

COUNTY ORDINANCE NO. 14-17

A BILL ENTITLED

AN ACT CONCERNING Amendments to Chapter 27, the Human Resources Chapter of the Code of Public Local Laws of Queen Anne's County;

FOR THE PURPOSE of revising and updating Chapter 27 of the Code of Public Local Laws of Queen Anne's County; revising the provisions on nepotism, paid holidays, forms of leave, including leave without pay, and providing for leave balance calculations and family medical leave and leave without pay exhaustion; and generally revising and updating the Human Resources Chapter of the Code of Public Local Laws;

BY REPEALING AND READOPTING Section 27-73 of the Code of Public Local Laws, AMENDING SECTION 27-91 of the Code of Public Local Laws and ADDING a new Section 27-91.1 to the Code of Public Local Laws.

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND that Section 27-73 of the Code of Public Local Laws be and is hereby repealed and readopted to read as follows:

§ 27-73 Nepotism

This Section is applicable only to: (1) departments and classified employees of Queen Anne's County (those included in the Classified Service established under Article IV) and (2) all offices, officials, officers, and employees of any office, department, or entity required by State law to be funded in the budget for Queen Anne's County.

No appointing authority, director, official, officer, administrator or other employee of any department of Queen Anne's County or of any office, department, or entity required by State law to be funded in the budget for Queen Anne's County may appoint, promote, reassign, or participate in any employment action affecting a member of his or her immediate family or of an individual with whom he or she is or has in the past been involved in an intimate relationship. No director, official, officer, administrator or other employee of any department of Queen Anne's County or of any office, department, or entity required by State law to be funded in the budget for Queen Anne's County may directly supervise any person with whom he/she is or has in the past been involved in an intimate relationship. For the purposes of this Section, "intimate relationship" is defined as a romantic relationship in which those involved may or may not cohabitate.

The hiring authority of any department of Queen Anne’s County and the hiring authority of any office, department, or entity required by State law to be funded in the budget for Queen Anne’s County shall submit all applications for employment to the Queen Anne’s County Department of Human Resources. Further, any appointment, promotion, reassignment, or other personnel action which may result in direct supervision in violation of this Section shall be directly communicated to the Queen Anne’s County Department of Human Resources before such personnel action is taken. If the Department of Human Resources determines that an appointment or other personnel decision violates the provisions of this policy for a position and/or employee in the classified service, the Director of Human Resources shall bring the matter to the attention of the County Administrator, who shall have the authority to approve any exception to the policy and to establish any procedural safeguards he or she determines to be necessary and appropriate. Approval of the exception to the policy and the procedural safeguards shall be set forth in writing and placed in the employee’s personnel file. If the appointment or other personnel decision affects an individual not in the classified service, the Director of Human Resources shall bring the matter to the attention of the appointing authority of the office, department, or entity required by State law to be funded in the budget for Queen Anne’s County for decision, who shall have the authority to approve any exception to the policy and to establish any procedural safeguards he or she determines to be necessary and appropriate. Approval of the exception to the policy and the procedural safeguards shall be set forth in writing and placed in the employee’s personnel file.

SECTION II

BE IT FURTHER ENACTED that Sections 27-89 and 27-91 of the Code of Public Local Laws be amended to read as follows:

§27-89. Paid holidays observed.

...

D. Payment of employees required to work on a County designated holiday.

...

(2) Department of Emergency Services, Detention Center, ~~Parks and Recreation, Sheriff’s Department~~ Office of the Sheriff and Department of Public Works employees shall receive, at the discretion of their appointing authority, based on departmental business needs, either:

(a) An equivalent amount of holiday leave which will be observed in accordance with work schedules established by their respective departments; or

(b) Options offered to all other eligible County employees, as stated in § 27-89D(1).

...

§27-91 Forms of Leave.

A. Vacation leave. In recognition of the fact that periods of time away from the workplace enhance long-term job performance, the County shall provide a paid vacation leave benefit to employees. Vacation leave may also be used for certain qualifying events or absences, but is primarily intended to provide employees with paid, nonduty time within which to pursue employee-selected recreational activities.

(1) Full-time employees serving a probationary period following initial appointment shall not be permitted to take vacation leave during the first six months of the probationary period unless the denial of such leave will create an undue hardship and upon application to and approval by the Director of Human Resources.

(2) Each full-time employee shall earn vacation leave on a monthly basis in accordance with the following schedule of total service:

(a) Fewer than five years: 96 hours per year. While employees shall accrue leave in accordance with this schedule from date of hire, they shall not be entitled to take any vacation leave during the first six months of employment. This leave accrual will not be shown on the employee pay stub/voucher until after the completion of first six months of the probationary period. Should the employee separate employment prior to completion of the six months, this leave accrual is not payable to the employee.

(b) Five years but fewer than 10 years: 120 hours per year.

(c) Ten years but fewer than 20 years: 160 hours per year.

(d) Twenty or more years: 200 hours per year.

(3) No more than 520 hours of vacation leave may be carried forward from calendar year to calendar year by any member of the classified or professional and executive services. At the end of each calendar year, employees shall forfeit all vacation leave in excess of 520 hours of such leave.

(4) Vacation leave shall only be taken with the prior, written approval of the employee's appointing authority.

(5) An employee who is separated shall be paid for vacation leave accumulated to the date of separation, not to exceed a maximum of 520 hours. Any advanced vacation leave owed the County shall be deducted from the employee's final compensation.

(6) The estate of an employee who dies while employed by the County shall be entitled to payment for all of the accumulated vacation leave credited to the employee's account. ~~Not to exceed a maximum of 520 hours.~~

(7) No employee shall take more than two consecutive weeks of his or her vacation at any one time except by approval of his or her appointing authority.

(8) Employees whose employment begins between the first and fifteenth of the month receive the full accrual for the month. However if the employment begins after the fifteenth of the month, the accrual begins the following month. Likewise for employees who separate employment; to receive the full accrual, the separation date must be past the fifteenth of the month to receive the accrual for that month.

B. Sick leave. The County shall provide employees with a paid leave benefit to be used when sickness, other disabling conditions or medical treatment preclude an employee from reporting to work.

(1) Rate of accrual of sick leave. Sick leave shall be provided to all full-time employees of the County at the rate of 10 hours of leave for each full calendar month of service. Percentage part-time employees scheduled to work and actually working a portion of the monthly sick leave based on the Human Resources policy shall receive a portion of the monthly sick leave based on the Human Resources Policy.

(2) Sick leave year. For the purpose of earning and accruing sick leave, the twelve-calendar-month period between January 1 and December 31 is established as the leave year.

(3) Qualifying condition for use of sick leave. Employees may be granted sick leave for absence due to the following:

(a) Sickness or bodily injury that prevents the employee from performing regular duties.

(b) Employee's medical or dental appointments.

(c) The actual period of temporary disability caused by or contributed to by pregnancy, miscarriage, childbirth and recovery therefrom. A physician's certificate is required to verify the employee's period of temporary disability for these reasons.

(d) Exposure to a contagious disease when continuing work might jeopardize the health of others.

(e) Care of a sick spouse, dependent child or parent to include physician office visits, not to exceed 80 hours in a leave year which is tracked by the respective department and referred to as Family Sick.

(4) Physician's certificate.

(a) Sick leave may be granted to full-time and eligible part-time employees of the County for three consecutive days without a physician's certificate.

(b) Sick leave in excess of three consecutive days shall require a physician's certificate. Refusal or failure to supply an adequate certificate shall result in the period of absence being charged against other available leave available to such employee or leave without pay in the discretion of the employee's appointing authority.

(c) The department director shall have the right to require a physician's certificate upon return to work of an employee who has been absent from work to care for a sick spouse, dependent child or parent. The certificate shall verify the actual period that the spouse, dependent child or parent was under a physician's care. An employee who fails to provide a certificate from a physician shall not be granted sick leave. The employee may be allowed to use accrued vacation, personal leave or leave without pay.

(d) The department director shall have the right to require a physician's certificate after one day of sick leave if this action shall serve the best interest of the County.

(5) Payment for unused sick leave at separation from service. An employee shall not be paid for unused sick leave in the event of termination of employment.

(6) Notification of supervisor. Employees must notify their immediate supervisor of all requests for sick leave before the leave is taken, or not later than two hours after the beginning of a scheduled workday. The department director may require notification earlier than two hours after the beginning of a scheduled workday. Sick leave may only be taken with the approval of the immediate supervisor.

(7) Worker's compensation disqualification. A sick leave benefit shall not be received by an employee who is receiving workers' compensation disability payments.

(8) Advanced sick leave.

(a) Any full-time member of the classified service or professional and executive service may, ~~upon written request,~~ be advanced sick leave within the discretion and upon the application and the approval of the County Administrator.

(b) The written request shall be supported by a physician's certificate indicating that the advanced sick leave is medically necessary for the employee or a member of his or her immediate family and that the employee shall be able to return to work at a reasonable future date.

(c) If the County Administrator approves the request, the employee and the County shall enter into a legally binding leave repayment agreement which shall provide that:

[1] The advanced sick leave is medically necessary for the employee or a member of his or her immediate family.

[2] The employee shall be able to return to work at a reasonable future date.

[a] Sick leave to be advanced may not exceed a period of more than 15 workdays.

[b] With regard to repayment of advanced sick leave:

[i] After the employee returns to work, advanced sick leave previously used shall be repaid by a deduction from the employee's earned salary or earned sick leave to the County at the rate of 10 hours per month until such time as the advanced leave is repaid in full.

[ii] If the employee gives no notice, or the accrued salary due the employee is insufficient to repay the County, and the employee has not paid the County the value of the outstanding advanced sick leave, the County Administrator may direct the Director of Human Resources to file/obtain a judgment against the employee and pursue all legal remedies to recoup the balance due.

[iii] In the event of death, liability to the County will cease to exist.

(d) After an advancement is granted, the Director of Human Resources shall grant the sick leave in increments of five workdays and shall review the circumstances of the individual case prior to granting an additional five days to

determine what portion of the advanced sick leave time is actually needed.

(9) Retirement credit for accrued sick leave. Sick leave earned monthly is allowed as creditable service at the time of retirement to employees who are members of the State Retirement and Pension System of Maryland.

(10) Transfer of sick leave credit. A full-time employee may transfer unused sick leave earned from another Maryland governmental agency and/or entity in accordance with policies and procedures adopted by the Department of Human Resources.

(11) Donation of sick leave. Upon approval from the County Administrator, an employee may donate sick leave to another eligible member of the classified or professional and executive service. The County reserves the right to refuse the donation of sick leave in accordance with policies and procedures adopted by the Department of Human Resources.

(12) Loss of sick leave credit. Employees who retire or resign and are not reinstated with the County within a one-year period shall lose all sick leave credits.

C. Injury leave. Employees who are temporarily disabled in the line of duty shall receive injury leave pay for the period of their disability, subject to the following conditions:

(1) Provided that the disability resulted from an injury or illness sustained directly in the performance of the employee's work, as provided in the State Workers' Compensation Act and is approved by the County's designated worker's compensation insurance provider.

(2) Employees who are disabled in the line of duty shall receive their full rate of pay for 40 hours as injury leave. Thereafter, injury leave will be paid in accordance with the provisions of the Maryland State Workers' Compensation Act.

(a) If the injury claim is denied under the State Workers' Compensation Act, the County may convert any injury leave paid, resulting in a charge to the employee's sick leave.

(b) In accordance with § 27-31E, sick leave or injury leave taken will not be counted as hours worked for overtime compensation calculations.

(c) Employees that do not have enough sick leave balance to cover

a conversion from injury leave will be placed into a leave without pay status and will be treated in accordance with § 27-91J.

(3) Subsequently, as an accommodation, the County will advance workers' compensation payments bi-weekly in accordance with the Maryland State Workers' Compensation Act for a period not to exceed 120 hours. Benefits, including leave accruals, will continue during this period.

(4) Receipt of advanced workers' compensation is contingent upon the assignment of workers' compensation benefits to the County during the period that advanced workers' compensation is paid.

(5) At the end of 120 hours of advanced workers' compensation payments, employees will not be eligible for further payment through the County until they return to work. All subsequent payments will be made by the County's workers' compensation insurance carrier.

(a) In order to maintain their medical insurance during this period, employees will be responsible for submitting their portion of the medical insurance premium to the Finance Department.

(b) Leave accruals will cease two weeks following the end of advanced workers' compensation payments in accordance with § 27-91J.

(6) If incapacitated from regular employment, employees may be given other duties within County Government for the period of recuperation. Unwillingness to accept such an assignment as directed by the appointing authority or the Director of Human Resources will make the employee ineligible for injury leave/advanced workers' compensation payments during the time involved.

(7) A physician selected by the Director of Human Resources may determine the physical ability of the employee to continue working or to return to work.

D. Bereavement leave.

(1) Bereavement leave shall be granted for a death in the employee's immediate family, not to exceed 32 consecutive work hours; and

(2) Additional leave time, under exceptional circumstances, may be authorized by the County Administrator.

E. Military leave.

(1) Application. An employee who is a member of the National Guard or Armed Forces Reserve will be allowed up to three calendar weeks paid military training leave annually.

(2) Retention of employment status. Employees who are guardsmen and reservists have all applicable job rights specified in the Veterans Readjustment Assistance Act.

(3) Leave of absence. Queen Anne's County provides military leave of absence for employees who are members of the uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

F. Civil leave.

(1) Receipt of subpoena or summons to testify. Any employee who receives a summons to jury duty or a subpoena from a state or federal court to appear as a witness shall be entitled to leave with pay for such duty in addition to any fees received for such jury duty.

(2) Employee-initiated litigation. Any employee who initiates court action, volunteers to appear as a witness or is a defendant in a noncounty-related case will be excused from work for necessary court appearances. The employee shall not be entitled to civil leave for such time; however, leave without pay, personal leave or vacation leave may be granted for this purpose.

G. Educational and community service leave. A leave of absence at full pay, partial pay or without pay for a period not to exceed nine months may be granted ~~upon~~ with the recommendation of the appointing authority with the and upon application and approval of the County Administrator. Such leave may only be used to take courses of study that will better equip the employee to perform duties for the County, or for special work which will permit the County to profit by the experience gained or the work performed. An employee on educational or community service leave with full pay shall continue to earn leave credits and any other benefits to which County employees are entitled.

H. (Reserved)

I. Family and medical leave. Family and medical leave is leave during which all employee benefits continue to be awarded and accrue.

(1) Eligibility for leave. Employees must be employed at least one year and have worked at least 1,250 hours during the past 12 months to be eligible for family and medical leave.

(2) Period of leave. Family and medical leave shall be granted for a period not to exceed 12 workweeks during any twelve-month period:

(a) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter;

(b) Because of the placement of a son or daughter with the employee for adoption or foster care;

(c) In order to care for the spouse, son, daughter or parent of the employee, if such spouse, son, daughter or parent has a serious health condition; and

(d) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(3) Expiration of entitlement. The entitlement to leave for birth or child placement expires one year after the date of childbirth or placement.

(4) Duration of leave. Childbirth or placement leave is to be taken in one block of time up to 12 weeks. Intermittent leave or a reduced leave (part-time) schedule is available if the department director and employee agree to such arrangement.

(5) Notice of leave. The employee shall give at least 30 days' notice of planned leave to the department director, whenever practical.

(6) Physician's certificate. A physician's certification is required prior to the approval of family and medical leave due to a serious health condition of the employee or his or her child, spouse or parent. The County shall reserve the right to require a second opinion from an independent health care provider at County expense. If the second opinion differs from the first, the County can obtain a third opinion at its expense. The third opinion will be binding.

(7) Restoration of employment. Once an employee's leave ends, the employee is entitled either to be restored to the position held prior to the leave or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Failure to report for duty at the expiration of the family and medical leave without pay period shall be considered a resignation.

(8) The Department of Human Resources shall adopt ~~policies~~ policies and procedures for implementation and administration of family and medical leave.

(9) Family leave shall run concurrently with, and not in addition to, injury leave and periods of workman's compensation.

J. Leave without pay.

(1) Authorization. Leave without pay may be granted to any employee upon application and approval to the Director of Human Resources. As to any and all employees of any office, department, or entity required by State law to be funded in the budget for Queen Anne's County, leave without pay may be granted upon application to their appointing authority, and, when such leave is requested, the appointing authority shall notify the Director of Human Resources of the request, and provide the Director of Human Resources, in writing with the date of the request and either (i) the date the leave commences and the date the leave ends; or (ii) an explanation of why the request was not granted. All written documentation about the request for leave without pay will be placed in the employee's personnel file.

(2) Purpose. Leave without pay may be granted for any purpose when an employee has exhausted all other forms of leave. Employees granted approved FMLA and who have not exhausted their FMLA leave but have otherwise depleted all forms of accrued leave are automatically granted leave without pay.

(3) Accrual of ~~vacation and sick~~ leave. Holiday, vacation and sick leave credits will not be accrued during leave without pay status which exceeds two consecutive weeks, with the exception of military leave.

(4) Payment of medical insurance premiums. Payment for the employee's portion of individual medical and dental/vision coverage and employee's portion of the cost of dependent coverage shall be the responsibility of the employee while on leave without pay status for more than two consecutive calendar weeks.

(5) Cafeteria benefits. Access to child care and medical care flexible spending accounts will continue while on leave without pay status. Payment of the medical waiver will not continue while on leave without pay status.

(6) Cessation of payroll deductions. Optional payroll deductions shall cease during leave without pay status for more than two consecutive calendar weeks.

K. Personal leave.

(1) Full-time employees shall accrue 40 hours of personal leave annually. New full-time employees shall accrue personal leave in an amount which is prorated on the basis of the date of their employment.

(2) Personal leave usage shall be coordinated with an employee's supervisor and shall be used in segments of not less than one hour. In exigent circumstances, a supervisor may seek authority from the County Administrator to deny an employee use of personal leave when such leave would expose another person to an unreasonable risk of harm, would impose serious or costly hardships on the performance of a County activity or is being abused by such employee.

(3) Personal leave shall not be carried over from one calendar year to the next.

L. Compensatory leave.

(1) Compensatory leave shall be available as a form of overtime compensation for those employees assigned to departments of County government which have developed and maintain a written policy authorizing the accumulation and use of such leave.

(2) Accrued compensatory leave must be used in accordance with § 27-31D(4)(b)[4] or shall be converted to overtime pay and paid to employees on the next regularly issued pay.

M. Group health, vacation and sick leave benefits while on leave.

(1) Payment of an employee's group health benefits shall continue while an employee is on a paid leave status or as directed by the County Commissioners.

(2) Retention of leave credit. An employee on educational and community service leave, military leave, maternity or leave without pay status shall retain all unused vacation and sick leave.

(3) Accrual of leave while on leave status. Vacation and sick leave credits will accrue during paid leave status only.

(4) An employee who is suspended with pay for a period of over thirty days (30) shall not be entitled to Holidays or to accrue leave time as outlined in Article VIII.

SECTION III

BE IT FURTHER ENACTED that a new Section 27-91.1 be added to the Code of Public Local Laws and Queen Anne's County to read as follows:

Chapter 27: Human Resources

...

§27-91.1 Leave Balance Calculation and Family Medical Leave Act and Leave Without Pay Exhaustion.

On a monthly basis, Queen Anne's County Department of Budget and Finance shall calculate vacation, personal and sick leave for employees in the classified service and for the employees of any office, department, or entity required by State law to be funded in the budget for Queen Anne's County. The calculations shall be made from time sheets submitted by the department, office, or entity to which the employee is assigned.

Employees in the classified service or employees of any office, department, or entity required by State law to be funded in the budget for Queen Anne's County, who are using leave under the Family Medical Leave Act (FMLA) shall be notified in writing by the Department of Human Resources no later than seven (7) business days before the employee's FMLA leave will be exhausted. The written notification sent by the Department of Human Resources will include a request to meet with the employee on a set date and time to discuss the pending exhaustion of FMLA leave and to discuss leave balances including, but not limited to, vacation, personal and sick leave.

SECTION IV

BE IT FURTHER ENACTED that this Act shall take effect on the forty-sixth (46th) day following its passage.

INTRODUCED BY: Commissioner Dunmyer

DATE: October 28, 2014

PUBLIC HEARING HELD: November 25, 2014 @ 6:20 p.m.

VOTE: 5 Yea 0 Nay

DATE OF ADOPTION: November 25, 2014

EFFECTIVE DATE: January 3, 2015