11 Either ((the department head)) such appointing authority or
12 the Personnel Director may require a supporting report of a
13 health care professional from the officer or employee.
14 Compensation for absences beyond four (4) days shall be paid
15 only after approval by ((the department head, or his/her))
16 such absentee's appointing authority or that authority's
17 designee, of a request from the officer or employee
18 supported by a report of the health care professional
19 treating the officer or employee or ((the employee's
20 dependent child,)) an individual identified in S.M.C.
21 4.24.035 A.2, or by a health care professional selected by
22 the Personnel Director.

23 Sec. 4. There is added to S.M.C. Ch. 4.24 a new
24 section, S.M.C. 4.24.100, as follows:

25 4.24.100 Sick Leave Transfer Program.

26 A. The Personnel Director may implement a pilot Sick
27 Leave Transfer Program allowing for the transfer of
28 accumulated sick leave hours from the account of any officer
or employee who desires to participate in such program to
the accumulated sick leave hours account of another officer

1 or employee designated by the donor-officer or -employee.
2 Such Sick Leave Transfer Program shall include at least the
3 following elements:

4 1. The sick leave being transferred shall be
5 translated into a dollar figure based upon the donor-
6 officer's or -employee's straight time rate of pay.

7 2. An officer or employee may receive sick leave
8 from donor-officer or -employee if the Personnel Director
9 finds that:

10 a. The receiving officer or employee suffers
11 from a catastrophic illness, injury, impairment, or physical
12 or mental condition, and it has caused, or is likely to
13 cause, the receiving officer or employee to

- 14 (1) go on leave without pay; or
- 15 (2) leave City employment;

16 b. The receiving officer's or employee's
17 absence and the use of contributed leave are justified;

18 c. Depletion of the receiving officer's or
19 employee's available accumulated sick leave has occurred or
20 is imminent;

21 d. The receiving officer or employee has
22 diligently attempted to accrue sick leave reserves; and

23 e. The receiving officer or employee is
24 not eligible for benefits under S.M.C. Ch. 4.44 or under the
25 State Industrial Insurance and Medical Aid Acts.

26 3. The Personnel Director shall establish, by
27 rule, limits for:

28 a. The maximum number of hours of sick leave
a receiving officer or employee may personally have accrued
before such officer or employee may receive sick leave hours
from another officer or employee;

1 b. The minimum number sick leave hours a
2 donor-officer or -employee must have accrued and must retain
3 if allowed to transfer additional accrued sick leave hours
4 to another officer or employee;

5 c. The maximum number of accrued sick leave
6 hours that a donor-officer or -employee may transfer to
7 another officer or employee; and

8 d. The maximum number of sick leave hours,
9 as equated to the receiving officer's or employee's straight
10 time rate of pay, that a receiving officer or employee may
11 receive, which number, in no event, shall exceed 1040 hours.

12 4. The donor-officer or -employee and the
13 receiving officer or employee shall each file with the
14 appointing authority for their respective employing units
15 their affidavit or declaration, in a form provided by the
16 Personnel Director, acknowledging that such sick leave
17 transfer is intended to be a gift and has been or will be
18 accomplished for no, or without the exchange of any,
19 compensation or consideration whatsoever.

20 B. Within fifteen (15) months after its implementa-
21 tion, the Personnel Director shall evaluate such pilot Sick
22 Leave Transfer Program and shall submit a written report to
23 the City Council regarding the effectiveness of such
24 program, given its intended purposes; the extent of its use;
25 and its general impact on use of sick leave together with
26 the Personnel Director's recommendation for the continua-
27 tion, discontinuation, or modification of such program.
28 Such pilot program shall terminate eighteen (18) months
after its implementation date unless the program is
reauthorized or is extended by the City Council, by
ordinance.

1 Section 5. S.M.C. 4.28.020 is amended as follows:

2 4.28.020 Definitions.

3 A. For the purpose of this chapter, the term "close
4 relative" means the spouse or domestic partner, child,
5 mother, father, brother, sister, grandchild, grandfather, or
6 grandmother of ((the)) an officer or employee or of the
7 spouse or domestic partner of such officer or employee.

8 "Relative other than close relative" means the uncle, aunt,
9 cousin, niece, or nephew of such officer or employee; or the
10 spouse or domestic partner of the brother, sister, child or
11 grandchild of such officer or employee; or the uncle, aunt,
12 cousin, niece, nephew, ((or)) spouse or domestic partner of
13 the brother or sister of the spouse or domestic partner of
14 such officer or employee.

15 B. For the purpose of this chapter, the term "domestic
16 partner", when used in reference to a person other than the
17 domestic partner of an officer or employee, means a person
18 identified by the officer or employee as the relative's
19 domestic partner in an affidavit or declaration of domestic
20 partnership in form prescribed therefor by the Personnel
21 Director.

22 Sec. 6. A new chapter is added to the Seattle
23 Municipal Code as follows:

24 4.30 Documentation of Eligibility for Certain Uses of
25 Sick Leave and Funeral Leave.

26 4.30.010 Establishment of Eligibility for Certain
27 Funeral Leave and Non-personal Sick Leave Uses.

28 A. Any officer or employee who, on or after the
effective date of this ordinance:

1. Commences service for the City, or

1 2. Recommences City service following a break in
2 such service, or

3 3. If married or participating in a domestic
4 partnership immediately prior to such
5 effective date, thereafter is married to a
6 different spouse or participates in a
7 different domestic partnership,

8 may use sick leave under S.M.C. Ch. 4.24 for the care of his
9 or her spouse, domestic partner, parent, or the parent or
10 child of his or her spouse or domestic partner, and funeral
11 leave under S.M.C. Ch. 4.28 in connection with the death of
12 his or her spouse or domestic partner or any other person
13 added by this ordinance, by filing with the appointing
14 authority for his or her employing unit, within a period
15 specified in S.M.C 4.30.010-C, an affidavit as contemplated
16 in S.M.C 4.30.020.

17 B. The Personnel Director shall specify, by rule, what
18 documentation, if any, that a person who is a City officer
19 or employee immediately prior to the effective date of this
20 ordinance and who is (1) married, or (2) participating in a
21 domestic partnership, must provide to the appointing
22 authority of such officer's or employee's employing unit to
23 establish City knowledge of such officer's or employee's
24 participation in a marriage or domestic partnership and the
25 eligibility of that officer or employee to use sick leave
26 under S.M.C. Ch. 4.24 for the care of his or her spouse,
27 domestic partner, parent or the parent or child of his or
28 her spouse or domestic partner, and funeral leave under
 S.M.C. Ch. 4.28 in connection with the death of a spouse or
 domestic partner or any other person added by this
 ordinance.

1 C. An officer or employee may file the documentation
2 required under S.M.C. 4.30.010-A or -B only:

3 1. Within the first thirty (30) days after the
4 commencement date of his or her marriage or domestic
5 partnership;

6 2. Within the first thirty (30) days after the
7 commencement or recommencement such officer's or employee's
8 service; and

9 3. During an open enrollment period of ninety (90)
10 days as specified by the Personnel Director following the
11 effective date of this ordinance and, thereafter, during a
12 regular annual open enrollment period as specified by the
13 Personnel Director.

14 4.30.020 Affidavit of Marriage/Domestic Partnership.

15 The documentation sufficient to qualify an officer or
16 employee to use sick leave or funeral leave as contemplated
17 in S.M.C. 4.30.010-A shall consist of an affidavit in a form
18 prescribed and furnished by the Personnel Director, on which
19 such officer or employee dates and signs his or her name
20 and:

21 A. Attests:

22 1. If married, that he or she is currently
23 married to the individual identified by name on said form;
24 or

25 2. If participating in a domestic partnership,
26 that:

27 a. He or she and his or her domestic partner
28 (who shall be identified, by name, on said form) share the
same regular and permanent residence, have a close personal
relationship, and are economically interdependent;

1 b. They are not married to anyone;
2 c. They are each eighteen (18) years of age
3 or older;
4 d. They are not related by blood closer than
5 would bar marriage in the State of Washington;
6 e. They were mentally competent to consent to
7 contract when their domestic partnership began;
8 f. They are each other's sole domestic
9 partner and are responsible for each other's common welfare;
10 and
11 g. Any prior domestic partnership in which
12 he or she or his or her domestic partner participated with a
13 third party was terminated not less than ninety (90) days
14 prior to the date of said affidavit and, if such earlier
15 domestic partnership had been acknowledged pursuant to
16 S.M.C. 4.30.010-A or -B, that notice of the termination of
17 such earlier domestic partnership was provided to the City
18 pursuant to S.M.C. 4.30.030 not less than ninety (90) days
19 prior to the date of said affidavit;

18 B. Agrees to notify the City if there is a change of
19 the circumstances attested to in the affidavit; and

20 C. Affirms, under penalty of law, that the
21 assertions in the affidavit are true.

22 4.30.030 Notice of Termination of Domestic Partnership.

23 For the purposes of this chapter, a domestic partnership
24 that has been acknowledged as contemplated in S.M.C.
25 4.30.010-A or -B shall be effectively terminated on the
26 ninetieth (90th) day after notice of the termination thereof
27 was provided to the City in the form prescribed therefor by
28 the Personnel Director.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Sec. 7. The Personnel Director is authorized to execute, for and on behalf of the City, an agreement or agreements with labor organizations representing City employees to the extent necessary to implement the changes set forth in this ordinance for those City employees who are eligible for sick leave and funeral leave benefits and who are represented by local unions for purposes of collective bargaining.

(To be used for all Ordinances except Emergency.)

Section 8.... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the..... day of....., 19, and signed by me in open session in authentication of its passage this..... day of....., 19

President..... of the City Council.

Approved by me this..... day of....., 19

Mayor.

Filed by me this..... day of....., 19

Attest:..... City Comptroller and City Clerk.

(SEAL)

Published.....

By..... Deputy Clerk.

PUBLISH DO NOT PUBLISH

CITY ATTORNEY

gbl

City of Seattle

Executive Department-Office of Management and Budget

James P. Ritch, Director
Charles Royer, Mayor



May 3, 1989

The Honorable Douglas Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Personnel

SUBJECT: Adding a new chapter to the Seattle Municipal Code to facilitate the identification of an individual as the spouse or "domestic partner" of a city officer or employee.


Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Marion Hitchcock.

Sincerely,

Charles Royer
Mayor

by


KENNETH R. BOUNDS
Acting Budget Director

KB/mh/nc

cc: Director, Personnel Department

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Virginia Gale

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

18846
City of Seattle

—SS.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD: 114648

was published on

08/25/89

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

Bethany Morris

Subscribed and sworn to before me on

Len Ray JUN 25 1941

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 114648

AN ORDINANCE relating to sick leave and funeral leave use; adding a new chapter to the Seattle Municipal Code ("S.M.C.") to facilitate the identification of an individual as the spouse or "domestic partner" of a City officer or employee and establishing eligibility for the use of leave under S.M.C. Chs. 4.24 and 4.28 for the care or funeral of any such person or specified relatives thereof; amending and adding to S.M.C. Ch. 4.24 to authorize the use of sick leave for the care of a spouse or domestic partner, or of a parent or a dependent child of an officer or employee or his/her spouse or domestic partner, to remove limits on the amount of accumulated sick leave that may be used to care for a dependent child, to authorize implementation of a pilot Sick Leave Transfer Program, and to make various technical amendments thereto; and amending S.M.C. 4.28.020 to enlarge the authorized uses of funeral leave.

WHEREAS, The City of Seattle recognizes that families and other long-term committed relationships foster economic stability and emotional and psychological bonds; and

WHEREAS, the welfare of all residents of The City of Seattle is enhanced by measures that reinforce the bonds of families and long-term committed relationships and that encourage commitment to proper care for children and parents; and

WHEREAS, The City of Seattle has already established a sick leave program that may be utilized for the care of dependent children of an officer or employee, and a funeral leave program that may be used in the event of a death of certain relatives, which programs limit the circumstances in which such leave may be used; and

WHEREAS, Ch. 236, Laws of 1988, invalidated the current forty-eight (48) hour per year limitation in S.M.C. 4.24.035-B on the number of sick leave days that may be used for the care of dependent children; and

WHEREAS, it is desirable to establish a policy that allows any City officer or employee to utilize accumulated sick leave for the care of his or her spouse or domestic partner or the dependent child or parent of a City officer or employee or his or her spouse or domestic partner, consistent with state law, and to define domestic partners and certain other persons as relatives for the purpose of utilizing funeral leave; and

WHEREAS, City officers and employees have expressed a willingness to transfer accumulated sick leave from their sick leave accounts to the sick leave accounts of other officers or employees who have used or are about to use all of their accumulated sick leave because the officers or employees suffer from catastrophic illnesses, injuries, impairments, or physical or mental conditions; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code ("S.M.C.") 4.24.005 is amended as follows:

4.24.005 Definitions.

((Ae)) Terms used in this chapter ((the following terms)) shall have the meaning((s)) indicated therefor in the Personnel Ordinance (S.M.C. Ch. 4.04) unless another meaning is clearly indicated below or from the context:

A. ((("Department head" means the head of an employing unit as defined in the Personnel Ordinance (SMO 4.04).))

"Basic living expenses" means the cost of basic food, shelter and any other expenses of a Domestic Partner which are paid at least in part by a program or benefit for which the partner qualified because of the Domestic Partnership. The individuals need not contribute equally or jointly to the cost of these expenses as long as they agree that both are responsible for the cost.

B. "Dependent child" means a ((minor)) child under the age of eighteen ((for whom the employee is legally responsible or who resides with or)) who is;

(a) the natural offspring of,

(b) an adopted or step child of,

(c) under the legal guardianship, legal custody, or foster care of,

In order to receive compensation for such absence, an officer or employee((s)) shall make ((themselves)) himself or herself available for such investigation, medical or otherwise, as ((the department head)) such appointing authority or the Personnel Director deems appropriate. Either ((the department head)) such appointing authority or the Personnel Director may require a supporting report of a health care professional from the officer or employee. Compensation for absences beyond four (4) days shall be paid only after approval by ((the department head, or his/her)) such absentee's appointing authority or that authority's designee, of a request from the officer or employee supported by a report of the health care professional treating the officer or employee or ((the employee's dependent child,)) an individual identified in S.M.C. 4.24.035 A.2, or by a health care professional selected by the Personnel Director.

Sec. 4. There is added to S.M.C. Ch. 4.24 a new section, S.M.C. 4.24.100, as follows:

4.24.100 Sick Leave Transfer Program.

A. The Personnel Director shall implement a pilot Sick Leave Transfer Program allowing for the transfer of accumulated sick leave hours from the account of any officer or employee who desires to participate in such program to the accumulated sick leave hours account of another officer or employee designated by the donor-officer or -employee. Such Sick Leave Transfer Program shall include at least the following elements:

1. The sick leave being transferred shall be translated into a dollar figure based upon the donor-officer's or -employee's straight time rate of pay.

2. An officer or employee may receive sick leave from donor-officer or -employee if the Personnel Director finds that:

a. The receiving officer or employee suffers from a catastrophic illness, injury, impairment, or physical or mental condition, and it has caused, or is likely to cause, the receiving officer or employee to

(1) go on leave without pay; or

(2) leave City employment;

b. The receiving officer's or employee's absence and the use of contributed leave are justified;

c. Depletion of the receiving officer's or employee's available accumulated sick leave has occurred or is imminent;

d. The receiving officer or employee has diligently attempted to accrue sick leave reserves; and

e. The receiving officer or employee is not eligible for benefits under S.M.C. Ch. 4.44 or under the State Industrial Insurance and Medical Aid Acts.

3. The Personnel Director shall establish, by rule, limits for:

a. The maximum number of hours of sick leave a receiving officer or employee may personally have accrued before such officer or employee may receive sick leave hours from another officer or employee;

b. The minimum number sick leave hours a

partnership in Director.

Sec. 6. A

Municipal Code

4.30 Docu

SICK

4.30.010

A. Any o

effective date

1.

2.

3.

may use sick l

or her spouse,

child of his o

leave under S.

his or her spo

added by this

authority for

specified in S

in S.M.C 4.30.

B. The P

documentation,

or employee in

ordinance and

domestic partn

authority of a

establish City

participation

eligibility of

under S.M.C. C

domestic partn

spouse or dome

Ch. 4.28 in co

domestic partn

ordinance.

C. An of

required under

1. Withi

commencement o

partnership;

2. Withi

commencement o

employee's ser

3. Durin

days as specif

effective date

regular annual

Personnel Dire

4.30.020

The docume

employee to us

in S.M.C. 4.30